

**Santa Clara River  
Enhancement and Management Plan**

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**Aggregate Resources Report  
Los Angeles and Ventura Counties**

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**Santa Clara River Report  
June 1996**

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## Section 1 Introduction

### **Aggregate – A Non-Renewable Natural Resource**

The purpose of this report is to evaluate the presence, protection, and exploitation of aggregate resources in the Santa Clara River study area based upon current record data. Aggregate is a naturally occurring resource resulting from earth's processes and is widely recognized as a non-renewable resource. By this, it is meant that man cannot induce the production of aggregate, cannot replicate the processes which generate aggregate, and have no way of manufacturing a reliable synthetic resource as an alternate material. Aggregate occurs where nature placed it, not necessarily where people need it or prefer it.

Sand and gravel deposits are products of erosion of bedrock and surficial materials and the subsequent transport, abrasion, and deposition of the particles. The principle geologic agent that affects the distribution of sand and gravel deposits is water. Sand and gravel deposited by rivers or streams is widely distributed throughout the State as stream-channel or terrace deposits. In hilly or mountainous areas, bedrock is chemically and physically weathered and is progressively broken into smaller and smaller particles. Chemically less resistant minerals are dissolved or altered into clay minerals; the more resistant minerals remain as rock fragments. Depending on the composition and structure of the bedrock and on the climate, land cover, and topography, the remaining soils may range in thickness and may range in composition from nearly all clay, through mixtures of clay, silt, sand, and gravel, to nearly all sand and gravel.

In the stream channels, rock fragments are subjected to abrasion, rounding, and sorting. The stream-transported material is deposited in channels and on floodplains and consists of sand and gravel in some areas and silt and clay in others. The process of extracting sand and gravel in California is generally referred to as surface mining, which is but a small part of the broad-scope mining industry.

Mining is inseparable from the economic, social, and political history of California. The rapid growth of the state in the 19th century began with surface mining, and California's physical infrastructure for transportation and shelter is made in large part of minerals taken from the earth, although a relatively small amount of base material for roads, parking lots and similar facilities is now derived from used concrete and asphalt. The rivers that carry mountain and hillside runoff to the sea also carry sand and gravel for use in the construction of buildings, roads, infrastructure, and more. The annual product of the mining industry in California is more than \$2 billion. Application of a minimal multiplier to the annual product means surface mining is a \$6-to-8 billion component of the State economy.

The public in general has almost no demand for sand and gravel as an end-use raw market item. One will likely never see a neighbor load the family into the sedan and drive off to the local surface mine to buy a trunk-load of sand and gravel to use around the house. Yet the concrete curbs and gutters, slabs and foundations, patios, storm drains, asphalt streets, roof shingles and more are all manufactured with sand and gravel. Consequently, the sand and gravel industry encounters the public most routinely through the regulatory process, frequently in a situation of conflict, or in polar positions on land use applications.

Because of the typically adverse public perceptions, it is important to acknowledge that surface mining is an intrinsically temporary land use. Once the sand and gravel resource is excavated, the land can be reclaimed into an appropriate and publicly acceptable end-use. At this point, wildlife habitats can usually be restored. For most in-river situations, it is conceivable that the aggregate resource will be replenished over time as more material is washed down the system. Once a mining operation is complete for the near-river and river fringe experience, the land can be made available for an alternative public use. It is common for such end-uses to be beneficial to the public through implementation of agricultural production to provide food for the nation. This form of reclamation is often the employed in Ventura County.

## **Overview of Regulatory Setting**

Because improperly controlled surface mining can cause severe long-term damage to the natural environment, it is a highly regulated industry throughout California, including Ventura and Los Angeles counties. The primary governing regulation for surface mining in the state is the Surface Mining and Reclamation Act of 1975 (SMARA), as amended. This Act is contained in the California Public Resources Code Section 2710, et seq., and is the minimum standard upon which local surface mining and reclamation ordinances must be based. All cities and counties are mandated to adopt and enforce land use regulations to implement SMARA.

In addition to SMARA, land use entitlement for surface mining is further based on the California Environmental Quality Act (CEQA), whose implementation makes publicly and broadly known the potential environmental consequences of surface mining applications before an agency's land use decision is rendered. In cases where the interests of the federal government are at stake, it is also necessary for an applicant to prepare an environmental document to implement the National Environmental Policy Act (NEPA). This action is generally separate from the CEQA document. Additional regulatory processes are triggered where it is determined that a project-effect may require alteration to streambeds, involve the displacement of sensitive or unique habitat, involve the discharge of waters, or have any effect on listed or candidate wildlife species.

These additional studies and documentation are sometimes very simple to prepare and process. However, this is not usually the case for potential surface mining properties in the Santa Clara River study area. It is not uncommon for a surface mining project application in the study area to take five or more years to process, and the chances of securing a permit are not particularly good regardless of any land designations for aggregate resources by other federal, state, and regional policy plans.

Far from exhaustive, the above is merely an indication of the level of review and approvals required for surface mining projects. It is not meant to imply that this is the only industry suffering from aggressive regulatory oversight, or that public agencies attempting to perform public works for the public good do not also suffer such practices to one degree or another.

The apparent "model of practice" for regulators in the study area is unnecessarily built on "defect-finding". It has been observed by some in the aggregates industry that the regulatory attitude toward producers is one of arrogant belligerence.

## **Goals of this Report**

It is hoped that adoption and implementation of revised policies will make more clear:

1. Specific physical areas, or properties, which meet the public policy tenets for future surface mining,
2. Identify where surface mining will be strictly prohibited in spite of knowledge that the mineral resource has significant social and economic value, and,
3. Provide a framework for improving the processing of applications for surface mining projects without sacrifice to public policy and the interests of the general public.

## **Reliance Upon Public Agency Reports and Record Data**

The need for inclusion of surface mining policies in the Santa Clara River Enhancement and Management Plan is due to the abundance of state-designated resources within the study area and the significant market demand for this material. The State Department of Conservation, Division of Mines and Geology, has prepared documentation of mineral resource zones throughout the region. A significant amount of the study area is designated MRZ-2, a designation that means the resource is of high enough quality for use in Portland cement concrete. Thus, it is referred to as PCC-grade aggregate, a economically valuable and highly marketable material.

This report was prepared for use in the Santa Clara River Enhancement and Management Plan to represent the interests, concerns, and needs of the aggregate producers and owners

of property encumbered by this resource. This group is formally known as the Aggregate Subcommittee of the Santa Clara River Enhancement and Management Plan. This is but one of several subcommittees and interest groups who have provided input to the planning process. This report provides information essential for aggregate resource policy formulation for inclusion into the Santa Clara River Enhancement and Management Plan.

No new data was generated for the preparation of the Report. All information was summarized from existing reports, with significant reliance on State of California Department of Conservation, Division of Mines and Geology Open File Reports, and review of public agency case files. Information proprietary to the study area producers has not been included or relied upon.

### **Subsequent Sections**

The Objective and Criteria Section (Section B) of this report is a summary of the Aggregate Committee work and policy statements developed earlier. Sections C and D contain detailed information from official publications demonstrating the need for regulatory change, and also contains data foundationally pertinent to support the Committee's recommendations. Section E articulates specific recommendations which would implement the objectives of the Aggregate Subcommittee.

## Section 2 Objectives and Criteria

### Subcommittee Objectives

To address the concerns of the aggregate producers in the Santa Clara River study area, the following objectives were defined by the Aggregate Subcommittee for inclusion in the Santa Clara River Enhancement and Management Plan:

1. To increase public awareness of the aggregate shortage in western Ventura County;
2. To conserve, protect, and make available fifty years of permitted aggregate reserves in the Saugus-Newhall and the Western Ventura County Production-Consumption Regions, with specific focus on the Santa Clara River environs, as identified by the California Department of Conservation, Division of Mines and Geology;
3. To maximize the ability of mining operators to prepare future business plans by obtaining long-term surface mining permits and reclamation plans;
4. To promote an understanding of the costs and difficulties involved in obtaining a surface mining permit;
5. To protect the producer's ability to mine in close proximity to local markets;
6. To identify portions of the study area where surface mining can economically take place, yet manage the potential long-term impacts to the natural river environment;
7. To identify sites where reclamation would enhance river habitat and/or realize flood control objectives; and,
8. To streamline the lead and trustee agencies' permitting processes.

### State Legislative Policy

The Santa Clara River and the adjacent flood plain have been the primary source of sand and gravel (aggregate) in both the Saugus-Newhall Production-Consumption Region of Los Angeles County and the Western Ventura County Production-Consumption Region. Aggregate is used to make concrete and asphalt, and it is essential to the economic development in both counties. Development, redevelopment, rehabilitation, and public improvements all require this commodity. Portland cement concrete (PCC)-grade aggregate is aggregate that is of high enough quality to be used in the production of concrete.

The loss of regionally significant mineral deposits to land uses that preclude mining is one of the problems that the California Surface Mining and Reclamation Act of 1975 (SMARA) was framed to address. (See Appendix 1)

§ 2711, et seq. of the California Public Resources Code states the Legislative findings and intent behind the adoption of SMARA as follows:

**§ 2711.**

- a. The Legislature hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.
- b. The Legislature further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will be provided for the protection and subsequent beneficial use of the mined and reclaimed land.
- c. The legislature further finds that surface mining takes place in diverse areas where the geologic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

**§ 2712.** It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:

- a. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.
- b. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
- c. Residual hazards to the public health and safety are eliminated.

**§ 2713.** It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitutions.

## **General Plan Policy Guidelines**

Within 12 months of receiving the mineral information described in [Public Resources Code] Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

- (1) Recognize mineral information classified by the State Geologist and transmitted by the [State Mining and Geology] Board.
- (2) Assist in the management of land use which affect areas of statewide and regional significance.
- (3) Emphasize the conservation and development of identified mineral deposits.

- (b) Every lead agency shall submit proposed mineral resource management policies to the Board for review and comment prior to adoption.
- (c) Any subsequent amendment of the mineral resource management policy previously reviewed by the Board shall also require review and comment by the Board .....

General Plan Preparation Guidelines published by the Office of Planning and Research (OPR) place additional reliance on the Resources Code by emphasizing §2763, which states ... *"if an area is designated by the Board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in the area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction."*

It is clear from this partial review of the Public Resources Code and the State General Plan Preparation Guidelines that certain rock, sand, aggregate, gravel, and similar materials are valuable resources whose recovery in a responsible manner is encouraged. The regulations are intended to provide for surface mining in a manner which is both environmentally sensitive and compatible with existing and future land uses. It is critical to note that the regulations are not silent about how mining and reclamation is to be evaluated. The review of proposed surface mining operations and their intended reclamation plans is not capricious. The requirement is rigorous, precise, and it is mandatory.

Appendix 2 is a six page summary listing of the regulations and measures to be employed by local agencies in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and water shed control, waste disposal and flood control. The regulations also significantly provide for habitat conservation and restoration consistent with state and federal codes.

## **DMG Resource Designations**

Based on guidelines adopted by the California State Mining and Geology Board, the California Department of Conservation's Division of Mines and Geology (DMG) classifies areas known as Mineral Resource Zones. The zones are established according to the presence or absence of significant PCC-grade aggregate deposits. Mineral Resource Zones were identified within the Saugus-Newhall Production-Consumption Region in 1987



(Updated 1994) and the Western Ventura County Production-Consumption Region in 1981 (Updated 1993). The DMG also reviewed reserves and resources within the two production-consumption regions.

It is important for accuracy and understanding that the reader be familiar with the terms *reserves* and *resources*. *Reserves* are aggregate deposits controlled by a mining company and permitted for extraction by a lead agency. *Resources* are the entire body of all available aggregate deposits within a given area, either permitted or not yet permitted.

In 1987, the DMG estimated that the Saugus-Newhall Production-Consumption Region of Los Angeles County would require over 54 million tons of aggregate for the next 50 years to supply public agencies and the construction industry with material. Based on projections generated in 1987, the region had nearly enough reserves of construction-grade aggregate for the fifty-year need. Recent updates to the 1987 data published by the DMG confirms that aggregate reserves are adequate for the region through approximately 2016.

In 1993, the DMG estimated that Western Ventura County would require 241 million tons of aggregate between 1993 and 2043. Geologically available PCC-grade aggregate resources in the western part of Ventura County are estimated to be 4,077 million tons. Most of this resource is found within the Santa Clara River corridor. Large amounts of the resource are lost to redline restrictions (Appendix 4), mining depth limitations based on historic ground water levels, and other non-lead agency constraints on in-river mining. These restrictions are estimated to reduce available resources from 4,077 million tons to 141 million tons, leaving a DMG-calculated deficit of aggregate for the production-consumption region of approximately 100 million tons.

The sole suppliers of PCC-grade aggregate in the western part of Ventura County are two out-of-river operations:

1. CalMat Co's Rose Avenue site (Conditional Use Permit 4623), and,
2. Southern Pacific Milling Company's El Rio site (Conditional Use Permit 1942).

The DMG Open-File Report 93-10 states that reserves in the Western Ventura County Production-Consumption Region will be depleted in 1996. At the time of this writing, the subject producers indicate that reserves will in fact be depleted during the subsequent few months.

A possible alternative aggregate source for the Western Ventura County Production-Consumption Region is the Saugus-Newhall Production-Consumption Region. However, import of aggregate from this area will incur high environmental and economic costs to western Ventura County consumers and residents. The Simi Production-Consumption Region already imports rock from the Saugus-Newhall Production-Consumption Region

and the San Fernando Production-Consumption Region, and is not a likely aggregate source for western Ventura County's coarse aggregate needs. Hard rock sites, such as the sedimentary rock located north and south of the Santa Clara River Valley are not a viable source due to the variation in rock quality and the high sand content.

### **Lead Agency Permit(s) Status**

The Los Angeles County Regional Planning Commission has approved one in-river and two out-of-river mining permits (Surface Mining and Reclamation Plans) in the Saugus-Newhall Production-Consumption Region. Only one of these is an active mining operation, and no material is mined from the Santa Clara River. The Department is currently processing four out-of-river mining permits.

Ventura County's Planning Division has approved nine in-river mining permits (Conditional Use Permit/Reclamation Plans). None of the operations authorized by these permits are active. Additional permits and approvals are required prior to re-initiation of in-river mining. The permits of issue involve 404 permits from the U.S. Army Corps of Engineers pursuant to the Federal Clean Water Act, Streambed Alteration Agreements from the State Department of Fish and Game, and various notices and permits from the California Regional Water Quality Control Board, plus others. The Ventura County Planning Division is currently processing two out-of-river mining plan applications. There are no applications for in-river mining permits on file in either County.

Potential positive impacts of mining in the Santa Clara River area include job opportunities in the aggregate and construction industries, enhancing flood control and river habitat, and providing ground water recharge or storage areas. Potential negative impacts include temporary loss of riparian habitat, reduction of beach sand supply, ground water evaporation, dust emission, loss of agricultural land, and visual interruptions. Negative impacts can be reduced by avoiding or minimizing impacts on riparian habitat, returning excess sand to the river bed, reclaiming land to agricultural use, and other measures.

### **Secondary Permitting Issues**

To obtain permission to mine sand and gravel, operators must file a Surface Mining and Reclamation Plan application with the County of Los Angeles Department of Regional Planning, or a Conditional Use Permit and Reclamation Plan application with the County of Ventura Planning Division. In spite of the State Legislature-mandated Permit Streamlining Act (Appendix 5), the intent of which is to assure due-process to applicants and the public alike, surface mining and reclamation plan permit applications may require three-to-six years to process. This in fact is not an exaggeration, rather the it is the norm. The slow processing procedures make it difficult to design and implement an

environmentally sensitive mining plan because of the length of time taken to process the application. In the interim, the dynamic river environment changes so that a mining plan submitted at the beginning of the process is outdated, and therefore, no longer workable or environmentally sensitive.

Other permit approvals beyond those of the lead agency include Streambed Alteration Agreements from the California Department of Fish and Game, 404 Permits from the U.S. Army Corps of Engineers, Certifications from the Regional Water Quality Control Board, Section 7 Consultations from the U. S. Fish and Wildlife Service (if endangered species are present), and others. These permits cannot be obtained until after the lead agency has taken action on the primary entitlement, thus adding many more years to the comprehensive approval (denial) process. Major obstacles to obtaining in-river mining permits also include unreasonably high permitting costs, multiple permits, multi-agency review of biological impacts, mining depth restrictions, and a bias of the U.S. Army Corps of Engineers' Practicable Alternative Analysis against in-river mining.

Throughout this process, the limited financial resources of the applicant are at risk with no guarantee of the permit outcome, regardless of the adopted land use policies of the lead agency. Land use decisions are truly discretionary; there is no risk or uncertainty to the agency(s). The converse is the rule for the applicant who faces nothing but risk and uncertainty.

## **Conclusion**

The objectives of the Subcommittee enumerated in the opening paragraph translate to little more than a request for the legislative intent of SMARA to be implemented. SMARA is further strengthened by the general plan preparation guidelines published by OPR, which require local general plans to contain policies to protect the designated resources and provide for their exploitation. All lead agencies are further required to adopt ordinances to implement SMARA and general plan policies. Lastly, the Legislature adopted a permit streamlining act which is intended to provide due process. The intent of the state is clear. The Subcommittee requests the spirit to be carried through into positive action.

The Aggregate Subcommittee specifically does not object to agencies questioning the propriety of a land use application. The group also acknowledges that the burden of proof always lies with the applicant. The issue which must be addressed is how the agencies in the Santa Clara River Enhancement and Management Plan study area will provide for the exploitation of the aggregate resource in the future.

The Subcommittee is expressly not suggesting the elimination of environmental analyses, nor is there a desire to deprive an agency reasonable time to review an application. The essence of the Subcommittee objectives is to know in advance that a plan (application)

meeting the lead agency's adopted policies has, in turn, met its burden of proof and will be given a non-prejudiced review. This request, quite naturally and reasonably, assumes that the proposed operator is mitigating impacts to the greatest degree possible.

### Section 3

## Existing Conditions

### Introduction

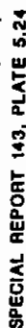
This portion of the report describes the present aggregate demands, reserves and resources of the Santa Clara River Enhancement and Management Plan Study Area. An overview of the potential positive and negative effects of surface mining, and examples of effective mitigation measures are also presented. The information presented in this section is based on existing studies and publications of the California Department of Conservation, Division of Mines and Geology (DMG), official positions of the Ventura County Board of Supervisors and Flood Control District, the Ventura and Los Angeles County Planning Departments and the Southern California Rock Products Association. Reliance solely on published and record data is intended to diminish potential disputes resulting from use of unpublished, biased, non-professional, and otherwise unreliable sources.

### Existing Aggregate Demands

PCC-grade aggregate is an essential construction material for the anticipated population growth in Los Angeles and Ventura counties. To track the demand and availability of this material, the California Mining and Geology Board requires that mineral land classification reports be prepared. These reports, which are prepared by the DMG, include an estimate of the total quantity of these materials in various marketing regions for the next 50 years. A marketing region is defined by the DMG as the area within which such material is usually mined and marketed.

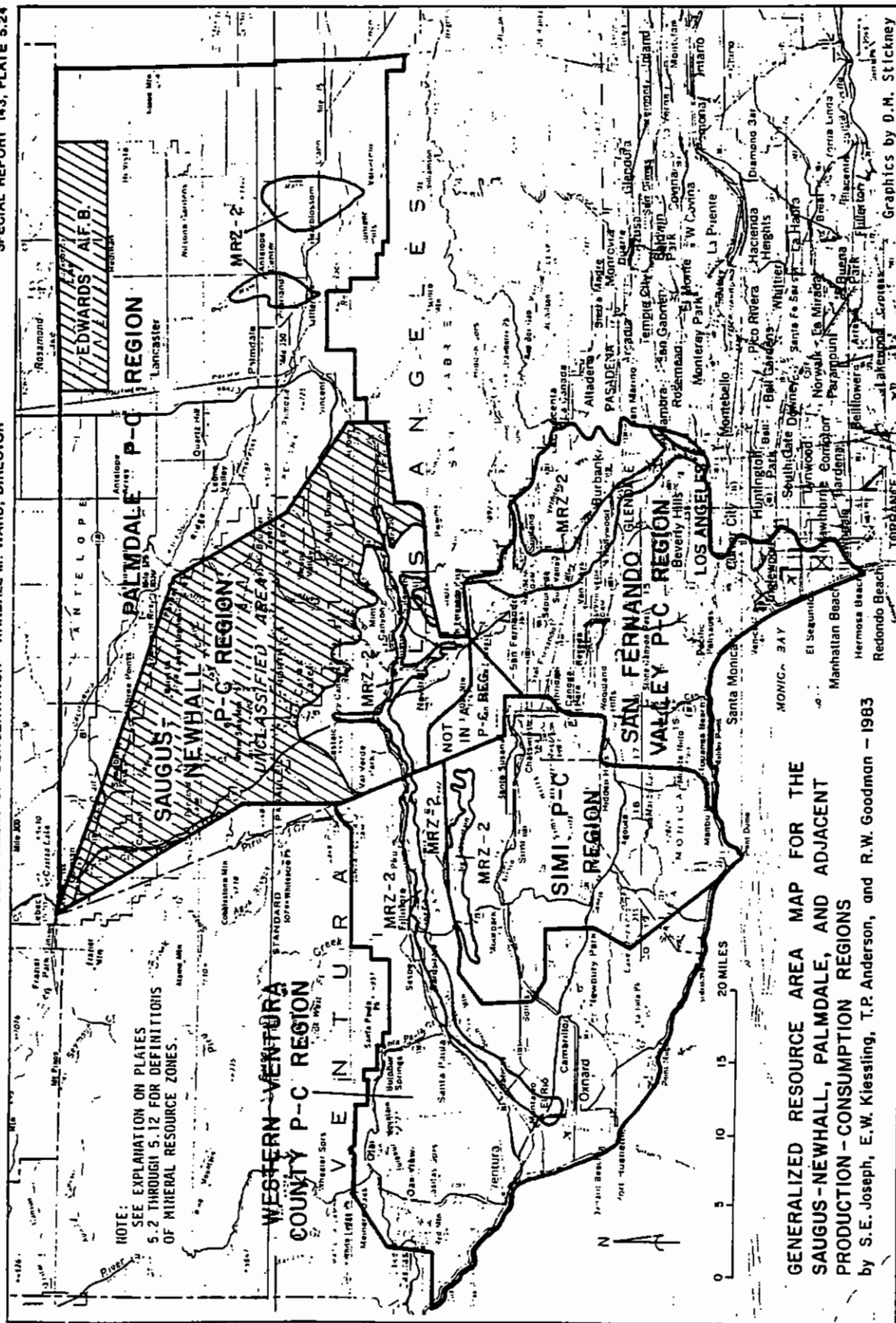
The amount of each construction material mineral resource needed for the next fifty years is projected using past consumption rates, adjusted for anticipated changes in the market conditions and mining technology. The DMG relies on linear regression modeling, with the operative assumption being that the economic and development trends of the past thirty (30) years will continue for the next fifty (50) years. The DMG models specifically do not attempt to correlate its population projections to those of either the State Department of Finance annual estimates and updates, or to local general plan population projections.

The Saugus-Newhall and the Western Ventura County Production-Consumption Regions are two such marketing regions within the Santa Clara River Enhancement and Management Plan Study Area. The portion of the Santa Clara River traditionally mined in Los Angeles County is in the Saugus-Newhall Production-Consumption Region (See Figure 1). The portion of the Santa Clara River traditionally mined in Ventura County is in the Western Ventura County Production-Consumption Region (See Figure 2). DMG data indicates that substantial increases in population and corresponding housing requirements in these regions are anticipated for the next 50 years.



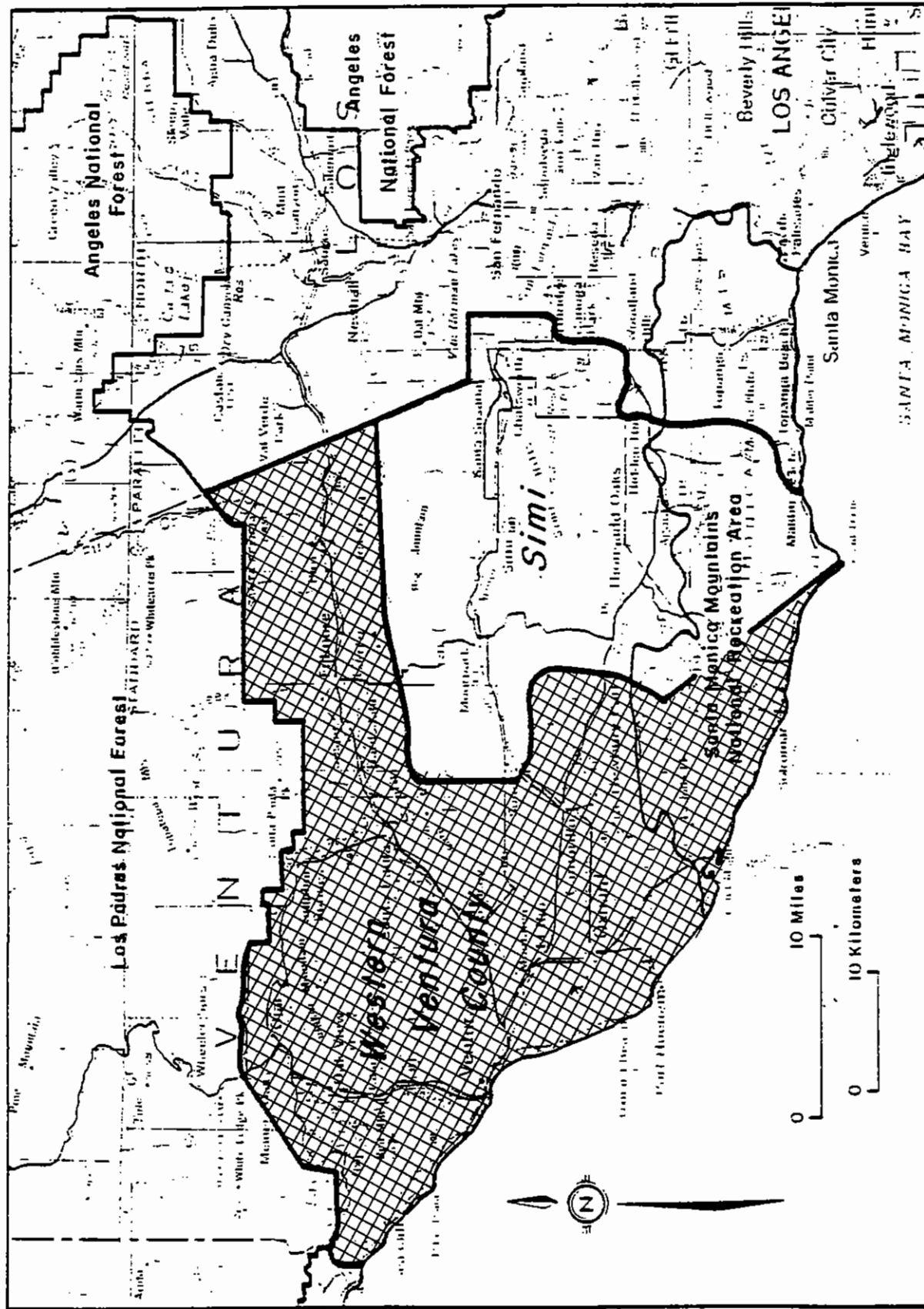
STATE OF CALIFORNIA - GEORGE DEUKMEJIAN, GOVERNOR  
THE RESOURCES AGENCY - GORDON VAN VLECK, SECRETARY  
DEPARTMENT OF CONSERVATION - RANDALL M. WARD, DIRECTOR

DIVISION OF MINES AND GEOLOGY  
JAMES F. DAVIS, STATE GEOLOGIST



**Figure 1**  
**SAUGUS-NEWHALL**  
**PRODUCTION-CONSUMPTION REGION**

Base map by U.S. Geological Survey



Source: California Division of Mines and Geology

**Figure 2**  
**WESTERN VENTURA COUNTY**  
**PRODUCTION-CONSUMPTION REGION**

It should be noted that the DMG does not take into consideration the availability and use of recycled aggregate, when making projections for future years. For clarification, there are three sources/types of "Recyclable Material"; Recycled Asphaltic Concrete (RAP), Recycled Portland Cement Concrete (RPCC) and Returned Ready Mix Concrete.

1. Recycled Asphaltic Concrete

- a. The Public Works "Green Book", which is the specification guide for most local agencies and for private work, specifies a maximum of 15 percent RAP in an asphalt pavement mix.
- b. At the present time, CalTrans does not accept mix designs that include RAP as an ingredient, although trial projects are currently being conducted. CalMat Co anticipates that eventually even CalTrans projects will allow for RAP.
- c. RAP is crushed and screened at the asphalt plant and then fed into the plant with natural aggregate and oil.

2. Recycled Portland Cement Concrete

- a. Broken concrete pavement (commonly with asphalt), is recycled into crushed miscellaneous base (CMB). Prior to recycling of the material, it was dumped into landfills, taking up valuable space. Today, CalMat Co crushes and sells approximately 200,000 tons of CMB per year. CalMat Co estimates that the use of CMB will increase by 10 percent per year.
- b. CMB is crushed and sold as base material under roads, parking lots, sidewalks and patios.

3. Returned Ready Mix Concrete

Often contractors will order more concrete for their project than they need. Truck drivers used to dump excess concrete onto the ground at the job site and wash out the drums. Today it is more common that the excess concrete is returned to the plant and washed out into a recycle machine or basins. The returned concrete is then reused to make CMB, or sometimes the aggregate is used to make fresh concrete.

It can be anticipated that the use of recyclable material will increase substantially over the next years, and that a substantial amount of this commodity could be used instead of the customary aggregate mined from the earth.

*Los Angeles County*

DMG Special Report 143, published in 1987, anticipated that the Saugus-Newhall Production-Consumption Region would require 54 million tons of aggregate to supply public agencies and the industry demands for the next fifty years. This demand was based on an average 5-year per capita consumption of fifty tons.



The Special Report showed that nearly adequate reserves of construction-grade aggregate were available, in most of the County, based on population projections generated in 1987 and the permitted aggregate reserves available at the time. However, the DMG revised the population forecasts for the region since the Special Report was prepared; the projections are now higher than in 1987. Demand for aggregate has also changed in the nearly decade long period between the two reports and estimates.

DMG Open File Report 94-14 is an update to Special Report 143. This Report states that aggregate reserves in the Saugus-Newhall Production - Consumption Region are adequate for the next approximately 21 years (2016)<sup>1</sup>. However, much of the aggregate mined in the region will be shipped to the San Fernando Valley market region, where both reserves and resources will be depleted within approximately 7 years (2002).

### ***Ventura County***

DMG Open File Report 93-10 forecasts a 50-year demand for PCC aggregates based on population growth and aggregate demand figures of the past three decades<sup>2</sup>. The anticipated 50-year demand for aggregate in the Western Ventura County Production-Consumption Region is estimated to be 241 million tons (including 12 million tons for export to the Santa Barbara area). This demand exceeds available, permitted resources by 100 million tons. (See following discussion of "Existing Aggregate Reserves and Resources")

In 1993, the Report stated that the PCC-grade aggregate reserves for the western part of Ventura County were projected to be less than three years. Unless additional aggregate resources are permitted for surface mining, aggregate will have to be supplied to this area from the eastern part of the County and/or from elsewhere in Southern California. The extra haul distance for trucks transporting aggregate from the Simi Valley to western Ventura County will be from 10-to-30 miles. Using the Public Utilities Commission rate schedule, the added haul distance will cause PCC aggregates to cost an additional \$7 to \$15 million annually in western Ventura County. These figures calculate to potential 33% to 72% increase in total costs.<sup>3</sup>

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<sup>1</sup> DMG Open File Report 94-14; Update of Mineral Land Classification of Portland Cement Concrete Aggregate in Ventura, Los Angeles, and Orange Counties, California, Department of Conservation, Division of Mines and Geology, 1994, Page xi.

<sup>2</sup> DMG Open File Report 93-10; Update of Mineral Land Classification of Portland Cement Concrete Aggregate in Ventura, Los Angeles, and Orange Counties, California, Department of Conservation, Division of Mines and Geology, 1993, Page ix.

<sup>3</sup> Ibid. Page xi

## **Existing Aggregate Reserves and Resources**

Based on guidelines adopted by the California State Mining and Geology Board, the DMG identifies and classifies areas known as Mineral Resource Zones according to the presence or absence of significant PCC-grade aggregate deposits. Again, PCC-grade aggregate is material of high enough quality for the production of concrete. The Mineral Resource Zones (MRZs) in Los Angeles and Ventura Counties were identified and given mineral land classifications in 1987.<sup>4</sup> Areas assigned a classification of Mineral Resource Zone (MRZ)-2 are known to have significant PCC-grade aggregate resources.

Based on the studies of the DMG, the highest quality PCC-grade aggregate resources of these areas are typically found within the Santa Clara River and adjacent flood plain. DMG Special Report No. 145 states that detritus has been transported by the Santa Clara River and its tributaries and has been deposited along the Santa Clara River channel and on the adjacent floodplain to form a linear deposit ranging from 1 to 5 miles in width and up to 500 feet deep.<sup>5</sup> However, despite its known abundance of PCC, no aggregate mining takes place in the Santa Clara River at this time for reasons enumerated in other portions of this report.

The most common method of describing the actual or potential availability of usable aggregate resources is to identify the current reserves of that resource in comparison to the total amount of resources. The DMG defines *reserves* as aggregate deposits owned or controlled by a mining company, and authorized for extraction by lead agencies through a valid mining permit. *Resources* are all of the available aggregate deposits within an area, either permitted (i.e., reserves) or not permitted.

### ***Los Angeles County***

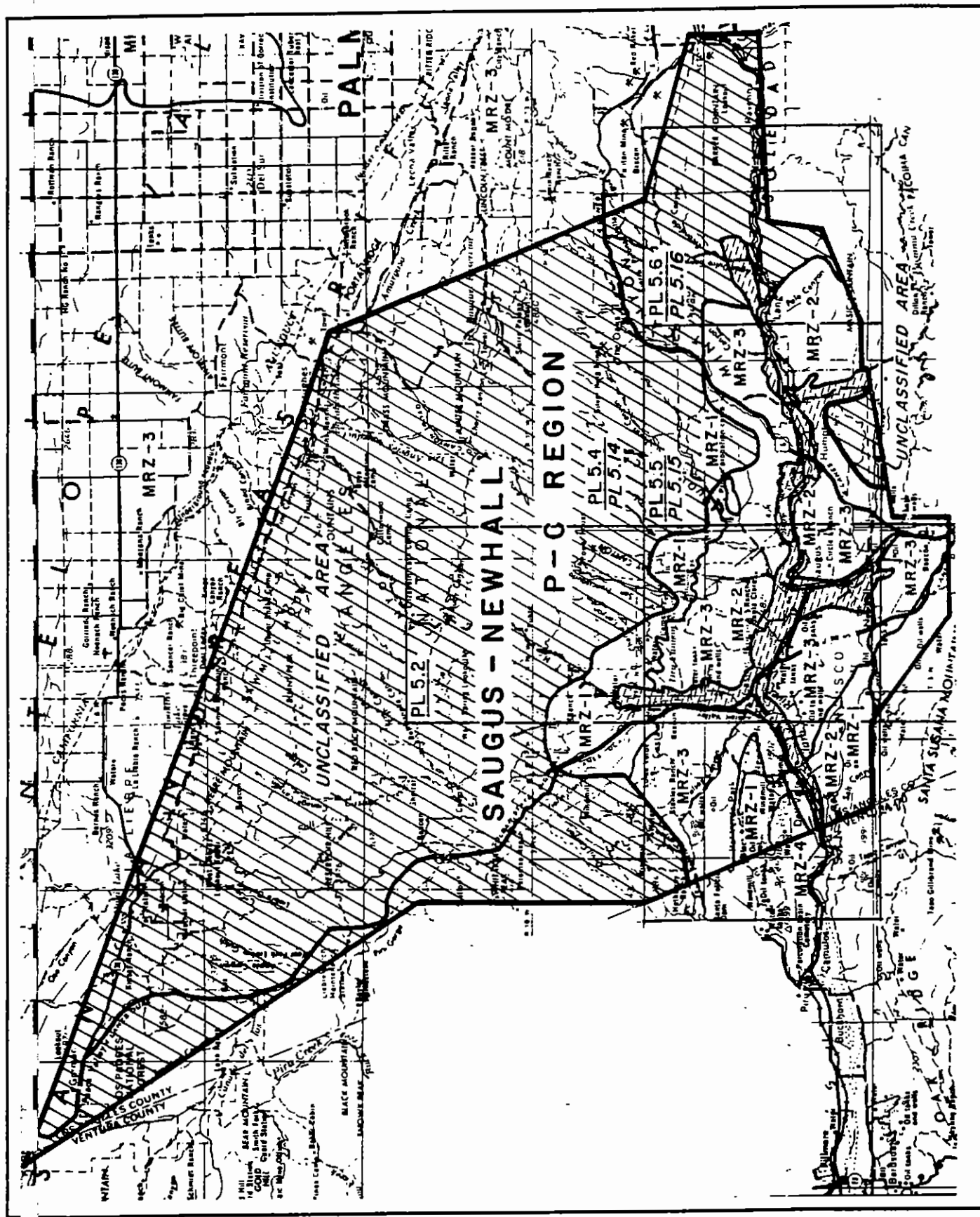
The DMG Special Report No. 143, Part V and Open File Report 94-14 identified areas where construction-grade aggregates are available in Los Angeles County. The MRZ-2 in the area of Los Angeles County within the Santa Clara River extends approximately 15 miles from Agua Dulce Creek in the east to the Ventura County boundary in the west (Figure 3 - Los Angeles County MRZ Map).

**Reserves** - In 1987, Special Report No. 143 established that the Saugus-Newhall Production-Consumption Region of Los Angeles County would require more than 54 million tons of aggregate for the next fifty years. Based on population projections generated in 1987, the Region had nearly enough aggregate reserves of construction grade aggregate. Open File Report 94-14 confirms that aggregate reserves are actually adequate

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<sup>4</sup>Mineral Land Classification of the Greater Los Angeles County Area, Department of Conservation, California Division of Mines and Geology, Special Report 143, Part V, 1987.

<sup>5</sup>Mineral Land Classification of Ventura County, Department of Conservation, California Division of Mines and Geology, Special Report 145, Parts I, II and III, 1981, page. 26.



Source: California Division of Mines and Geology

Figure 3  
Saugus - Newhall P - C Region

MRZ - 2 Zone

for the region until the year 2016.<sup>6</sup> However, much of the aggregate mined in the Saugus-Newhall area is destined for the San Fernando Valley market, which has projected reasonable reserves and resources for seven years. This report also revised the per capita consumption projection to 9.9 tons from the original projection of 10 tons in Special Report 143.

**Resources** - The 1987 DMG Report estimates that a total of 900 million tons of aggregate resources underlie the Santa Clara River sector and adjacent areas. All of the aggregate is suitable for PCC, but some requires the addition of coarse material for the production of concrete.

### ***Ventura County***

Special Report No. 145, Mineral Land Classification of Ventura County, was published in 1981, and established Mineral Resource Zones in Ventura County. Large areas in the Western Ventura County Production-Consumption Region were classified by the DMG as MRZ-2 and MRZ-2a, unlike Los Angeles County where the MRZ-2 is restricted to the Santa Clara River and its tributaries (Figure 4 - Ventura County Mineral Resource Zone Map).

**Reserves** - The 1981 DMG Report was updated as Open-File Report 93-10 in 1993.<sup>7</sup> The Report concluded that aggregate reserves in the Western Ventura County Production-Consumption Region would be depleted by 1996. These reserves are found at out-of-river sites and are operated by CalMat Co and Southern Pacific Milling Company. Because only two companies operate in the western part of the Ventura County Production-Consumption Region, specific reserve figures are not provided. This information is considered confidential by the DMG.

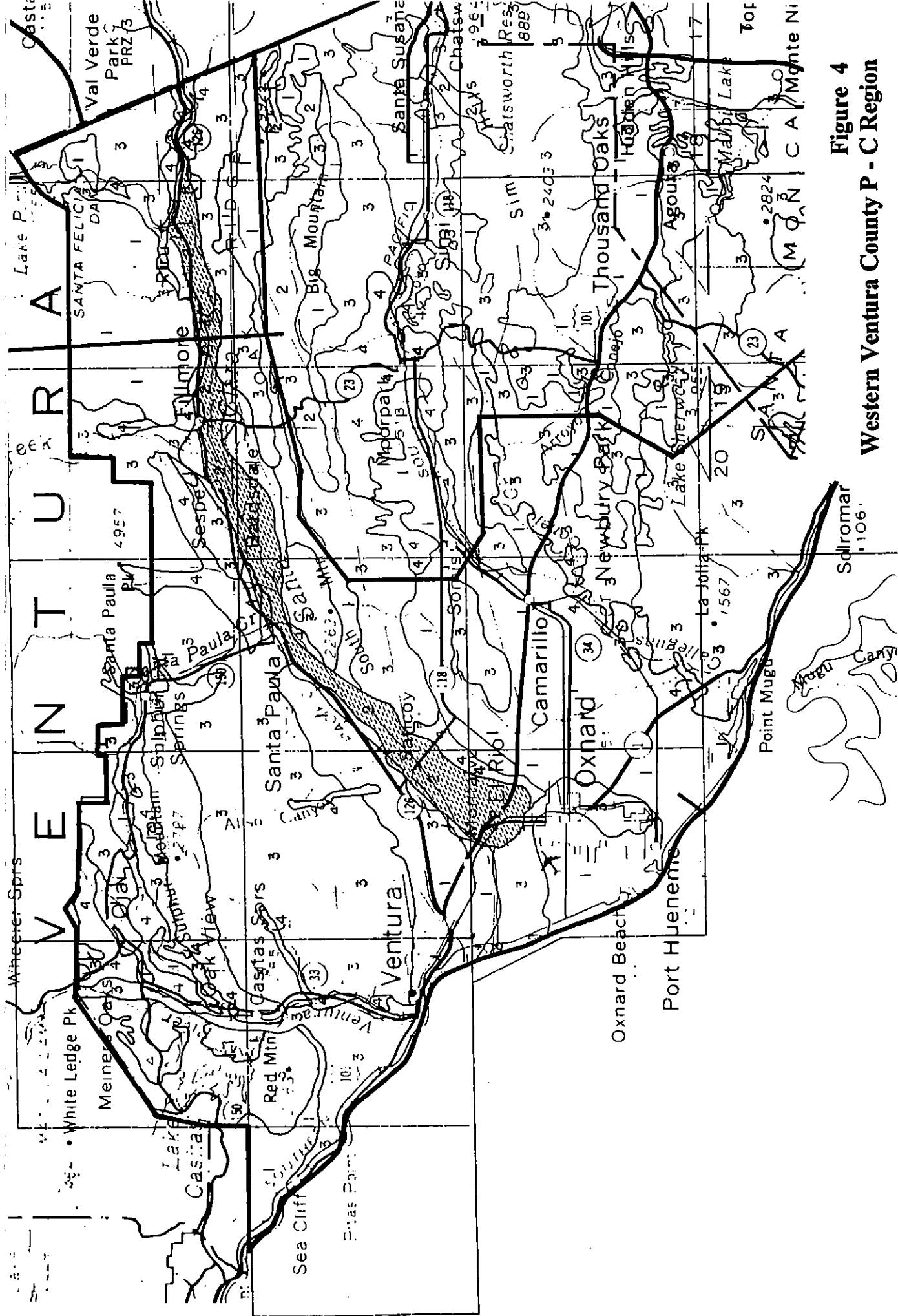
**Resources** - Aggregate resources in the Western Ventura County Production-Consumption Region are estimated by the DMG to be 4,077 million tons. Most of these resources are found in the Santa Clara River corridor. MRZ-2 resources in and adjacent to the river have been severely reduced in Ventura County due to redline<sup>8</sup> depth limitations imposed by a joint resolution of the Ventura County Board of Supervisors and Ventura County Flood Control District in 1985 (Appendix 4), which restrict extraction depth in the Santa Clara River. In addition, extraction depth is limited to above the historic or projected high ground water table at out-of-river sites. If in-river mining is not allowed in the future, further reduction in available mineral resources will be experienced.

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<sup>6</sup> Personal telecommunication by Ingrid Elsel with Russ Miller, Division of Mines and Geology, March 1995

<sup>7</sup> Update of Mineral Land Classification of Portland Cement Concrete Aggregate in Ventura, Los Angeles, and Orange Counties, Part I - Ventura County, Department of Conservation Division of Mines and Geology, Open File Report 93-10, 1993.

<sup>8</sup> Redline - A longitudinal profile and channel width beyond which mining is not permitted in the Santa Clara River; this extends from the Pacific Ocean to the Highway 23 Bridge in Fillmore. It is based on a limit instituted by resolution of the Ventura County Board of Supervisors in 1985.



Source: California Division of Mines and Geology

The DMG estimates the loss of aggregate based on existing and potential regulatory restrictions in the western part of the Ventura County Production-Consumption Region as follows:

**Table 1**  
**Total PCC Aggregate Resources In The**  
**Western Ventura County P-C Region**

Cumulative	Geologically Available Resources	Mined To Depth of 30 Feet	Resources Lost To Redline Limitation	No In-River Mining
Million Tons	4,077	854	582	141

These restrictions potentially reduce available resources from 4077 million tons to 141 million tons.

The DMG Open-File Report 93-10 states that the anticipated consumption of aggregate in Ventura County through the year 2043 is estimated to be 415 million tons, of which 40 percent or 166 million tons must be of PCC-grade quality. The western part of the County will need 241 millions tons of aggregate in the next 50 years, while only 141 million tons are considered available resources, given the current restriction on mining.<sup>9</sup> *This means that even if all aggregate resources were somehow permitted, there would still be a shortfall of 100 million tons of material in the Western Ventura County Production-Consumption Region to meet the projected demands of the next fifty years.*

### **Existing Mining Operations**

Active mining operations that produce material other than PCC-grade aggregates are not evaluated in this Report. (Figure 5 - Property owned by mining operators [to follow]).

#### ***Los Angeles County***

One in-river and two out-of-river mining permits were approved by the County of Los Angeles Department of Regional Planning. (See Table 2). Only one out-of-river site is currently in operation.

<sup>9</sup> Projected population data estimated by DMG staff, Tables 10 and 11, DMG Open-File Report 93-10.

**(Figure 5 - Property owned by mining operators [in preparation by CH2MHill]).**

**Table 2**  
**Approved Surface Mining Permits In**  
**The Saugus-Newhall P-C Region**

SMP NUMBER	OPERATOR	LAST MINING ACTIVITY
SMP - 86357	Curtis Sand & Gravel	In River: 1993
SMP - 960016	P.W. Gillibrand	Out-of-river: Active
SMP - 85610	CalMat Co	Out-of-river: 1993

***Ventura County***

Two active out-of-river mining operations are the sole suppliers of PCC-grade aggregate in the western part of Ventura County. The operations include Southern Pacific Milling Company's El Rio site (CUP-1942) and CalMat Co's Saticoy Rose Avenue site, (CUP-4623). Southern Pacific Milling Company has an out-of-river mining site known as the Briggs Road facility (CUP-245). This operation is inactive due to uneconomic mitigation requirements.

Conditional Use Permits approved by the Ventura County Planning Division authorizing excavation of PCC-grade aggregate within or adjacent to the Santa Clara River are summarized in Table 3.



**Table 3**  
**Surface Mining Conditional Use Permits Issued For**  
**The Western Ventura County P-C Region**

CUP NUMBER	OPERATOR	LAST MINING ACTIVITY
2006	CalMat Co	In-River: 1976
4292	CalMat Co	Out-of-river: Completed
4623	CalMat Co	Out-of-river: Active
1942	S.P. Milling Company	In-river: 1988 Out-of-river: Active
1524	S.P. Milling	In-river: 1988
245/1812	S.P. Milling Company	In-river: 1988 Out-of-river: 1993
85-20	S.P. Milling Company	In-river: 1988
80-16	S.P. Milling Company	In-river: 1986
3390	Granite Construction Co.	In-river: 1989
4185	Sespe Rock Products	In-river: 1989

\*Approximate dates

There are no active in-river mining operations authorized by Conditional Use Permits within the Ventura County sector of the Santa Clara River. Prior to reinstatement of any in-river mining activities authorized under a CUP, additional permits would be required from State and federal agencies. Such additional permits could severely reduce the available aggregate reserves.

## **Current Applications for Permits**

### ***Los Angeles County***

Four surface mining and reclamation plan permit applications were submitted to the County of Los Angeles Department of Regional Planning since 1989; these are still going through lead agency review and public processing (Table 4). Three of these permit applications are for sites adjacent to the Santa Clara River. One application proposes to extract material from the floodplain of the river, although the applicant is seriously considering withdrawing the application because regulatory requirements make continuation of the permit process economically infeasible.

The proposed permits within the Saugus-Newhall Production-Consumption Region are as follows:

**Table 4**  
**Submitted Surface Mining and Reclamation Plan Permit**  
**Applications In The Saugus-Newhall P-C Region**

SMP No.	OPERATOR	LOCATION	POTENTIAL RESERVES		YRS.
			Gross Tons <sup>10</sup>	Net Tons <sup>11</sup>	
91307	CalMat Co	Agua Dulce	86,000,000	51,600,000	16
		West Quarry	98,000,000	58,900,000	18
		East Quarry			
91165	Transit Mixed Concrete	Soledad Canyon	92,300,000	63,000,000	16
90508	Curtis Sand and Gravel	Soledad Canyon	10,400,000	7,072,000*	16
89555	Borges Rock	Santa Clara River	1,414,500	1,400,000	10

\*estimate

***Ventura County***

Two conditional use permit / reclamation plan applications were filed for projects in the western part of Ventura County for out-of-river mining sites (Table 5). There are no current applications for in-river mining on-file with the Planning Division.

**Table 5**  
**Conditional Use Permit & Reclamation Plan Applications**  
**In The Western Ventura County P-C Region**

CUP No.	OPERATOR	LOCATION	POTENTIAL RESERVES		YRS.
			Gross Tons	Net Tons	
4837	S.P. Milling Co	Sycamore Ranch	25,000,000	15,200,000	29
4843	CalMat Co	El Rio / Satcoy	63,871,000	49,203,000	50

Three other surface mining permit applications were filed with the County of Ventura Planning Division during the last six year period. All were recalled by the applicant (Table

<sup>10</sup> Gross - Total tons of materials excavated.

<sup>11</sup> Net - Portion of gross tons that is used to make a product.

6). Two of these, CUP-4539 and CUP-4580 were withdrawn because the County required that the Draft Environmental Impact Report be rewritten and the proposed mitigation measures could not be carried out within the financial constraints of the project limitations. (Appendix 7 - Letter from Granite Construction Company, dated August 16, 1993). Conditional Use Permit 4668 was withdrawn, re-evaluated, and subsequently resubmitted by S.P. Milling Company as a smaller project (Conditional Use Permit - 4837).

**Table 6**  
**Withdrawn Conditional Use Permit and Reclamation Plan**  
**Applications In The Western Ventura County P-C Region**

CUP No.	OPERATOR	LOCATION
4539	Granite Construction Company	In-River
4580	Sespe Rock Products	In-River
4668	S.P. Milling Company	Out-of-River

### **Potential Extraction Sites**

CalMat Co owns land in the Santa Clara River near Piru for which no application has been filed to date. The company expects that an application will be submitted to the County of Ventura Planning Division within the next five years. Because of the proximity of the site to the County of Los Angeles, it is anticipated that the mined material will primarily be used in the Los Angeles County market area.

Granite Construction Company owns land within and next to the Santa Clara River near Santa Paula and intends to gain permits and approvals to excavate aggregate from the site at some undetermined point in the future.

Section 4

## **Potential Impacts of Aggregate Mining**

### **Potential Positive Impacts of Mining**

The primary reason for in-river mining is the high potential for PCC-grade aggregate. This material is especially important in the western Ventura County market area, which as of January 1993, has less than a three-year supply of permitted PCC materials. Besides providing aggregate, mining also generates other societal and economic beneficial impacts. Note that in all cases, mining can only be economically conducted if sufficient aggregate volumes are permitted in relatively close proximity to the marketplace.

#### **Economic Advantages**

Surface mining directly provides job opportunities to persons employed in the extraction of aggregate, and has a multiplier effect upon many collateral firms involved with the construction industry whose work is indirectly related to mining. Surface mining generates tax dollars that are returned to the community where mining takes place.

#### **Enhance Flood Control**

It should be noted that the entire Santa Clara River and its adjacent floodplain are potentially an excellent source of PCC-grade aggregate. There are stretches of the river, however, where sand and gravel was deposited by the river over a period of many years, which could represent a threat to property owners in and adjacent to the river. The location of aggraded streambed deposits are depicted on maps published in the Flood Protection Report, developed by the Ventura County Flood Control District for the Santa Clara River Enhancement and Management Plan. Limited detail on the maps, however, do not allow for precise delineation of the areas. Very roughly, sites where aggregate has accumulated over time are between Willard Road and the confluence of Sespe Creek and the Santa Clara River (Station 900+00 - Station 1050+00), between the Sespe Creek and Santa Clara River confluence (Station 1200+00 - Station 1390+00) and the State Highway 23 bridge in Fillmore, and west of the Torrey Road bridge and Piru Creek (Station 1612+40 - 1690+00).<sup>12</sup>

Removing sand and gravel material from the Santa Clara River could provide a low-cost method to enhance flood protection by increasing the flow capacity of the river. A flood control channel with an average depth of 10 feet and an average width of 100 feet would generate about 200,000 cubic yards of material per mile.

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<sup>12</sup> Ventura County Flood Control Maps, 1993.

## **Enhance River Habitat**

Excavation of adjacent out-of-river land could expand the river-bottom area and increase the potential for expanding riparian habitat. Excavation in braided and barren stream areas could concentrate surface flows which, in turn, would promote the growth of riparian habitat.

In addition, mining could remove large areas of arrundo, a giant non-native reed scrub, that has inundated long stretches of the river and is choking native growth.

## **Groundwater Recharge Basins**

There are out-of-river sites that are potentially usable for the storage and / or recharge of groundwater. The areas for which recharge is most appropriate are also areas that have the better quality aggregate resources. These areas are primarily in the Oxnard Plain.

## **Potential Negative Impacts of Mining**

Potential adverse impacts to the Santa Clara River due to in-river mining activities vary from site to site. A draft environmental impact report recently prepared for four in-river mining projects and subsequently withdrawn by the applicants, is typical for this type of project and identified the following issues as potential concerns. Also presented are possible mitigation measures that could reduce the potential impacts.

- **Beach Sand Supply:** Removal of sand and possible sand trapping effect of excavations.

*Mitigation:* Return excess sand and other non-salable rock and sand to the river bed.

- **Erosion** Over-steepened slopes of in-stream mines may result in significant erosion.

*Mitigation:* Smoothing and sloping of the pit walls is a necessary feature to reducing long-term bank instability that could result from the operation. A smooth, gentle cross-sectional and longitudinal slope will also minimize resistance to flow and reduce erosion of channel materials.

*Uniform grading and slope toward the main channel will help to prevent fish entrapment with falling water levels. Armoring of side slopes with any waste rock will similarly reduce erosion.*

*Reclamation shall be accomplished prior to the onset of the established rainy season (typically October 15 to April 15 annually) to minimize the chance of flooding before reclamation is completed. In general, the site should be sloped and contoured as soon as the operation is complete at the end of each mining season.*

- **Ground Water:**

*Water table decline with loss of aquifer storage. Increase in evaporative losses and total dissolved solids. An increase in ground water pumping costs.*

**Mitigation:**

*Refill the mined area below the groundwater table with any remaining non-salable mine fines at the conclusion of each phase.*

*Groundwater monitoring wells should be provided at each mining site, equipped with piezometers, in order to monitor groundwater level fluctuations. Mining below the groundwater table should be avoided where the opportunity to excavate above the table is still available.*

*Material used in the construction of interim by-pass channels, if any, shall be used at the conclusion of the surface mining operation as backfill to help reduce the exposure of groundwater.*

*Operators shall prepare and submit an annual water report to the County and Flood Control District, responding to at least the following:*

- A. Monthly on-site and off-site groundwater levels measured from specific locations during the prior year.*
- B. Provide a computation of the average groundwater level from the beginning of the operation to date.*
- C. Acres of exposed water surface at the end of each year.*
- D. Provide a computation of the water lost during the previous year due to evaporation.*

- E. A description of measures implemented during the previous year to reduce evaporative loss.*
- F. The quantity of processing water used during the prior year based on meter readings at the production wells.*
- G. Provide construction details and logs of any new wells installed to serve the subject operation.*

- Structures and Levees: Potential impact to bridges, pipelines.

*Mitigation: No mining below impact level to structures.*

- Biological Resources: Potential loss of riparian habitat and presence of endangered species.

*Mitigation: Avoid or reduce disruption to existing riparian and/or endangered species habitat. Widening of riverbed to enhance and increase sensitive habitat area.*

*To reduce elevated turbidity levels that could potentially smother aquatic eggs, reduce benthic populations and reduce protective cover for larvae, turbidity curtains shall be employed around submerged mining operations. A turbidity monitoring program shall also be implemented to RWQCB satisfaction to reflect an NTU increase not to exceed 20% of ambient. Streamside trees and vegetation shall be left in-situ to the greatest extent possible to reduce the risk of adverse effects on aquatic life resulting from temperature increases due to vegetation loss.*

- Agriculture: Loss of agricultural land.

*Mitigation: Reclaim mined lands concurrently to an agricultural end-use where possible and when appropriate.*

- **Air Quality:** Potential increase in dust emissions.

*Mitigation:* Dust control of excavation areas, stockpiles, processing sites and roads by water trucks or through the application of EPA approved dust suppressants.

- **Visual Impacts:** Reduction of scenic variety and visual conditions.

*Mitigation:* Reduce impacts by providing visual buffers.



## **Section 5**

# **Institutional and Regulatory Setting**

### **Institutional Setting**

Mining operators, making application to extract aggregate in-river or out-of-river, must obtain several permits from local, regional, state and federal agencies prior to the commencement of any surface mining activity. A greater number of permits from the agencies are required for in-river operations than out-of-river. The type of lead agency discretionary permit required for an operation, and thus the mandated list of secondary approvals, is typically site specific. In other words, the process is not necessarily the same from site-to-site nor from lead agency to lead agency.

The California Environmental Quality Act (CEQA) and the Permit Streamlining Act (Appendix 5) mandate specific time parameters to be followed by lead agencies in the processing of discretionary permits and in the preparation and circulation of environmental documents (Negative Declarations, Environmental Impact Reports). It is not uncommon for these mandated processing and review time parameters to be violated.

An example of the temporal issue of process, and one specific to one of the study areas is, when two mining companies were required by the County of Ventura to withdraw and refile their applications on each one-year anniversary or face automatic application denial by the County of Ventura Planning Commission. This was required on four separate occasions during the process. (Appendix 6-Letter from S.P. Milling Company, dated January 31, 1995 and Appendix 7 - Letter from Granite Construction Company, dated August 16, 1993). The failure to provide due process is usually reported as a direct result of agency budgetary constraints and inadequate staffing. However, this is not always the case. As was mentioned in Section 1 - Introduction, the tendency to perform exhaustive "defect-finding" in surface mining applications plays a large part in the problem.

A second problem involves the issue that surface mining applications generally require multiple permits from numerous lead, secondary, responsible, and trustee agencies. The applications are required to be submitted and processed in sequential order, rather than concurrently, even though the application data requirements overlap. With few exceptions, this means that one regulatory agency will only consider a permit application after approval of a permit by higher authority, even though the approval by the higher authority is meaningless if the subsequent reviews do not lead to permit issuance. This practice is excessive, redundantly time-consuming, and unreasonably expensive for the applicant (discussed in Section 5, herein).

The permits most characteristically required either concurrently or sequentially for in-river mining projects are as follows:

1. Conditional Use Permit and Reclamation Plan (Ventura County)
2. Surface Mining and Reclamation Plan (Los Angeles County)
3. Water Course Permit (Ventura County Flood Control District)
4. Permit to Construct and Permit to Operate (South Coast Air Quality Management District and Ventura County Air Pollution Control District)
5. Streambed Alteration Agreement (California Department of Fish and Game)
6. Section 401 Water Quality Certification, and/or Storm Water Control Plan (California Regional Water Quality Control Board)
7. NPDES Permit (California Regional Water Quality Control Board)
8. Waste Discharge Requirements (California Regional Water Quality Control Board)
9. Section 404 Permit (U.S. Army Corps of Engineers) plus Practical Alternatives Analysis (EPA)
10. Section 7 Consultation (U.S. Fish and Wildlife Service)
11. Consistency Determination or Coastal Development Permit (California Coastal Commission)

Seven in-river mining sites between the Highway 101 bridge in Oxnard and the 12th Street bridge in Santa Paula that have approved lead agency permits cannot be mined because one or more subsequent permits required from secondary or responsible agencies could not be obtained by the operator (See Appendix 6).

## **Local Permits**

The County of Los Angeles Zoning Ordinance requires a surface mining applicant to file for a Surface Mining and Reclamation Plan, while the County of Ventura development code requires the filing of a Conditional Use Permit application accompanied by a Reclamation Plan.

### ***Los Angeles County***

Most regulatory constraints for sand and gravel mining applications are site specific. The County of Los Angeles Department of Regional Planning closely conforms to the guidelines established by the State of California Surface Mining and Reclamation Act of 1975, as amended. This agency also gives significant consideration to the standards and regulations of other County departments. Unless an obvious reason can be provided to the contrary, the Planning Department implements the comments and recommendations of the colleague agencies in their respective areas of authority.

Most constraints are related to water course limitations, biota habitat preservation measures, on-site limitations to preclude off-site effects, potential groundwater effects, compatibility of current and future land use relationships, and early reclamation opportunities.

Permits required for sites in regions within Los Angeles County designated as Significant Ecological Areas (SEAs) must obtain authorization from the Significant Ecological Area Technical Advisory Committee (SEATAC) prior to proceeding with the application to the decision-making body (Regional Planning Commission). The entire Santa Clara River corridor in Los Angeles County is in a SEA. The Santa Clara River SEA is listed as County SEA #23 in the Los Angeles County General Plan. Since the SEATAC is not directly responsible to the Planning Commission, and since the SEATAC is a body of technically expert conservationists (generally biologists, botanists, and landscape architects), an applicant becomes easily held up in the process if the applicant's technical expert has a professional disagreement with the SEATAC personnel.

The County of Los Angeles has no formalized restrictions limiting the depth of in-river mining, but limitations have been placed on permits on a case-by-case basis. The depth of mining for out-of-river operations is restricted by the presence, or perceived presence, of groundwater and by other factors.

The South Coast Air Quality Management District requires permits prior to construction and for the operation of a mining site. The SCAQMD permit procedures are standardized and the basis of review is typically grounded in science, standards, and air quality principles. The SCAQMD permit standards are applied uniformly throughout the region regardless of the applicant. SCAQMD permits are not discretionary; one either conforms to the requirements and a permit is awarded or a permit is withheld for failure to attain standards.

### *Ventura County*

The County of Ventura General Plan and the Ventura County Zoning Code provide strict criteria and performance standards concerning surface mining operations. The regulations include the evaluation of a proposed mining operation on surface and ground water, biological resources, transportation, dust and noise suppression, and other potential site-specific impacts. Areas classified by the State of California as containing important mineral resources have been incorporated into the County of Ventura General Plan, where appropriate, and are implemented through the County Zoning Code Mineral Resource Protection (MRP) overlay zone.

As is the reported experience in Los Angeles County, comments, standards, conditions, and recommendations of other County agencies are incorporated into the resolution of approval and the operating conditions placed on the permit, if awarded. A sample list of

conditions placed on Ventura County surface mining operation permits is attached (Appendix 9).

Two dominant factors of significance limit the extraction of aggregate resources in Ventura County:

1. In-river mining depth is limited by official policy adopted by the Ventura County Board of Supervisors and Flood Control District (joint resolution) in 1985. Concerns about altering the natural hydrologic condition in the Santa Clara River led to the "redline" limitation, which restricts excavation depth downstream of Fillmore to the lowest natural longitudinal profile of the river. The resolution was specifically adopted to protect structures and public investments along the river.
2. Out-of-river mining depth in the Del Norte/El Rio area (Oxnard Plain Forebay Basin) is currently limited to five feet above the historical or predicted high ground water table. A General Plan Amendment application was submitted to the County Planning Division in September 1994 by an operator of interest to request relief from this restriction. The General Plan Amendment has not yet been acted on by the County of Ventura.

An approved Conditional Use Permit or Surface Mining and Reclamation Plan Permit issued by either County does not fully authorize mining under the present regulatory setting. Other permits must also be obtained. Such permits are typically difficult to obtain, expensive to process, and frequently impossible to achieve. (Appendix 6-Letter from S.P. Milling Company, dated January 31, 1995). In addition, the secondary permits do not generally have published standards or goals for an applicant to measure the application against. It is generally understood that the burden of proof in the regulatory setting rests with the applicant. However, it is frequently unclear what the burden of proof is intended to address.

The primary area of concern in the secondary permitting arena is with the federal agencies and, to a lesser degree, with the state agencies. The more particularly onerous and troublesome process involves the U. S. Corps of Engineers administered Section 404 permit, especially if the site is designated a special aquatic area for which an EPA Practical Alternatives Analysis must be prepared. Typically one is pitted against the best experts the federal government can hire, an arbitrary and open-ended time schedule, and a lack of specificity as to whether the analyses is to be habitat value based, habitat quantity based, habitat protection based, or any number of other evaluation methodologies.

The State Streambed Alteration Agreement process (Section 1600) is superior to the federal process in that no permit is involved. The state and the private party are to achieve a binding agreement; where no agreement can be achieved, the applicant may elect to enter a binding arbitration procedure. This is the most fair and responsive review process

of any of the responsible agencies who are charged with issuance of subsequent permits. Notwithstanding the positive effects of the state process, the state tends to ignore the mandatory processing times and will not process a permit concurrent with the lead agency.

## **State of California Regulations**

### ***Surface Mining and Reclamation Act (1975)***

The State of California requires that a Reclamation Plan be prepared and submitted as part of the lead agency's Conditional Use Permit or Surface Mining Permit application. The Reclamation Plan must incorporate requirements of the Surface Mining and Reclamation Act of 1975, as amended, and must address the specific regulations for reclamation of mined lands and for the provision of adequate financial assurance to cover reclamation costs in the event of operator default.

After a project is approved, the Surface Mining and Reclamation Act requires the lead agency (County of Los Angeles Department of Regional Planning or the County of Ventura Planning Division) to conduct compliance inspections at least once a year and to update the financial assurance based on the results of the inspection. In addition, the mining operator must submit an Annual Report to the State Department of Conservation that documents Surface Mining and Reclamation Act compliance achieved during the period.

### ***Streambed Alteration Agreement - Section 1600 Fish and Game Code***

The California Department of Fish and Game (CDFG) must be notified of any action that would substantially divert, alter, or obstruct the natural flow of a river or substantially change the river bed, channel or banks. The CDFG has specified all waterways of the State, including intermittent streams, to be subject to the Department's jurisdiction.

The process, as discussed in the preceding section (p.4-4), is not an unreasonably difficult or capricious process. It involves actions leading an applicant and the agency to achieve an agreement about how an operation will be implemented. It does not attempt to reverse the lead agency's approval. However, because of aggressive over-regulation by the agency in the past, the state legislature has severely limited funding for the agency which, in turn, has resulted in very long review periods with very little face-to-face interaction between the regulatory agency and the applicant. Although the process works better than most, it could be improved vastly.

### ***Regional Water Quality Control Board - Water Quality Certification***

If the project requires a Nationwide and/or Individual Section 404 Permit from the U.S. Army Corps of Engineers, a Water Quality Certification (or waiver) must first be obtained from the Regional Water Quality Control Board. The essence of the requirement is to assure to the Corps that state and regional water quality standards are being met before any additional project authorizing permits are issued by the federal government.

### ***Regional Water Quality Control Board - Waste Discharge Requirements***

Waste discharge requirements are issued for any discharge that could affect the quality of State waters. The Waste Discharge Order is different from the above certification in that the Regional Board will review the operations plan, determine where local waters are being impacted by the project, and establish conditions of operation and monitoring to assure that the proposed project will have no adverse effect on waters of the state or U.S.

### ***California Coastal Commission***

The California Coastal Commission jurisdiction extends up to five miles inland along waterways. Surface mining operations within the jurisdiction of the Commission may require a Consistency Determination or may require a full Coastal Development Permit application to be filed and heard by the Commission. Where this is the case, the process is very complex, very legal and precedence oriented, very environmentally driven, and has no concern for indirect project beneficial effects. The process is long, difficult, and costly.

## **Federal Regulations**

### ***U.S. Army Corps of Engineers - Section 404 Permit***

The U.S. Army Corps of Engineers is charged with the responsibility to implement the Clean Water Act by regulating the discharge of dredged or fill material into waters of the United States (waters). This is specifically done through application of Section 404 of the Clean Water Act. Waters of the Santa Clara River below the ordinary high water mark plus adjacent wetlands is effected by the regulations. The boundaries of waters are not always clear. Jurisdictional delineations may be prepared in accordance with prescribed procedures adopted by Congress, but these too often become a point of dispute between an applicant and the U.S. Army Corps of Engineers.

The U.S. Army Corps of Engineers did not exert authority over river excavation until the late 1980's, based on the interpretation of their rules that excavation is not a discharge of dredged or fill material. U.S. Army Corps of Engineers policies have since changed. Regulations that became effective in August 1993 expanded the definition of "discharge of

dredged material" to include incidental discharges associated with in-river excavation. The 1993 regulations included a 12-month "grandfather" clause that could be extended to August 1996 at the U.S. Army Corps of Engineers option. The change in U.S. Army Corps of Engineers policies can retroactively apply to river excavations authorized by lead agency land use permits approved prior to 1993.

The U.S. Army Corps of Engineers requires one of two types of permits - Nationwide or Individual. Nationwide Permits generally cover activities which involve minimal impact to aquatic resources, generally areas of less than ten (10) acres. To qualify for a Nationwide Permit, an activity must comply with a series of standard conditions. The conditions are safeguards to ensure that an otherwise minor action does not cause unacceptable environmental impacts. Certain Nationwide Permits require a Pre-Discharge Notification. A Pre-Discharge Notification includes the submittal of an application describing the project to the U.S. Army Corps of Engineers as well as to other State and Federal agencies identified by the Corps at the time of application submittal.

Individual Permits are required for any discharges of dredged or fill material into waters that are not authorized by a Nationwide Permit. Applicants file a standard application form, including a comprehensive description of the project and its potential primary and secondary effects. Individual Permits are more difficult to obtain than Nationwide Permits, are more time-consuming, are subject to public notice and comments, need to satisfy a Practicable Alternative Test, and may require preparation of a federal environmental impact statement (NEPA process) in addition to an environmental impact report (CEQA process). It is possible that an EIS could be required for an operation that already has a certified EIR from the local lead agency.

#### ***U.S. Army Corps of Engineers / U.S. Fish and Wildlife Service - Section 7 Consultation***

Section 7 of the Endangered Species Act requires the U.S. Army Corps of Engineers to consult with the U.S. Fish and Wildlife Service if the proposed mining activity imperils the continued existence of a threatened or endangered species. The Service conducts a biological assessment and prepares a biological opinion identifying the effect of the mining activity. If the U.S. Fish and Wildlife Service determines that the activity will endanger the continued existence of threatened or endangered species, the U.S. Army Corps of Engineers 404 Permit cannot be issued, regardless of any actions already taken by other lead and responsible agencies..

#### ***U.S. Army Corps of Engineers / Environmental Protection Agency - 404(b)(1) Regulations***

The Practicable Alternative Test is required for Individual Permits by Environmental Protection Agency (EPA). The underlying requirement is listed in as Section 404(b)(1) of

the CWA Guidelines. Under the Guidelines, no discharge is permitted if there is a Practicable Alternative to the proposed operation. The term "practical alternative" does not take into consideration ownership of alternative lands, the market need for the aggregate, the costs of implementing an alternative action, and similar issues considered "practical" by a person of reasonable sensitivities. The term "Practical" as used in the federal regulations means "any remote possibility to implement an alternative project design." The Guidelines are binding. Even if the Corps is sympathetic to an application, but the EPA findings are to the contrary, the EPA's determination must prevail.

## **Other Regulatory Constraints**

In addition to the regulatory agencies listed above, other agencies provide regulatory control of ongoing operations. A National Pollutant Discharge Elimination System (NPDES) permit is required if water is discharged directly to the river. The typical discharge is generated from the washing of mined material to remove fines. A Stormwater Permit is required if water comes in contact with industrial activity, leaves the site and enters the river. NPDES and Stormwater Permits are administered by the State Regional Water Quality Control Board.

## **Permitting Difficulties**

Although many of these issues have already been mentioned, from the standpoint of the aggregates producer, the impediments to obtaining mining permits are as follows:

- The need to obtain multiple permits.
- Non-compliance of agencies with the California Environmental Quality Act process and the Permit Stream-Lining Act.
- Delays in the selection of Environmental Impact Report consultants.
- Lack of due process during the application and environmental impact report preparation.
- Multi-agency reviews and sometimes conflicting expectations of biological resource protection.
- Changes in regulations during the processing of the permit and during the preparation of the environmental impact report.



- Changes in the dynamic river environment while permits are processed. For example, an environmentally-sensitive mining plan can be developed that minimizes impact to dense willow habitat and concentrates excavation disturbance to scoured, barren or sparsely vegetated areas. During the permit process, which often takes several years, the river changes its course removing existing willow habitat and allowing the establishment of new plants in formerly barren areas. In these cases, the original mining plan would no longer be the best plan to minimize impacts on the river habitat.
- Bias of the U.S. Army Corps of Engineers in the Practicable Alternative Test towards out-of-river mining.
- Expense of mitigation measures required to lessen impacts on natural habitat and man-made structures.
- Restrictions by Ventura County on in-river mining depths reduces the amount of aggregate that can be extracted. The reduced resources, when combined with regulatory and mitigation costs, can render the project economically infeasible.
- Cost to process permits. Granite Construction Company (Appendix 7, letter from Granite Construction Company) and Sespe Rock Products were not successful in obtaining Conditional Use Permits for in-river mining after spending collectively nearly one million dollars over a five-year period for permit processing fees and for the preparation of the Draft Environmental Impact Report. Granite Construction Company and Sespe Rock Products found the mitigation measures proposed in the Draft Environmental Impact Report too expensive and had to withdraw their permit applications (See following section, "Permitting Costs").

The difficulty in obtaining an in-river mining permit is further demonstrated by the experience of the Southern Pacific Milling Company. As previously mentioned, the Company obtained an approved Conditional Use Permit and a Certified Environmental Impact Report, but was unable to obtain permits and approvals from other agencies needed prior to the reinstatement of mining, such as a U.S. Army Corps of Engineers Individual 404 Permit (Appendix 6, letter from Southern Pacific Milling Company).

## **Permitting Costs**

A surface mining project applicant, as described by this document, is typically a private-sector mining company. As with any private-sector company, these companies seek to meet a demand in the market place for as competitive of a price as possible. Again, like any other company, the private-sector mining company has a limited amount of money to budget for permitting costs and risks. These projects are considered particularly risky because there is very little guarantee of any project ultimately being approved.

Most mining companies can only afford a 1% risk of investment into permitting a potential project site; beyond this percent, either the potential denial of the application could be devastating to the company or the sale of material from the permitted site would not even allow for amortization of the project start-up costs.

For example, a typical mining site may produce 10 million tons of aggregate at 5 dollars per ton over a 10 year project life. This typical scenario would generate approximately 50 million dollars for the operator over the 10 year life of the project. In this situation, a mining company would typically budget 500 thousand dollars for permitting a potential project site. Beyond this figure, the site would be considered too risky or costly to permit. Due to the high costs of permitting, the typical application process for these project usually well exceeds this amount of money. Each step of the process requires payment of the following fees:

### **Los Angeles County**

A representative example of processing fees required in Los Angeles County are as follows:

- Surface Mining and Reclamation Plan Permit Application Fee - \$5,000

The final costs of processing a permit are computed on actual time expended by all County staff and are based on the hourly rates established to recover costs. There is no billing limit and the applicant will be charged for the total balance that exceeds the deposit. It is not uncommon for these hourly fees to exceed \$20,000 dollars in a year. The author's experience is that an EIR in Los Angeles County usually takes in excess of three years to complete due to lengthy review periods.

- Environmental Impact Report Processing Fee - \$7,000

The County of Los Angeles requires a deposit of \$7,000 and will charge the applicant for total time expended on the project.

- Environmental Impact Report Preparation Fee - \$45,000 - \$500,000+

The County of Los Angeles requires the applicant to retain and to compensate an environmental consulting firm and technical specialists for the preparation of the Environmental Impact Report. Technical specialists are hired to analyze geology, hydrology, air quality, noise pollution, biology, archaeology, traffic, public safety and various engineering disciplines.

### **Ventura County**

A representative example of processing fees required in Ventura County is as follows:

- Pre-submittal Review Fee - \$3,850.00

A pre-submittal review application deposit fee is usually required. Under this mechanism, final costs for the conduction of a pre-submittal review will be computed on actual time expended by all County staff, without a billing limit. If final costs are less than the deposit amount, a refund or credit is issued to the applicant. The client is billed for final costs exceeding the deposit fee.

- CUP Application Fee - \$3,850

The final costs of processing a permit are computed on actual time expended by all County staff and are based on the hourly rates established to recover costs. There is no billing limit and the applicant will be charged for the total balance that exceeds the deposit. For instance, the current costs for an in-progress Southern Pacific Milling Company Conditional Use Permit including staff time for EIR review is more than \$50,000.

- Environmental Impact Report Processing Fee - \$2,530.00

The County of Ventura requires a deposit of \$2,530.00 without a billing limit for staff time to coordinate the Environmental Impact Report contract and will charge the applicant for total time expended on the project. The total cost of overseeing the preparation of an Environmental Impact Report frequently exceeds \$50,000.00.

- Environmental Impact Report Fees - \$45,000-\$500,000+

Typically, the County of Ventura contracts with a consulting firm to prepare the Environmental Impact Report for the County. Total prepayment or an acceptable bond for the Environmental Impact Report preparers estimated costs are expected at the time the contract is approved by the Ventura County Board of Supervisors.

## **Other Permit Fees**

1. 1603 Streambed Alteration Agreement (Calif. Dept. of Fish and Game) - \$800.00
2. Permit (U.S. Army Corps of Engineers) - None
3. Water Quality Certification - Regional Water Quality Control Board - Up to \$10,000.00
4. Waste Discharge Requirements - Submittal Fee
5. Section 7 Consultation (U.S. Fish and Wildlife Service) - None

The above fees do not include costs for additional assessments such as Wetland Delineation Studies and costs for the preparation of a Practical Alternative Analysis, both needed to obtain a 404 permit. The preparation costs for each of these studies is frequently in excess of \$50,000.

Permitting costs for surface mining projects are enormous. Costs generally exceed \$500,000 for the permitting of a typical project. Much of these costs are directly attributable to the hourly fee costs of various agencies. By streamlining the permit process, much of these costs could be reduced without any loss to the overall effectiveness of the permit process.

Section 5  
**RECOMMENDATIONS**

*The following recommendations would implement the Objectives stated in Section 2 of this Report. Of particular importance are recommendations for streamlining the permit process. Streamlining would implement other objectives, including providing a 50-year supply of aggregate reserves close to the market areas, reducing excessive permitting costs and improving the overall effectiveness of the process.*

1. Designate one lead agency for biology-related permit approvals for in-river and out-of-river mining. The designated lead agency would coordinate project review and condition development with other local, State and Federal biological resource agencies, i.e., California Fish and Game Department, California Regional Water Quality Control Board, U. S. Corps of Engineers, U. S. Fish and Wildlife Service, the Environmental Protection Agency and others. One Master Permit would be issued that satisfies all resource agencies' requirements.
2. If existing laws and regulations do not permit the issuance of a Master Permit by one lead agency, and if these laws cannot be amended to achieve the stated objective, then one lead agency should be designated to develop one set of conditions which covers all aspects for biology related permit approvals for in-river and out-of-river mining. These conditions could be used by all resource agencies to make their findings and to issue their permits.
3. Identify areas in conjunction with qualified biologists where excavation can enhance the river habitat
4. Identify areas in conjunction with County Flood Control Districts and qualified biologists where excavation can enhance flood control with minimal impact on the river environment.
5. Include statements in the Santa Clara River Enhancement Management Plan that identify the aggregate needs of both Counties.

**Appendix 1: Surface Mining and Reclamation Act (1975)**

# SURFACE MINING AND RECLAMATION ACT OF 1975

(As amended by Senate Bill 1300, Nejedly - 1980 Statutes,  
Assembly Bill 110, Areias - 1984 Statutes,  
Senate Bill 593, Royce - 1985 Statutes,  
Senate Bill 1261, Seymour - 1986 Statutes,  
Assembly Bill 747, Sher - 1987 Statutes,  
Assembly Bill 3551, Sher - 1990 Statutes,  
Assembly Bill 3903, Sher - 1990 Statutes,  
Assembly Bill 1506, Sher - 1991 Statutes,  
Senate Bill 1569, Rogers - 1992 Statutes,  
Assembly Bill 3098, Sher - 1992 Statutes,  
Assembly Bill 723, Sher - 1993 Statutes  
and Assembly Bill 904, Sher - 1993 Statutes)

## Article 1. General Provisions

§ 2710. This chapter shall be known and may be cited as the Surface Mining and Reclamation Act of 1975.

§ 2711. (a) The Legislature hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

(b) The Legislature further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

(c) The Legislature further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

§ 2712. It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:

(a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

(b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(c) Residual hazards to the public health and safety are eliminated.

§ 2713. It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitutions.

§ 2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 (commencing with Section 21000).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

§ 2715. No provision of this chapter or any ruling, requirement, or policy of the board is a limitation on any of the following:

(a) On the police power of any city or county or on the power of any city or county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) On the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer.

(d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

(e) On the power of any lead agency to adopt policies, standards, or regulations imposing additional requirements on any person if the requirements do not prevent the person from complying with the

provisions of this chapter.

(f) On the power of any city or county to regulate the use of buildings, structures, and land as between industry, business, residents, open space (including agriculture, recreation, the enjoyment of scenic beauty, and the use of natural resources), and other purposes.

§ 2716. Any person may commence an action on his or her own behalf against the board, the State Geologist, or the director for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board, the State Geologist, or the director to carry out any duty imposed upon them pursuant to this chapter.

§ 2717. (a) The board shall submit to the Legislature on December 1st of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. The report shall include a statement of the actions, including legislative recommendations, which are necessary to carry out more completely the purposes and requirements of this chapter.

(b) For purposes of ensuring compliance with Section 10295.5 of the Public Contract Code, on and after July 1, 1993, the department shall, at a minimum, quarterly publish in the California Regulatory Notice Register, or otherwise make available upon request to the Department of General Services or any other state agency, a list identifying all of the following:

(1) Surface mining operations for which a report has been submitted pursuant to Section 2207 which indicates that the reclamation plan and the financial assurances have been approved.

(2) Surface mining operations for which an appeal is pending before the board pursuant to subdivision (c) of Section 2770, provided that the appeal shall not have been pending before the board for more than 180 days.

§ 2718. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ 2719. Notwithstanding any other provision of law, neither the state nor any county, city, district, or other political subdivision shall be exempt from any fee imposed upon a mining operation pursuant to subdivision (d) of Section 2207.

## Article 2. Definitions

§ 2725. Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter.

§ 2726. "Area of regional significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local significance.

§ 2727. "Area of statewide significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state



and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

§ 2727.1 "Idle" means to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

§ 2728. "Lead agency" means the city, county, San Francisco Bay Conservation and Development Commission, or the board which has the principal responsibility for approving a surface mining operation or reclamation plan pursuant to this chapter.

§ 2729. "Mined lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

§ 2730. "Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

§ 2731. "Operator" means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

§ 2732. "Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

§ 2732.5. "Permit" means any authorization from, or approval by, a lead agency, the absence of which would preclude surface mining operations.

§ 2733. "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

§ 2734. "State policy" means the regulations adopted by the board pursuant to Section 2755.

§ 2735. "Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the pier method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

- (a) Inplace distillation or retorting or leaching.
- (b) The production and disposal of mining waste.
- (c) Prospecting and exploratory activities.

### Article 3. District Committees

§ 2740. In carrying out the provisions of this chapter, the board may establish districts and appoint one or more district technical advisory committees to advise the board. In establishing districts for these committees, the board shall take into account physical characteristics, including, but not limited to, climate, topography, geology, type of overburden, and principal mineral commodities. Members of the committees shall be selected and appointed on the basis of their professional qualifications and training in mineral resource conservation, development and utilization, land use planning, mineral economics, or the reclamation of mined lands.

§ 2741. The members of the committee shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

### Article 4. State Policy for the Reclamation of Mined Lands

§ 2755. The board shall adopt regulations which establish state policy for the reclamation of mined lands in accordance with the general provisions set forth in Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 2756. State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by lead agencies in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control.

§ 2757. The state policy adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of mined lands, and shall be used as standards by lead agencies in preparing specific and general plans, including the conservation and land use elements of the general plan, and zoning ordinances. The state policy shall not include aspects of regulating surface mining operations which are solely of local concern, and not of statewide or regional concern, as determined by the board, such as, but not limited to, hours of operation, noise, dust, fencing, and purely aesthetic considerations.

§ 2758. Such policy shall include objectives and criteria for all of the following:

- (a) Determining the lead agency pursuant to the provisions of Section 2771.
- (b) The orderly evaluation of reclamation plans.
- (c) Determining the circumstances, if any, under which the approval of a proposed surface mining operation by a lead agency need not be conditioned on a guarantee assuring reclamation of the mined lands.

§ 2759. The state policy shall be continuously reviewed and may be revised. During the formulation or revision of the policy, the board shall consult with, and carefully evaluate the recommendations of, the director, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

§ 2760. The board shall not adopt or revise the state policy unless a public hearing is first held respecting their adoption or revision. At least 30 days prior to such hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

§ 2761. (a) On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state which are urbanized or are subject to urban expansion or other irreversible land uses which would preclude mineral extraction:

(1) Standard metropolitan statistical areas and such other areas for which information is readily available.

(2) Other areas as may be requested by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been requested by a petition which has been accepted by the board, or any other areas as may be specified by the board, as one of the following:

(1) Areas containing little or no mineral deposits.

(2) Areas containing significant mineral deposits.

(3) Areas containing mineral deposits, the significance of which requires further evaluation.

The State Geologist shall require the petitioner to pay the reasonable costs of classifying an area for which classification has been requested by the petitioner.

(c) The State Geologist shall transmit the information to the board for incorporation into the state policy and for transmittal to lead agencies.

§ 2762. (a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land uses which affect areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) Every lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) Any subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) If any area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare, in

conjunction with preparing any environmental document required by Division 13 (commencing with Section 21000), or in any event if no such document is required, a statement specifying its reasons for permitting the proposed use, and shall forward a copy to the State Geologist and the board for review.

If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

(1) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.

(2) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment role.

The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, when the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

(e) Prior to permitting a use which would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located therein. The results of such evaluation shall be transmitted to the State Geologist and the board.

§ 2763. (a) If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

(b) If an area is designated by the board as an area of statewide significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being

of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.

§ 2764. (a) Upon the request of an operator or other interested person and payment by the requesting person of the estimated cost of processing the request, the lead agency having jurisdiction shall amend its general plan, or prepare a new specific plan or amend any applicable specific plan, that shall, with respect to the continuation of the existing surface mining operation for which the request is made, plan for future land uses in the vicinity of, and access routes serving, the surface mining operation in light of the importance of the minerals to their market region as a whole, and not just their importance to the lead agency's area of jurisdiction.

(b) In adopting amendments to the general plan, or adopting or amending a specific plan, the lead agency shall make written legislative findings as to whether the future land uses and particular access routes will be compatible or incompatible with the continuation of the surface mining operation, and if they are found to be incompatible, the findings shall include a statement of the reasons why they are to be provided for, notwithstanding the importance of the minerals to their market region as a whole or their previous designation by the board, as the case may be.

(c) Any evaluation of a mineral deposit prepared by a lead agency for the purpose of carrying out this section shall be transmitted to the State Geologist and the board.

(d) The procedure provided for in this section shall not be undertaken in any area that has been designated pursuant to Article 6 (commencing with Section 2790) if mineral resource management policies have been established and incorporated in the lead agency's general plan in conformance with Article 4 (commencing with Section 2755).

#### **Article 5. Reclamation of Mined Lands and the Conduct of Surface Mining Operations**

§ 2770. (a) Except as provided in this section, no person shall conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation pursuant to this article.

(b) Any person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency. For purposes of this subdivision, reclamation plans may consist of all or the appropriate sections of any plans or written agreements previously approved by the lead agency or another agency, together with any additional documents needed to substantially meet the requirements of Sections 2772 and 2773 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, provided that all documents which together were proposed to serve as the reclamation plan are

submitted for approval to the lead agency in accordance with this chapter.

(c) If a person with an existing surface mining operation has received lead agency approval of its financial assurances for reclamation prior to January 1, 1991, the lead agency shall administratively review those existing financial assurances in accordance with subdivision (d) prior to January 1, 1992. The review of existing financial assurances shall not be considered a project for purposes of Division 13 (commencing with Section 21000). Any person with an existing surface mining operation which does not have financial assurances that received lead agency approval prior to January 1, 1991, shall submit financial assurances for reclamation for review in accordance with subdivision (d).

(d) The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval. Except as specified in subdivision (e) or (i), unless the operator has filed on or before July 1, 1990, an appeal pursuant to subdivision (e) with regard to nonapproval of the reclamation plan, or has filed on or before January 1, 1994, an appeal pursuant to subdivision (e) with regard to nonapproval of financial assurances, and that appeal is pending before the board, the continuation of the surface mining operation is prohibited until a reclamation plan and financial assurances for reclamation are approved by the lead agency.

(e) Any person who, based on the evidence of the record, can substantiate that a lead agency has either (1) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, (2) failed to act within a reasonable time of receipt of a completed application, or (3) failed to review and approve reclamation plans or financial assurances as required by subdivisions (c) and (d), may appeal that action or inaction to the board.

(f) The board may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's review pursuant to this section.

(g) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing within 45 days of the filing of the appeal, or any longer period as may be mutually agreed upon by the board and the person filing the appeal. In hearing an appeal, the board shall only determine whether the reclamation plan or the

financial assurances substantially meet the applicable requirements of Sections 2772, 2773, 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. A reclamation plan or financial assurances determined to meet these requirements shall be approved. A reclamation plan or financial assurances determined not to meet these requirements shall be returned to the person filing the appeal with a notice of deficiencies, who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the board, to correct the noted deficiencies and submit the revised reclamation plan or the revised financial assurances to the lead agency for review and approval.

(h)(1) Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of Division 13 (commencing with Section 21000). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

(2) The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

(A) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.

(B) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.

(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.

(4) Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

(5) The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency's governing body, a surface mining operation which remains

idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) Any enforcement action which may be brought against a person for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

§ 2770.5. Whenever surface mining operations are proposed in the 100-year flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the lead agency receiving the application for the issuance or renewal of a permit to conduct the surface mining operations shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than 45 days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The lead agency shall not issue or renew the permit until the Department of Transportation has submitted its comments or until 45 days from the date the application for the permit was submitted, whichever occurs first.

§ 2771. Whenever a proposed or existing surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and is not separated by a natural or manmade barrier coinciding with the boundary of the agencies, the evaluation of the proposed or existing operation shall be made by the lead agency in accordance with the procedures adopted by the lead agency pursuant to Section 2774. If a question arises as to which public agency is the lead agency, any affected public agency, or the affected operator, may submit the matter to the board. The board shall notify in writing all affected public agencies and operators that the matter has been submitted, specifying a date for a public hearing. The board shall designate the public agency which shall serve as the lead agency, giving due consideration to the capability of the agency to fulfill adequately the requirements of this chapter and to an examination of which of the public agencies has principal permit responsibility.

§ 2772. The reclamation plan shall be filed with the lead agency on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations thereon.

The reclamation plan shall include the following information and documents:

(a) The name and address of the operator and the names and addresses of any persons designated by him as his agent for the service of process.

(b) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(c) The proposed dates for the initiation and termination of such operation.

(d) The maximum anticipated depth of the surface mining operation.

(e) The size and legal description of the lands that will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, such lands, the location of all proposed access roads to be constructed in conducting such operation, and the names and addresses of the owners of all surface and mineral interests of such lands.

(f) A description of and plan for the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

(g) A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(h) A description of the manner in which reclamation, adequate for the proposed use or potential uses will be accomplished, including:

(1) a description of the manner in which contaminants will be controlled, and mining waste will be disposed; and

(2) a description of the manner in which rehabilitation of affected streambed channels and streambanks to a condition minimizing erosion and sedimentation will occur.

(i) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(j) A statement that the person submitting the plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

(k) Any other information which the lead agency may require by ordinance.

§ 2773. (a) The reclamation plan shall be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation, and sediment and erosion control.

(b) By January 1, 1992, the board shall adopt regulations specifying minimum, verifiable statewide reclamation standards. Subjects for which standards shall be set include, but shall not be limited to, the following:

- (1) Wildlife habitat.
- (2) Backfilling, regrading, slope stability, and recontouring.
- (3) Revegetation.
- (4) Drainage, diversion structures, waterways, and erosion control.
- (5) Prime and other agricultural land reclamation.
- (6) Building, structure, and equipment removal.
- (7) Stream protection.

(8) Topsoil salvage, maintenance, and redistribution.

(9) Tailing and mine waste management.

These standards shall apply to each mining operation, but only to the extent that they are consistent with the planned or actual subsequent use or uses of the mining site.

§ 2773.1. (a) Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:

(1) Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the board pursuant to subdivision (e), which the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.

(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

(4) The financial assurances shall be made payable to the lead agency and the department. Financial assurances that were approved by the lead agency prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the department for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the lead agency, the lead agency shall deem those financial assurances adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the lead agency, and the department and otherwise meet the requirements of this section. In any event, if a lead agency and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the lead agency and the public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

(b) If the lead agency or the board, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, either the lead agency or the director shall do all of the following:

(1) Notify the operator by personal service or certified mail that the lead agency or the director intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.

(2) Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the lead agency or the director and the operator.

(3) Proceed to take appropriate action to require forfeiture of the



financial assurances if the operator does not substantially comply with paragraph (2).

(4) Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the director, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency in accordance with Section 2770.

(d) The lead agency shall have primary responsibility to seek forfeiture of financial assurances and to reclaim mine sites under subdivision (b). However, in cases where the board is not the lead agency pursuant to Section 2774.4, the director may act to seek forfeiture of financial assurances and reclaim mine sites pursuant to subdivision (b) only if both of the following occurs:

(1) The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the director.

(2) The lead agency has been notified in writing by the director of the financial incapability of the operator or the abandonment of the mining operation for at least 15 days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; and one of the following has occurred:

(A) The lead agency has been notified in writing by the director that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mine site shall result in actions being taken against the lead agency under Section 2774.4.

(B) The director determines that there is a violation which amounts to an imminent and substantial endangerment to the public health, safety, or to the environment.

(C) The lead agency notifies the director in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful.

The director shall comply with subdivision (b) in seeking forfeiture of financial assurances and reclaiming mine sites.

(e) The board may adopt regulations specifying financial assurance mechanisms other than surety bonds, irrevocable letters of credit, and trust funds, which the board determines are reasonably available and adequate to ensure reclamation pursuant to this chapter, but these mechanisms may not include financial tests. These mechanisms may include reclamation bond pool programs.

(f) On or before March 1, 1993, the board shall adopt guidelines to implement this section. The guidelines are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and are not subject to review by the Office of Administrative Law.

§ 2774. (a) Every lead agency shall adopt ordinances in accordance with state policy which establish procedures for the review

and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, in order to ensure that the ordinances continue to be in accordance with state policy.

(b) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year. The lead agency may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the department and approved by the board. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall notify the director within 30 days of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mine's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, without limitation, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

(c) Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments to the director for review. The lead agency shall certify to the director that the reclamation plan complies with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 or Title 14 of the California Code of Regulations, as in effect at the time the reclamation plan is submitted to the director for review.

(d) The director shall have 45 days to prepare written comments, if the director so chooses. The lead agency shall evaluate written comments received from the director during the 45-day comment period. The lead agency shall prepare a written response describing the disposition of the major issues raised. In particular, when the lead agency's position is at variance with the recommendations and objections raised in the director's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and

responses prepared by the lead agency shall be forwarded to the operator.

(e) Lead agencies shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of such an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the director for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required under this section shall be cause for action under Section 2774.4.

§ 2774.1. (a) Except as provided in subdivision (i) of Section 2770, if the lead agency or the director determines, based upon an annual inspection pursuant to Section 2774, or otherwise confirmed by an inspection of the mining operation, that a surface mining operation is not in compliance with this chapter, the lead agency or the director may notify the operator of that violation by personal service or certified mail. If the violation extends beyond 30 days after the date of the lead agency's or the director's notification, the lead agency or the director may issue an order by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan or financial assurances, cease all further mining activities.

(b) An order issued under subdivision (a) shall not take effect until the operator has been provided a hearing before the lead agency for orders issued by the lead agency, or board for orders issued by the director, concerning the alleged violation. Any order issued under subdivision (a) shall specify which aspects of the surface mine's activities or operations are inconsistent with this chapter, shall specify a time for compliance which the lead agency or director determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, and shall set a date for the hearing, which shall not be sooner than 30 days after the date of the order.

(c) Any operator who violates or fails to comply with an order issued under subdivision (a) after the order's effective date, as provided in subdivision (b), or who fails to submit a report to the director or lead agency as required by Section 2207, shall be subject to an order by the lead agency or the director imposing an administrative penalty of not more than five thousand dollars (\$5,000) per day, assessed from the original date of noncompliance with this chapter or Section 2207. The penalty may be imposed administratively by the lead agency or the director. In determining the amount of the administrative penalty, the lead agency or the director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require. Orders setting administrative penalties shall become effective upon issuance thereof and payment shall be made to the lead agency or the director within 30 days, unless the operator petitions the legislative body of the lead agency, the board, or the superior court for review as provided in Section 2774.2. Any order shall be served by personal service or by

certified mail upon the operator. Penalties collected by the director shall be used for no purpose other than to cover the reasonable costs incurred by the director in implementing this chapter or Section 2207.

(d) If the lead agency or the director determines that the surface mine is not in compliance with this chapter, so that the surface mine presents an imminent and substantial endangerment to the public health or the environment, the lead agency or the Attorney General, on behalf of the director, may seek an order from a court of competent jurisdiction enjoining that operation.

(e) Upon a complaint by the director, the department, or the board, the Attorney General may bring an action to recover administrative penalties under Section 2207, in any court of competent jurisdiction in this state against any person violating any provision of this chapter or Section 2207, or any regulation adopted pursuant to this chapter or Section 2207. The Attorney General may bring such an action on his or her own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred. The Attorney General may also seek an order from a court of competent jurisdiction compelling the operator to comply with this chapter and Section 2207.

(f) The lead agency has primary responsibility for enforcing this chapter and Section 2207. In cases where the board is not the lead agency pursuant to Section 2774.4, enforcement actions may be initiated by the director pursuant to this section only after the violation has come to the attention of the director and either of the following occurs:

(1) The lead agency has been notified by the director in writing of the violation for at least 15 days, and has not taken appropriate enforcement action.

(2) The director determines that there is a violation which amounts to an imminent and substantial endangerment to the public health or safety, or to the environment.

The director shall comply with this section in initiating enforcement actions.

(g) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

§ 2774.2. (a) Within 30 days of the issuance of an order setting administrative penalties under subdivision (c) of Section 2774.1, the operator may petition that legislative body of the lead agency, if the lead agency has issued the order, or the board for orders issued by the director, for review of the order. If the operator does not petition for review within the time limits set by this subdivision, the order setting administrative penalties shall not be subject to review by any court or agency.

(b) The legislative body of the lead agency or the board shall notify the operator by personal service or certified mail whether it will review the order setting administrative penalties. In reviewing an order pursuant to this section, the record shall consist of the record before the lead agency or the director, and any other relevant evidence which, in the judgment of the legislative body or the board, should be considered to effectuate and implement the policies of this chapter.

(c) The legislative body or the board may affirm, modify, or set aside, in whole or in part, by its own order, any order of the lead agency or the director setting administrative penalties reviewed by the legislative body or the board pursuant to this section.

(d) Any order of the legislative body or the board issued under subdivision (c) shall become effective upon issuance thereof, unless the operator petitions the superior court for review as provided in subdivision (e). Any order shall be served by personal service or by certified mail upon the operator. Payment of any administrative penalty which is specified in an order issued under subdivision (c), shall be made to the lead agency or the director within 30 days of service of the order; however, the payment shall be held in an interest bearing impound account pending the resolution of a petition for review filed pursuant to subdivision (e).

(e) Any operator aggrieved by an order of the legislative body or the board issued under subdivision (c) may obtain review of the order by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the order. Any operator aggrieved by an order of a lead agency or the director setting administrative penalties under subdivision (c) of Section 2774.1, for which the legislative body or board denies review, may obtain review of the order in the superior court by filing in the court a petition for writ of mandate within 30 days following the denial of review. The provisions of Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If the operator does not petition for a writ of mandate within the time limits set by this subdivision, an order of the board or the legislative body shall not be subject to review by any court or agency.

§ 2774.3. The board shall review lead agency ordinances which establish permits and reclamation procedures to determine whether each ordinance is in accordance with state policy, and shall certify the ordinance as being in accordance with state policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the board pursuant to this chapter.

§ 2774.4. (a) If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority.

(b) If, no sooner than three years after the board has taken action pursuant to subdivision (a), the board finds, after a public hearing, that a lead agency has corrected its deficiencies in implementing and enforcing this chapter, and the rules and regulations adopted pursuant to this chapter, the board shall restore to the lead agency the powers assumed by the board pursuant to subdivision (a).

(c) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allows the lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within the 45-day period, the board shall hold a public hearing within the lead agency's area of

jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.

(d) Affected surface mining operators and interested persons have the right, at the public hearing, to present oral and written evidence on the matter being considered. The board may, at the public hearing, place reasonable limits on the right of affected surface mining operators and interested persons to question and solicit testimony.

(e) If, after conducting the public hearing required by subdivision (c), the board decides to take action pursuant to subdivision (a) the board shall, based on the record of the public hearing, adopt written findings which explain all of the following:

(1) The action to be taken by the board.

(2) Why the board decided to take the action.

(3) Why the action is authorized by, and meets the requirements of, subdivision (a).

In addition, the findings shall address the significant issues raised, or written evidence presented, by affected surface mining operators, interested persons, or the lead agency. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the board.

(f) The lead agency, any affected surface mining operator, or any interested person who has presented oral or written evidence at the public hearing before the board pursuant to subdivision (d) may obtain review of the board's action taken pursuant to subdivision (a) by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the board's decision. Section 1094.5 of the Code of Civil Procedure governs judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the board's action under subdivision (a) shall not be subject to review by any court or agency.

§ 2774.5. (a) If, upon review of an ordinance, the board finds that it is not in accordance with state policy, the board shall communicate the ordinance's deficiencies in writing to the lead agency. Upon receipt of the written communication, the lead agency shall have 90 days to submit a revised ordinance to the board for certification as being in accordance with state policy. The board shall review the lead agency's revised ordinance for certification within 60 days of its receipt. If the lead agency does not submit a revised ordinance within 90 days, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(b) If, upon review of a lead agency's revised ordinance, the board finds the ordinance is still not in accordance with state policy, the board shall again communicate the ordinance's deficiencies in writing to the lead agency. The lead agency shall have a second 90-day period in which to revise the ordinance and submit it to the board for review. If the board again finds that the revised ordinance is not in accordance with state policy or if no revision is submitted, the board shall assume full authority for reviewing and approving



reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(c) In any jurisdiction in which the lead agency does not have a certified ordinance, no person shall initiate a surface mining operation unless a reclamation plan has been submitted to, and approved by, the board. Any reclamation plan, approved by a lead agency under the lead agency's ordinance which was not in accordance with state policy at the time of approval, shall be subject to amendment by the board or under the ordinance certified by the board as being in accordance with state policy.

(d) Reclamation plans approved by the board pursuant to this section shall not be subject to modification by the lead agency at a future date but may be amended by the board. Reclamation plans approved by the board shall be remanded to the lead agency upon certification of the lead agency's ordinance, and the lead agency shall approve the reclamation plan as approved by the board, except that a subsequent amendment may be agreed upon between the operator and the lead agency may be made according to this chapter. No additional public hearing shall be required prior to the lead agency's approval. Nothing in this section shall be construed as authorizing the board to issue a permit for the conduct of mining operations.

§ 2774.6. On or before March 1, 1994, the department shall submit to the Governor and Legislature a report, prepared by a qualified consultant, which may include an educational institution, which evaluates the effectiveness of lead agencies and the department in implementing this chapter and Section 2207, and in meeting the intent of the Legislature as set forth in Section 2712. The report shall be prepared to the extent that funds are appropriated by the Legislature for this purpose. Prior to encumbering any funds for preparation of the report, the board may conduct a public hearing to receive and respond to public comments concerning the scope of issues to be addressed. The report shall include, but is not limited to, an evaluation of all of the following:

(a) Compliance with this chapter and Section 2207 by operators of surface mines, lead agencies, the State Geologist, the department, and the board.

(b) Compliance with reclamation requirements prescribed in Section 2773.

(c) The adequacy of resources needed to carry out this chapter and Section 2207.

(d) The adequacy of information available for purposes of preparing the report.

(e) Any recommended changes to administrative regulations or recommendations for further legislation.

§ 2775. (a) An applicant whose request for a permit to conduct surface mining operations in an area of statewide or regional significance has been denied by a lead agency, or any person who is aggrieved by the granting of a permit to conduct surface mining operations in an area of statewide or regional significance, may, within 15 days of exhausting his rights to appeal in accordance with the procedures of the lead agency, appeal to the board.

(b) The board may, by regulation, establish procedures for declining to hear appeals that it determines raise no substantial issues.

(c) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing held within the jurisdiction of the lead agency which processed the original application within 30 days of the filing of the appeal, or such longer period as may be mutually agreed upon by the board and the person filing the appeal. In any such action, the board shall not exercise its independent judgment on the evidence but shall only determine whether the decision of the lead agency is supported by substantial evidence in the light of the whole record. If the board determines the decision of the lead agency is not supported by substantial evidence in the light of the whole record it shall remand the appeal to the lead agency and the lead agency shall schedule a public hearing to reconsider its action.

§ 2776. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, he or she has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

The reclamation plan required to be filed under subdivision (b) of Section 2770, shall apply to operations conducted after January 1, 1976, or to be conducted.

Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976.

§ 2777. Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the lead agency.

§ 2778. (a) Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the lead agency that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The lead agency shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the director and to persons authorized in writing by the operator and by the owner.

(b) A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the director by lead agencies on request.

§ 2779. Whenever one operator succeeds to the interest of another in any incompleting surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter.

## **Article 6. Areas of Statewide or Regional Significance**

§ 2790. After receipt of mineral information from the State Geologist pursuant to subdivision (c) of Section 2761, the board may by regulation adopted after a public hearing designate specific geographic areas of the state as areas of statewide or regional significance and specify the boundaries thereof. Such designation shall be included as a part of the state policy and shall indicate the reason for which the particular area designated is of significance to the state or region, the adverse effects that might result from premature development of incompatible land uses, the advantages that might be achieved from extraction of the minerals of the area, and the specific goals and policies to protect against the premature incompatible development of the area.

§ 2791. The board shall seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of areas of statewide and regional significance.

§ 2792. Neither the designation of an area of regional or statewide significance nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that has been authorized pursuant to part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code, pursuant to the Subdivision Map Act (Division 2 [commencing with Section 66410] of Title 7 of the Government Code), or by a building permit or other authorization to commence development, upon which such person relies and has changed his position to his substantial detriment, and, which permit or authorization was issued prior to the designation of such area pursuant to Section 2790. If a developer has by his actions taken in reliance upon prior regulations obtained vested or other legal rights that in law would have prevented a local public agency from changing such regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

§ 2793. The board may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board is no longer required.

## **Article 7. Fiscal Provisions**

§ 2795. (a) Notwithstanding any other provision of law, the first two million dollars (\$2,000,000) of moneys from mining activities on federal lands disbursed by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), shall be deposited in the Surface Mining and Reclamation Account in the General Fund, which account is hereby created, and may be expended, upon appropriation by the Legislature, for the purposes of this chapter. However, if in any fiscal year, the amount of money disbursed to the state pursuant to Section 35 of the Mineral Lands Leasing Act is less than twenty million dollars (\$20,000,000), then only the first one million one hundred thousand dollars (\$1,100,000) of that money shall be deposited in the Surface Mining and Reclamation Account for the next fiscal year.

(b) Proposed expenditures from the account shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the account shall be subject to all of the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

## **SEC. 2. Abandoned Mine Reclamation Program**

§ 2796. (a) The Legislature hereby establishes a state abandoned minerals and mineral materials mine reclamation program for the purpose of administering funds received by the state under the Surface Mining Control and Reclamation Act of 1977, or through amendments to the federal general mining laws (30 U.S.C. Secs. 1, 12A, 16, 161, and 162, and 602, et seq.).

(b) There is hereby created in the State Treasury, the Abandoned Mine Reclamation and Minerals Fund. The money in the fund may be expended, upon appropriation by the Legislature, as required by federal legislation amending the federal general mining laws, and for the following purposes:

(1) Development of an inventory of mined lands, water, and facilities eligible for reclamation.

(2) Establishment by the director of the abandoned minerals and mineral materials mine reclamation program pursuant to the pending federal legislation amending the federal general mining laws, if enacted, that provides for all of the following:

(A)(i) Reclamation and restoration of abandoned surface mined areas.

(ii) For purposes of this subparagraph, "abandoned surface mined area" means mined lands that meet all of the following requirements:

(I) Mining operations have ceased for a period of one year or more.

(II) There is no interim management plan in effect that meets the requirements of Section 2770.

(III) There are no approved financial assurances that are adequate to perform reclamation in accordance with this chapter.

(IV) The mined lands are adversely affected by past mineral mining, other than mining for coal, oil, and gas, and mineral material mining.

(B) Reclamation and restoration of abandoned milling and processing areas.

(C) Sealing, filling, and grading abandoned deep mine entries.

(D) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(E) Prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage.

(F) Control of surface subsidence due to abandoned deep mines.

(G) The expenses necessary to accomplish the purposes of this section.

(3) To the extent those expenditures are allowed by the applicable statutes:

(A) Grants to lead agencies for the purposes of carrying out this chapter.

(B) Implementation of this chapter and Section 2207 by the department, which may include an offsetting reduction in the

amount of reporting fees collected from each active and idle mining operation and deposited in the Mine Reclamation Account pursuant to subdivision (d) of the Section 2207, as determined by the director.

(c) The Abandoned Mine Reclamation and Minerals Fund shall be the depository for all moneys from mining activities on federal lands, as follows:

(1) (A) Disbursements made by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act (30 U.S.C. Sec. 191), with respect to royalties levied on the production of locatable minerals or mineral concentrates from any mining claim located on federal lands in the state pursuant to the pending federal legislation amending the federal general mining laws, but excluding oil, gas, and geothermal revenues.

(B) The federal funds specified in this paragraph do not include the funds deposited in the Surface Mining and Reclamation Account pursuant to Section 2795, the funds deposited in the Geothermal Resources Development Account pursuant to Section 3820, or the funds deposited in the State School Fund pursuant to Section 12320 of the Education Code.

(2) Grants made by the Secretary of the Interior to this state from the Abandoned Minerals Mine Reclamation Fund pursuant to the pending federal legislation amending the federal general mining laws, for the implementation of an abandoned minerals and mining materials mine reclamation program.

(d) The expenditure of money from the Abandoned Mine Reclamation and Minerals Fund shall reflect the following priorities and other priorities as specified in federal statute in the following ranking:

(1) The protection of public health and safety and the environment from the adverse effects of past minerals and mineral materials

mining practices.

(2) The protection of property that is in extreme danger as a result of past minerals and mineral materials mining practices.

(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

(e) Proposed expenditures from the Abandoned Mine Reclamation and Minerals Fund shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the fund shall be subject to all the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

SEC. 3 Section 2 of this act shall become operative upon the effective date of any federal legislation which is enacted requiring the payment of a royalty on the production of locatable minerals, produced from any mining claim located or converted on federal lands in this state, excluding royalties paid on oil, gas, and geothermal lease activities, and not already subject to disposition under any of the following:

(1) The Mineral Lands Leasing Act (30 U.S.C. Sec. 191).

(2) The Geothermal Steam Act of 1970 (30 U.S.C. Sec. 100).

(3) The Materials Act of 1947 (30 U.S.C. Sec. 601).

(4) The Mineral Leasing Act for Acquired Lands (30 U.S.C. Sec. 351).

State Statutes  
Ch. 9, Div. 2, P.R.C.

# ANNUAL REPORTING REQUIREMENTS AND REPORTING FEE

(Section 2207—Repealed and added by AB 3551,  
Chapter 1097, Statutes of 1990, Sher,  
Amended by AB 3903, Chapter 1101, Statutes of 1990, Sher,  
AB 1506, Chapter 845, Statutes of 1991, Sher,  
AB 3098, Chapter 1077, Statutes of 1992, Sher, and  
SB 741, Chapter 1287, Statutes of 1993, Rogers)

## § 2207. Annual report to Department of Conservation

(a) The owner, lessor, lessee, agent, manager, or other person in charge of any mining operation of whatever kind or character within the state shall forward to the director not later than July 1, 1991, and every year thereafter not later than an anniversary date established by the director, upon forms which will be furnished by the board, a report which identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7 1/2-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency, starting with the 1992 report.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) Every year, not later than the anniversary date established by the director, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms which shall be furnished by the board, a report which provides all of the information specified in paragraphs (1) to (14), inclusive, of subdivision (a).

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b), (c), (d), or (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The director shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the anniversary date by which the mining operation shall submit reports, specify the mining operation's mine number if one has not been issued by the Bureau of Mines, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised reports to the director and the lead agency. Any person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation shall not exceed two thousand dollars (\$2,000) annually and shall not be less than fifty dollars (\$50) annually.

(2) The board shall adopt, by emergency regulations, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's Budget. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflect-

ing the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(3) For the 1991-92 fiscal year the total revenue generated by the reporting fees established pursuant to this subdivision shall not exceed, and may be less than, one million one hundred thirty-two thousand dollars (\$1,132,000), which shall be adjusted in the 1992-93 and 1993-94 fiscal years to reflect increases in the cost of living, as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year. Beginning in the 1994-95 fiscal year, and for subsequent fiscal years the total revenue generated by the reporting fees shall not exceed, and may be less than, the amount of one million dollars (\$1,000,000), as adjusted for the cost of living beginning with the 1991-92 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) The emergency regulations adopted pursuant to paragraph (2) shall be adopted by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(5) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, solely to carry out this section and Chapter 9 (commencing with Section 2710), and up to three hundred thousand dollars (\$300,000) shall be available to the department upon appropriation by the Legislature to contract for preparation of the report required by Section 2774.6.

(6) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 1/2 percent per

month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations which have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" has the same meaning as "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) which includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation shall not be disclosed to any member of the public, as defined in subdivision (f) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same such figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30th or as soon thereafter as practicable.

# SITE INSPECTIONS CONDUCTED BY THE DEPARTMENT OF CONSERVATION

(Section 2208)

## § 2208. Right to enter or examine mineral properties

(a) The Director or a qualified assistant may at any time enter or examine any and all mines, quarries, wells, mills, reduction works, refining works, and other mineral properties or working plants in the State in order to gather data to comply with the provisions of this chapter.<sup>1</sup>

<sup>1</sup>Enacted by Stats 1939 ch 93 § 2208. Amended by Stats 1961 ch 371 § 11; Stats 1963 ch 312 § 1; Stats 1992 ch 999 section 8.

Prior Law: Stats 1913 ch 679 § 8.

1961 Amendment: Substituted (1) "Geologist" for "Mineralogist"; and "walls" for "wells."

1963 Amendment: Substituted "wells" for "walls" after "quarries".

1992 Amendment: Substituted "director" for "State Geologist".

## PURCHASE AND USE OF MINED MATERIALS BY STATE AGENCIES

*The following legislative changes occurred as a result of the enactment of AB 3098 (Sher, Chapter 1077, Statutes of 1992); and AB 723 (Sher, Chapter 278, Statutes of 1993):*

Section 10295.5 was added to the Public Contract Code:

10295.5 (a) Notwithstanding any other provision of law, no state agency shall purchase or utilize sand, gravel, aggregates, or other minerals produced from a surface mining operation subject to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code), unless the operation is identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code as having either of the following:

(1) An approved reclamation plan and financial assurances covering the affected surface mining operation.

(2) An appeal pending before the State Mining and Geology Board pursuant to subdivision (e) of Section 2770 of the Public Resources Code with respect to the reclamation plan or financial assurances.

(b) The Department of General Services shall revise its procedures and procurement specifications for state purchases of sand, gravel, aggregates, and other minerals to ensure maximum compliance with this section.

(c) For purposes of the section, "minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

(d) The requirements of this section shall apply to mining operations on federal lands or Indian lands that are subject to the Surface Mining and Reclamation Act of 1975, [Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources

Code] pursuant to a memorandum of understanding between the Department of Conservation and the federal agency having jurisdiction over the lands.

(e)(1) This section does not apply to construction or maintenance contracts if the contractor has entered into a written subcontract, executed prior to July 1, 1993, for the purchase of materials from a mine operator that would not otherwise qualify under the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code.

(2) This subdivision shall become inoperative on July 1, 1996.

(f) This section shall become operative on July 1, 1993.

Section 2717(b) was added to the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.):

2717(b) For purposes of ensuring compliance with Section 10295.5 of the Public Contract Code, on and after July 1, 1993, the department shall, at a minimum, quarterly publish in the California Regulatory Notice Register, or otherwise make available upon request to the Department of General Services or any other state agency, a list identifying all of the following:

(1) Surface mining operations for which a report has been submitted pursuant to [Public Resources Code] Section 2207 which indicates that the reclamation plan and the financial assurances have been approved.

(2) Surface mining operations for which an appeal is pending before the board pursuant to subdivision (e) of Section 2770, provided that the appeal shall not have been pending before the board for more than 180 days.



# Chapter 8. Mining and Geology

## Subchapter 1.

### State Mining and Geology Board Reclamation Regulations

#### Article 1. Surface Mining and Reclamation Practice

##### § 3500. Purpose.

It is the purpose of this subchapter to establish state policy for the reclamation of mined lands and the conduct of surface mining operations in accord with the general provisions set forth in Public Resources Code, Division 2. Chapter 9. Section 2710 et seq. (Surface Mining and Reclamation Act of 1975, as amended by Statutes of 1980).

Note: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2710-2795, Public Resources Code.

##### HISTORY

1. New Chapter 8, Subchapter 1 (Sections 3500-3508, not consecutive, and Appendices A, B and C) filed 3-29-77; effective thirtieth day thereafter (Register 77, No. 14).

2. Amendment of NOTE filed 8-10-82; effective thirtieth day thereafter (Register 82, No. 33).

3. Repealer and new section filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

##### § 3501. Definitions.

The following definitions as used herein shall govern the interpretation of these regulations:

**Angle of Repose.** The maximum angle of slope (measured from horizontal plane) at which loose cohesionless material will come to rest on a pile of similar material.

**Backfill.** Earth, overburden, mine waste or imported material used to replace material removed during mining.

**Borrow Pits.** Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

**Critical Gradient.** The maximum stable inclination of an unsupported slope under the most adverse conditions that it will likely experience, as determined by current engineering technology.

**Excavations for On-Site Construction.** Earth material moving activities that are required to prepare a site for construction of structures, landscaping, or other land improvements (such as excavation, grading, compaction, and the creation of fills and embankments), or that in and of themselves constitute engineered works (such as dams, road cuts, fills, and catchment basins).

**Grading.** To bring an existing surface to a designed form by cutting, filling, and/or smoothing operations.

**Intermittent Operation.** A surface mine that is operated only periodically, one or more years between operating periods, either

because needs for the minerals produced at such mine are supplied from stockpiles, or because market conditions require only an intermittent supply of these minerals.

**Minerals.** Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

**Person.** Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

**Reclamation Plan.** The applicant's (operator's) completed and approved plan for reclaiming the lands affected by his surface mining operations conducted after January 1, 1976, as called for in Section 2772 of the Act.

**Resoiling.** The process of artificially building or reconstructing a soil profile.

**Stream Bed Skimming.** Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

**Surface Mining Operations.** In addition to the provisions of Section 2735 of the Act, borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of same) are deemed to be surface mining operations unless specifically excluded under Section 2714 of the Act or Section 3505 of these regulations.

**Temporarily Deactivated Operation.** A surface mine that has been closed down and that the operator has maintained in the expectation of reopening it when the conditions justify.

**Topsoil.** The upper part of the soil profile that is relatively rich in humus, which is technically known as the A-horizon of the soil profile.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2726-2735, Public Resources Code.

##### HISTORY

1. Repealer of former Section 3501, and renumbering and amendment of former Section 3502 to Section 3501 filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Registers 82, No. 33 and 79, No. 35.

##### § 3502. The Reclamation Plan.

(a) Objectives. Reclamation plans shall be developed to attain the objectives of Public Resources Code Section 2712(a)-(c).

(b) Reclamation Plan Elements. In addition to the information required by Public Resources Code Section 2772, the following elements shall be included in the reclamation plan:

(1) The environmental setting of the site of operations and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands.

(2) The public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site.

(3) The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable maximum water content, landscaping requirements, and other factors. In all cases, reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical gradient for the type of material involved, regulatory agencies shall require an engineering analysis of the slope stability. Special emphasis on slope stability and design shall be necessary when public safety or adjacent property may be affected.

(4) Areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas, shall be considered in the reclamation plan. Where ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the reclamation plans shall include compaction of the fill materials in conformance with good engineering practice.

(5) Disposition of old equipment.

(6) Temporary stream or watershed diversions.

(c) Adequacy. In judging the adequacy of a particular reclamation plan in meeting the requirements described herein and within the Act, the lead agency shall consider the physical and land-use characteristics of the mined lands and their surrounding area pursuant to Public Resources Code Section 2773.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference Sections 2712(a)-(c), 2756-2757, 2770 and 2772-2773, Public Resources Code.

#### HISTORY

1. Renumbering and amendment of former Section 3502 to Section 3501, and new Section 3502 filed 4-29-85, effective thirtieth day thereafter (Registers 85, No. 18). For prior history, see Registers 82, No. 33 and 79, No. 35.

#### § 3503. Surface Mining and Reclamation Practice.

The following are minimum acceptable practices to be followed in surface mining operations:

(a) Soil Erosion Control.

(1) The removal of vegetation and overburden, if any, in advance of surface mining shall be kept to the minimum.

(2) Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.

(3) Erosion control facilities such as retarding basins, ditches, streambank stabilization, and diking shall be constructed and maintained where necessary to control erosion.

(b) Water Quality and Watershed Control.

(1) Settling ponds or basins shall be constructed to prevent potential sedimentation of streams at operations where they will provide a significant benefit to water quality.

(2) Operations shall be conducted to substantially prevent siltation of ground-water recharge areas.

(c) Protection of Fish and Wildlife Habitat. All reasonable measures shall be taken to protect the habitat of fish and wildlife.

(d) Disposal of Mine Waste Rock and Overburden. Permanent piles or dumps of mine waste rock and overburden shall be stable and shall not restrict the natural drainage without suitable provisions for diversion.

(e) Erosion and Drainage. Grading and revegetation shall be designed to minimize erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage. Basins that will store water during periods of surface runoff shall be designed to prevent erosion of spillways when these basins have outlet to lower ground.

(f) Resoiling. When the reclamation plan calls for resoiling, coarse hard mine waste shall be leveled and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Surface mines that did not salvage soil during their initial operations shall attempt, where feasible, to upgrade remaining materials. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the reclamation plan and where such measures appear necessary. It is not justified, however, to denude adjacent areas of their soil, for any such denuded areas must in turn be reclaimed.

(g) Revegetation. When the reclamation plan calls for revegetation the available research addressing revegetation methods and the selection of species having good survival characteristics, for the topography, resoiling characteristics, and climate of the mined areas shall be used.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756 and 2757, Public Resources Code.

#### HISTORY

Repealer of former Section 3503, and renumbering and amendment of former Section 3504 to Section 3503 filed 4-29-85, effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Register 82, No. 33.

#### § 3503.1. Reclamation Plan Elements.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756, 2757, 2772 and 2773, Public Resources Code.

#### HISTORY

1. Repealer filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).



**§ 3504. Administration by Lead Agency.**

(a) **Record Keeping.** The lead agency shall establish and maintain inhouse measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. The lead agency shall forward a copy of each permit and approved reclamation plan to the California Division of Mines and Geology (Sacramento).

(b) **Performance Assurances.** The lead agency shall ensure that the objectives of the reclamation plan will be attained. This may include provisions for liens, surety bonds or other security, to guarantee the reclamation in accordance with the approved reclamation plan.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757, 2758(b), 2774(a) and 2778, Public Resources Code.

**HISTORY**

1. Renumbering and amendment of former Section 3504 to Section 3503, and renumbering and amendment of former Section 3505 to Section 3504 filed 4-29-85; effective thirtieth day thereafter (Register 85, No 18). For prior history, see Register 82, No. 33.

**§ 3505. Special Provisions.**

(a) **Exemptions.** In addition to the provisions of Public Resources Code Section 2714(a), (c) and (d), any surface mining operation that does not involve either the removal of a total of more than 1000 cubic yards of minerals, ores, and overburden, or involve more than one acre in any one location, shall be exempt from the provisions of the Act.

(b) **Vested Rights.** The permit and reclamation plan requirements for persons with vested rights are stated in Public Resources Code Section 2776.

Where a person with vested rights continues surface mining in the same area subsequent to January 1, 1976, he shall obtain an approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act.

NOTE: Authority cited: Sections 2714(d) and 2755, Public Resources Code. Reference: Sections 2714, 2758(c) and 2776, Public Resources Code.

**HISTORY**

1. Renumbering and amendment of former Section 3505 to Section 3504, and renumbering and amendment of former Section 3506 to Section 3505 filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Register 82, No. 33.

**§ 3506. Special Provisions.**

NOTE: Authority cited: Sections 2714(d) and 2755, Public Resources Code. Reference: Sections 2714, 2758(c) and 2776, Public Resources Code.

**HISTORY**

1. New NOTE filed 8-10-82; effective thirtieth day thereafter (Register 82, No. 33).

2. Renumbering and amendment of Section 3506 to Section 3505 filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

**§ 3507. Suggested Form for Reclamation Plan.**

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756, 2757, 2758(b), 2772 and 2773, Public Resources Code.

**HISTORY**

1. New NOTE filed 8-10-82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

**§ 3507.1. Confidential Information.**

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2778, Public Resources Code.

**HISTORY**

1. New NOTE filed 8-1-82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

**§ 3507.2. Multiple Operations in a Single Plan.**

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756, 2757, 2758(b), 2772 and 2773, Public Resources Code.

**HISTORY**

1. New NOTE filed 8-11-82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

**§ 3508. Model Surface Mining and Reclamation Ordinance.**

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2758(b) and 2774(a), Public Resources Code.

**HISTORY**

1. New NOTE filed 8-10-82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

**APPENDICES A-C**

**HISTORY**

1. Repealer of Appendices A-C filed 4-29-85; effective thirtieth day thereafter (Register 85, No. 18).

## Article 6. Mineral Resource Management Policies

### § 3675. Definitions.

The following definitions as used herein shall govern the interpretation of these regulations:

**Compatible Land Use.** Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

**Incompatible Land Use.** Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2761-2762, Public Resources Code.

### HISTORY

1. New section filed 10-12-88; operative 11-11-88 (Register 88, No. 42).

### § 3676. Mineral Resource Management Policies.

Lead agency mineral resource management policies adopted pursuant to the provisions of PRC Section 2762 shall include but not be limited to, the following:

(a) A summary of the information provided by the classification and/or designation reports, or incorporation of PRC Sections 2710 et seq., and state policy by reference, together with maps of the identified mineral deposits or incorporation by reference of the classification and/or designation maps provided by the Board.

(b) Statements of policy in accordance with the provisions of PRC Section 2762(a).

(c) Implementation measures that shall include:

(1) Reference in the general plan of the location of identified mineral deposits, and a discussion of those areas targeted for conservation and possible future extraction by the lead agency

(2) Use of overlay maps or inclusion of information on any appropriate planning maps to clearly delineate identified mineral deposits and those areas targeted by the lead agency for conservation and possible future extraction.

(3) At least one of the following:

(A) Use of special purpose overlay zones, mineral resource open space zoning, or any other appropriate zoning that identifies the presence of identified mineral deposits and restricts the encroachment of incompatible land uses in those areas that are to be conserved.

(B) Record, on property titles in the affected mineral resource areas, a notice identifying the presence of identified mineral deposits.

(C) Impose conditions upon incompatible land uses in and surrounding areas containing identified mineral deposits for the purpose of mitigating the significant land use conflicts prior to approving a use that would otherwise be incompatible with mineral extraction.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757 and 2761-63, Public Resources Code.

### HISTORY

1. New section filed 10-12-88; operative 11-11-88 (Register 88, No. 42).

## Article 9. Reclamation Standards

### § 3700. Applicability.

Reclamation of mined lands shall be implemented in conformance with the standards in this Article.

(a) The standards shall apply to each surface mining operation to the extent that:

(1) they are consistent with required mitigation identified in conformance with the California Environmental Quality Act, provided that such mitigation is at least as stringent as the standards; and

(2) they are consistent with the planned or actual subsequent use or uses of the mining site.

(b) Where an applicant demonstrates to the satisfaction of the lead agency that an exception to the standards specified in this article is necessary based upon the approved end use, the lead agency may approve a different standard for inclusion in the approved reclamation plan. Where the lead agency allows such an exception, the approved reclamation plan shall specify verifiable, site-specific standards for reclamation. The lead agency may set standards which are more stringent than the standards set forth in this Article; however, in no case may the lead agency approve a reclamation plan which sets any standard which is less stringent than the comparable standard specified in this Article.

(c) When substantial amendments are proposed to reclamation plans which were approved prior to January 15, 1993, the standards set forth in this Article shall be applied by the lead agency in approving or denying approval of the amended reclamation plan.

(d) The standards in this Article shall not apply to mining operations:

(1) which completed reclamation prior to January 15, 1993 in conformance with an approved reclamation plan; or

(2) for which a reclamation plan has been approved prior to January 15, 1993.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

### § 3701. Definitions.

The following definitions shall govern the interpretation of these regulations:

"Arid" means landscapes with an average annual precipitation of five inches or less.

"Contamination" means an impairment of the quality of the waters of the state to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

"Highwall" means the unexcavated face of exposed overburden and ore in a surface mine.

"Indigenous Plants" means plants occurring naturally in an area, not introduced.

"Native Species" means plant species indigenous to California, using pre-European as the historic time reference.

"Noxious Weeds" means any species of plant that is or is likely to become destructive or difficult to control or eradicate, and is termed to be so by the Director of the Department of Food and Agriculture in section 4500, Title 3 of the California Code of Regulations, pursuant to the Food and Agriculture Code section 5004 et seq.

"Vegetative Cover" means the vertical projection of the crown or shoot area of a species to the ground surface expressed as a percentage of the reference area (percentage can be greater than 100 percent).

"Vegetative Density" means the number of individuals or stems of each species rooted within the given reference area.

"Vegetative Species-richness" means the number of different plant species within the given reference area.

"Wetlands" for the purposes of these regulations, the definition of wetlands shall be the same as defined in the California Fish and Game Code, section 2785, subdivision (g).

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3702. Financial Assurances.

Lead agencies shall require financial assurances for reclamation in accordance with Public Resources Code section 2773.1 to ensure that reclamation is performed in accordance with the approved reclamation plan and with this article.

NOTE: Authority cited: Sections 2755, 2773 and 2773.1, Public Resources Code. Reference: Sections 2773 and 2773.1, Public Resources Code.

#### § 3703. Performance Standards for Wildlife Habitat.

Wildlife and wildlife habitat shall be protected in accordance with the following standards:

(a) Rare, threatened or endangered species as listed by the California Department of Fish and Game, (California Code of Regulations, Title 14, sections 670.2 - 670.5) or the U. S. Fish and Wildlife Service, (50 CFR 17.11 and 17.12) or species of special concern as listed by the California Department of Fish and Game in the Special Animals List, Natural Diversity Data Base, and their respective habitat, shall be conserved as prescribed by the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq., and the California Endangered Species Act, Fish and Game Code section 2050 et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed in accordance with the provisions of the California Endangered Species Act, Fish and Game Code section 2050 et seq., and the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq.

(b) Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by surface mining operations, unless the proposed end use precludes its use as wildlife habitat or the approved reclamation plan establishes a different habitat type than that which existed prior to mining.

(c) Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of surface mining operations shall be mitigated at a minimum of one to one ratio for wetland habitat acreage and wetland habitat value.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3704. Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring.

Backfilling, regrading, slope stabilization, and recontouring shall conform with the following standards:

(a) Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill material shall be compacted in accordance with section 7010, Chapter 70 of the Uniform Building Code, published by the International Conference of Building Officials (1991), the local grading ordinance, or other methods approved by the lead agency as appropriate for the approved end use.

(b) Where backfilling is required for resource conservation purposes (e.g., agriculture, fish and wildlife habitat, and wildlife conservation), fill material shall be backfilled to the standards required for the resource conservation use involved.

(c) Piles or dumps of mining waste shall be stockpiled in such a manner as to facilitate phased reclamation. They shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation.

(d) Final reclaimed fill slopes, including permanent piles or dumps of mine waste rock and overburden, shall not exceed 2:1 (horizontal:vertical), except when site-specific geologic and engineering analysis demonstrate that the proposed final slope will have a minimum slope stability factor of safety that is suitable for the proposed end use, and when the proposed final slope can be successfully revegetated.

(e) At closure, all fill slopes, including permanent piles or dumps of mine waste and overburden, shall conform with the surrounding topography and/or approved end use.

(f) Cut slopes, including final highwalls and quarry faces, shall have a minimum slope stability factor of safety that is suitable for the proposed end use and conform with the surrounding topography and/or approved end use.

(g) Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the lead agency has been proposed to offset wetland impacts and/or losses.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3705. Performance Standards for Revegetation.

Revegetation shall be part of the approved plan, unless it is not consistent with the approved end use.

(a) A vegetative cover suitable for the proposed end use and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer shall be established on disturbed land unless an artificially maintained landscape is consistent with the approved reclamation plan. Vegetative cover or density, and species-richness shall be, where appropriate, sufficient to stabilize the surface against effects of long-term erosion and shall be similar to naturally occurring habitats in the surrounding area. The vegetative density, cover and species richness of naturally occurring habitats shall be documented in baseline studies carried out prior to the initiation of mining activities. However, for areas that will not be reclaimed to prior conditions, the use of data from reference areas in lieu of baseline site data is permissible.

(b) Test plots conducted simultaneously with mining shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The lead agency may waive the requirement to conduct test plots when the success of the proposed revegetation plan can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.

(c) Where surface mining activities result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting.

(d) Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with subsection 3705(g), covered with suitable growth media or topsoil, and revegetated. When it is not necessary to remove roadbase materials for revegetative purposes, lead agencies may set a different standard as specified in section 3700(b) of this Article.

(e) Soil analysis shall be required to determine the presence or absence of elements essential for plant growth and to determine those soluble elements that may be toxic to plants, if the soil has been chemically altered or if the growth media consists of other than the native topsoil. If soil analysis suggests that fertility levels or soil constituents are inadequate to successfully implement the revegetation program, fertilizer or other soil amendments may be incorporated into the soil. When native plant materials are used, preference shall be given to slow-release fertilizers, including mineral and organic materials that mimic natural sources, and shall be added in amounts similar to those found in reference soils under natural vegetation of the type being reclaimed.

(f) Temporary access for exploration or other short-term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.

(g) Native plant species shall be used for revegetation, except when introduced species are necessary to meet the end uses specified in the approved reclamation plan. Areas to be developed for industrial, commercial, or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non-native plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.

(h) Planting shall be conducted during the most favorable period of the year for plant establishment.

(i) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.

(j) If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the lead agency, unless an artificially maintained landscape is consistent with the approved end use.

(k) Noxious weeds shall be managed: (1) when they threaten the success of the proposed revegetation; (2) to prevent spreading to nearby areas; and (3) to eliminate fire hazard.

(l) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed and the lead agency authorizes removal.

(m) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined-lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved reclamation plan. Comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. There are standard statistical methods in commonly available literature for determining an 80 percent confidence level on a site-by-site basis. Examples of such literature include, but are not limited to, D. Mueller-Dombois and H. Ellenberg, 1974, "Aims and Methods of Vegetation Ecology", John Wiley and Sons, Inc., or C. D. Bonham, 1988, "Measurements for Terrestrial Vegetation", John Wiley and Sons, Inc., and are available at many university libraries. The texts are also available at some local libraries through the Inter-Library Loan Program.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3706. Performance Standards for Drainage, Diversion Structures, Waterways, and Erosion Control.

(a) Surface mining and reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code section 13000, et seq., and the Federal Clean Water Act, 33 U.S.C. section 1251, et seq.

(b) The quality of water, recharge potential, and storage capacity of ground water aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water, shall not be diminished, except as allowed in the approved reclamation plan.

(c) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.

(d) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gully, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event.

(e) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.

(f) When stream diversions are required, they shall be constructed in accordance with:

(1) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(2) the requirements of the Federal Clean Water Act, Sections 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(g) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3707. Performance Standards for Prime Agricultural Land Reclamation.

In addition to the standards for topsoil salvage, maintenance, and redistribution, the following standards shall apply to mining operations on prime agricultural lands where the approved end use is agriculture:

(a) Mining operations which will operate on prime agricultural lands, as defined by the U.S. Soil Conservation Service, shall return all disturbed areas to a fertility level as specified in the approved reclamation plan.

(b) When distinct soil horizons are present, topsoil shall be salvaged and segregated by defined A, B, and C soil horizons. Upon reconstruction of the soil, the sequence of horizons shall have the A atop the B, the B atop the C, and the C atop graded overburden.

(c) Reclamation shall be deemed complete when productive capability of the affected land is equivalent to or exceeds, for two consecutive crop years, that of the premining condition or similar crop production in the area. Productivity rates, based on reference areas described in the approved reclamation plan, shall be specified in the approved reclamation plan.

(d) Use of fertilizers or other soil amendments shall not cause contamination of surface or ground water.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3708. Performance Standards for Other Agricultural Land.

The following standards shall apply to agricultural lands, other than prime agricultural lands, when the approved end use is agriculture.

In addition to the standards for topsoil salvage, maintenance, and redistribution, non-prime agricultural lands shall be reclaimed so as to be capable of sustaining economically viable production of crops commonly grown in the surrounding areas.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3709. Performance Standards for Building, Structure, and Equipment Removal.

(a) All equipment, supplies, and other materials shall be stored in designated areas (as shown in the approved reclamation plan). All waste shall be disposed of in accordance with state and local health and safety ordinances.

(b) All buildings, structures, and equipment shall be dismantled and removed prior to final mine closure except those buildings, structures, and equipment approved in the reclamation plan as necessary for the end use.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

#### § 3710. Performance Standards for Stream Protection, Including Surface and Groundwater.

(a) Surface and groundwater shall be protected from siltation and pollutants which may diminish water quality as required by the Federal Clean Water Act, sections 301 et seq. (33 U.S.C. section 1311), 404 et seq. (33 U.S.C. section 1344), the Porter-Cologne Act, section 13000 et seq., County anti-siltation ordinances, the Regional Water Quality Control Board or the State Water Resources Control Board.

(b) In-stream surface mining operations shall be conducted in compliance with Section 1600 et seq. of the California Fish and Game Code, section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(c) Extraction of sand and gravel from river channels shall be regulated to control channel degradation in order to prevent undermining of bridge supports, exposure of pipelines or other structures buried within the channel, loss of spawning habitat, lowering of ground water levels, destruction of riparian vegetation, and increased stream bank erosion (exceptions may be specified in the approved reclamation plan). Changes in channel elevations and bank erosion shall be evaluated annually using records of annual extraction quantities and benchmarked annual cross sections and/or sequential aerial photographs to determine appropriate extraction locations and rates.

(d) In accordance with requirements of the California Fish and Game Code section 1600 et seq., in-stream mining activities shall not cause fish to become entrapped in pools or in offchannel pits, nor shall they restrict spawning or migratory activities.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3711. Performance Standards for Topsoil Salvage, Maintenance, and Redistribution.**

When the approved reclamation plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance, and redistribution activities:

(a) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the lead agency.

(b) Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the reclamation plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegetation purposes.

(c) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (1) is set forth in the approved reclamation plan; (2) minimizes the area disturbed; and (3) is designed to achieve maximum revegetation success allowable under the mining plan.

(d) Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the mining schedule presented in the approved reclamation plan following the mining of an area. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from mine waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of

topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the lead agency.

(e) Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3712. Performance Standards for Tailing and Mine Waste Management.**

State Water Resources Control Board mine waste disposal regulations in Article 7 of Chapter 15 of Title 23, California Code of Regulations, shall govern mine waste and tailings, and mine waste disposal units shall be reclaimed in conformance with this article.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3713. Performance Standards for Closure of Surface Openings.**

(a) Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells shall be completed or abandoned in accordance with each of the following:

(1) Water Code sections 13700, et seq. and 13800, et seq.;

(2) the applicable local ordinance adopted pursuant to Water Code section 13803;

(3) the applicable Department of Water Resources report issued pursuant to Water Code section 13800; and

(4) Subdivisions (1) and (2) of section 2511(g) of Chapter 15 of Title 23 regarding discharge of waste to land.

(b) Prior to closure, all portals, shafts, tunnels, or other surface openings to underground workings shall be gated or otherwise protected from public entry in order to eliminate any threat to public safety and to preserve access for wildlife habitat.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**Appendix 2: Surface Mining and Reclamation Act  
Implementation Checklist**



SURFACE MINING AND RECLAMATION ACT OF 1975  
 ARTICLE 1. GENERAL PROVISIONS. SECTION 2710 et seq.  
 ARTICLE 2. DEFINITIONS. SECTION 2725 et seq.  
 ARTICLE 3. DISTRICT COMMITTEES. SECTION 2740 - 2741.  
 ARTICLE 4. STATE POLICY FOR THE RECLAMATION OF MINED LANDS. SECTION 2755 et seq.  
 ARTICLE 5. RECLAMATION PLANS AND THE CONDUCT OF SURFACE MINING OPERATIONS.  
 SECTION 2770 et seq., as amended.

CCR TITLE 14 (REGISTER 85, NO. 18-5-4-85)  
 CHAPTER 8. MINING AND GEOLOGY  
 SUBCHAPTER 1. STATE MINING AND GEOLOGY BOARD  
 ARTICLE 1. SURFACE MINING AND RECLAMATION PRACTICE. SECTION 3500 et seq.  
 ARTICLE 9. RECLAMATION STANDARDS. SECTION 3700 et seq.

PROJECT \_\_\_\_\_  
 SCH#/CUP# \_\_\_\_\_ LEAD AGENCY \_\_\_\_\_  
 CHECKLIST BY: \_\_\_\_\_ DATE \_\_\_\_\_

YES NO ? N/A

Mining Operation and Closure

—	—	—	—	SMARA 2770.5	100-year flood, Caltrans contact.
—	—	—	—	SMARA 2772 (a)	Name and address of operator/agent.
—	—	—	—	SMARA 2772 (b)	Quantity & type of minerals to be mined.
—	—	—	—	SMARA 2772 (c)	Initiation and termination date.
—	—	—	—	SMARA 2772 (d)	Maximum anticipated depth of mining.
—	—	—	—	SMARA 2772 (e)	Description, including map with boundaries, topographic details, geology, streams, roads, utilities.
—	—	—	—	SMARA 2772 (f)	Mining plan and time schedule for reclamation (concurrent or phased reclamation).
—	—	—	—	SMARA 2772 (i)	Impact of reclamation on future mining.
—	—	—	—	SMARA 2772 (j)	Applicant statement accepting responsibility for reclamation per the reclamation plan.
—	—	—	—	SMARA 2773.1	Performance (financial) assurances.
—	—	—	—	CCR 3502 (b)(2)	Public health and safety (exposure).
—	—	—	—	CCR 3713 (b)	All portals, shafts, tunnels, or openings, gated or protected from public entry, but preserve access for wildlife.
—	—	—	—	CCR 3502 (b)(5)	Disposition of old equipment...
—	—	—	—	CCR 3709 (a)	Equipment stored in designated area and waste disposed of according to ordinance.
—	—	—	—	CCR 3709 (b)	Structures and equipment dismantled and removed.
—	—	—	—	CCR 3713 (a)	Drill holes, water wells, monitoring wells abandoned in accordance with laws.



End Land Use

SMARA 2772 (g) Proposed subsequent use.

CCR 3704 (e) Final landforms conform with surrounding topography or end use

CCR 3707 (a) Return prime ag to prime ag, unless exempted.

CCR 3707 (c) Productivity rates equal pre-project or similar site for two consecutive years. Rates set forth in plan.

CCR 3708 Other ag capable of sustaining crops of area.

SMARA 2772 (h) Description of reclamation measures adequate for proposed end use.

CCR 3706 (a) Mining and reclamation to protect downstream beneficial uses.

Geotechnical Requirements

CCR 3502 (b)(3) Slopes: critical gradient, consider physical properties and landscaping.

CCR 3704 (f) Cut slopes have minimum factor of safety for end use and conform with surrounding topography

CCR 3502 (b)(4) Fill materials in conformance with current engineering technology.

CCR 3704 (a) For urban use, fill compacted in accordance with UBC or local grading ordinance.

CCR 3704 (b) For resource conservation, compact to standard for that end use.

CCR 3704 (d) Final reclamation fill slopes not exceed 2:1, except when engineering and revegetation analyses allow.

CCR 3704 (e) Final landforms of fills conform with surrounding topography or end use

Hydrology and Water Quality

CCR 3710 (a) Surface and groundwater protected in accordance with Porter-Cologne and Clean Water Acts (RWQCB/SWRCB).

CCR 3706 (a) Mining and reclamation to protect downstream beneficial uses.

CCR 3706 (b) Water quality, recharge, and groundwater storage shall not be diminished, except as allowed by plan.

CCR 3503 (b)(2) Prevent siltation of groundwater recharge areas.

SMARA 2773 (a) Water quality monitoring plan specific to property.

CCR 3713 (a) Drill holes, water wells, monitoring wells abandoned in accordance with laws.

YES NO ? N/A

—	—	—	—	CCR 3503 (e)	Erosion and drainage (grading to drain to natural courses or interior basins).
—	—	—	—	SMARA 2772 (h)(2)	Rehabilitation of streambanks/beds to minimize erosion.
—	—	—	—	CCR 3502 (b)(6)	Temporary stream and water diversions shown.
—	—	—	—	CCR 3503 (a)(3)	Erosion control facilities (dikes, ditches, etc.) as necessary.
—	—	—	—	CCR 3706 (c)	Erosion and sedimentation controlled during all phases as per RWQCB/SWRCEB.
—	—	—	—	CCR 3503 (b)(1)	Settling ponds (sedimentation and water quality).
—	—	—	—	CCR 3706 (d)	Surface runoff and drainage controlled and methods designed for not less than 20 year/1 hour intensity storm event.
—	—	—	—	CCR 3706 (e)	Altered drainages shall not cause increased erosion or sedimentation.
—	—	—	—	SMARA 2773 (a)	Sediment and erosion control monitoring plan specific to property.
—	—	—	—	CCR 3503 (d)	Disposal of mine waste and overburden (stable--no natural drainage restrictions without suitable provisions for diversion).
—	—	—	—	SMARA 2772 (h)(1)	Description of contaminant control and mine waste disposal.
—	—	—	—	CCR 3503 (a)(2)	Overburden stockpiles managed to minimize water and wind erosion.
—	—	—	—	CCR 3704 (g)	Piles or dumps not placed in wetlands without mitigation.
—	—	—	—	CCR 3711 (e)	Topsoil redistributed in stable site and consistent thickness. Harbors.
—	—	—	—	CCR 3712	Waste and tailings, and waste disposal governed by SWRCB (Article 7, Chapter 15, Title 23, CCR).
—	—	—	—	CCR 3710 (b)	In-stream in accordance with DFG 1600, EPA 404, and Sec. 10 Rivers and Harbors.
—	—	—	—	CCR 3710 (c)	In-stream channel elevations and bank erosion evaluated annually using extraction quantities, cross-sections, aerial photos.
—	—	—	—	CCR 3706 (f)	Stream diversions constructed in accordance with DFG 1603, EPA 404, Sec. 10 Rivers and Harbors.
—	—	—	—	CCR 3706 (g)	All temporary diversions eventually removed.

Environmental Setting and Protection of Fish and Wildlife Habitat

- |   |   |   |                 |  |
|---|---|---|-----------------|--|
| — | — | — | CCR 3502 (b)(1) | Environmental setting and impact of reclamation on surrounding land uses. (Identify sensitive species, wildlife habitat, sensitive natural communities, e.g. wetlands, riparian zones, etc.) |
| — | — | — | CCR 3705 (a)    | Vegetative cover, suitable to end use, self-sustaining. Baseline studies documenting cover, density and species richness.  |
| — | — | — | CCR 3503 (c)    | Protection of fish and wildlife habitat (all reasonable measures).   |
| — | — | — | CCR 3703 (a)    | Sensitive species conserved or mitigated.  |
| — | — | — | CCR 3703 (b)    | Wildlife habitat at least as good as pre-project, if approved end use is habitat   |
| — | — | — | CCR 3703 (c)    | Wetlands avoided or mitigated at 1:1 minimum.  |
| — | — | — | CCR 3704 (g)    | Piles or dumps not placed in wetlands without mitigation.  |
| — | — | — | CCR 3706 (a)    | Mining and reclamation to protect downstream beneficial uses.  |
| — | — | — | CCR 3706 (f)    | Stream diversions constructed in accordance with DFG 1603, EPA 404, Sec. 10 Rivers and Harbors.  |
| — | — | — | CCR 3706 (g)    | All temporary diversions eventually removed. (Restore wildlife habitat).   |
| — | — | — | CCR 3710 (a)    | Surface and groundwater protected.   |
| — | — | — | CCR 3710 (b)    | In-stream in accordance with DFG 1600, EPA 404, and Sec. 10 Rivers and Harbors.  |
| — | — | — | CCR 3710 (c)    | In-stream channel elevations and bank erosion evaluated annually using extraction quantities, cross-sections, aerial photos.   |
| — | — | — | CCR 3710 (d)    | In-stream not cause fish impacts according to DFG 1600.  |
| — | — | — | CCR 3713 (b)    | All portals, shafts, tunnels, or openings, gated or protected from public entry, but preserve access for wildlife.   |

Resoiling and Revegetation

- |   |   |   |              |  |
|---|---|---|--------------|--|
| — | — | — | CCR 3503 (f) | Resoiling (fine material on top plus mulches).   |
| — | — | — | CCR 3704 (c) | Mine waste stockpiled to facilitate phased reclamation and separate from growth media.                                       |
| — | — | — | CCR 3711 (a) | All salvageable topsoil removed. Topsoil and vegetation removal not process mining by more than one year.                    |
| — | — | — | CCR 3711 (b) | Topsoil resources mapped prior to stripping, location of stockpiles on map. Topsoil and growth media in separate stockpiles. |

YES NO ? N/A

—	—	—	—	CCR 3711 (c)	Soil salvage and phases set forth in plan, minimize disturbance, designed to achieve reveg success.
—	—	—	—	CCR 3707 (b)	Segregate and replace topsoil by horizon.
—	—	—	—	CCR 3711 (d)	Topsoiling phased ASAP. Stockpiles not be disturbed until needed. Stockpiles clearly identified and planted with vegetation or otherwise protected.
—	—	—	—	CCR 3711 (e)	Topsoil redistributed in stable site and consistent thickness. Harbors.
—	—	—	—	CCR 3705 (d)	Roads stripped of roadbase materials, resoiled and revegetated, unless exempted.
—	—	—	—	CCR 3705 (e)	Soil altered or other than native topsoil, requires soil analysis. Amend if necessary.
—	—	—	—	CCR 3707 (d)	Fertilizers and amendments not contaminate water.
—	—	—	—	CCR 3503 (g)	Revegetation and plant survival (use available research).
—	—	—	—	CCR 3503 (a)(1)	Removal of vegetation and overburden preceding mining kept to a minimum.
—	—	—	—	SHARA 2773 (a)	Revegetation plan specific to property. Monitoring plan.
—	—	—	—	CCR 3705 (a)	Vegetative cover, suitable to end use, self-sustaining. Baseline studies documenting cover, density and species richness.
—	—	—	—	CCR 3705 (b)	Test plots if success has not been proven previously.
—	—	—	—	CCR 3705 (c)	Decompaction of site.
—	—	—	—	CCR 3705 (d)	Roads stripped of roadbase materials, resoiled and revegetated, unless exempted.
—	—	—	—	CCR 3705 (f)	Temporary access not bladed. Barriers installed.
—	—	—	—	CCR 3705 (g)	Use native plant species, unless exotic species meet end use.
—	—	—	—	CCR 3705 (h)	Plant during correct season.
—	—	—	—	CCR 3705 (i)	Erosion control and irrigation, when necessary.
—	—	—	—	CCR 3705 (j)	If irrigated, demonstrate self-sustaining without for two year minimum.
—	—	—	—	CCR 3705 (k)	Weeds managed.
—	—	—	—	CCR 3705 (l)	Plant protection measures, fencing, caging.
—	—	—	—	CCR 3705 (m)	Success quantified by cover, density and species-richness. Standards proposed in plan. Sample method set forth in plan and sample size provide 80 percent confidence level, as minimum.

Administrative Requirements

SHARA 2774 (b) Annual inspection.

SHARA 2776 All mining operations since 1/1/76 included in reclamation plan.

SHARA 2777 Amended reclamation plans required prior to substantial deviations to approved plans.

PRC  
21151.7 EIR required for cyanide heap leaching.

NOTES:

**Appendix 3: Business Is Boring: Some Companies Really Dig Aggregate,  
Wall Street Journal, March 1, 1995; p. B13**

## Business Is Boring: Some Companies Really Dig Aggregate

### Rocky Road to Open a Pit Can Lead to a Big Payoff; Better Than a Spaceship

By MAEJ CHARLIER  
Staff Reporter of THE WALL STREET JOURNAL  
At parties, Bill Langer loves to talk about rock.  
Gravel, too.

As the U.S. Geological Survey's aggregates specialist since 1977, Mr. Langer knows tons about such subjects. He regales people with stories of how the stuff is used in roadways and chicken feed. The average American, he says, uses nine tons of aggregate a year — the equivalent of a 50-pound bag every day.

The response? Often, folks "sort of nod off and walk away," he says. "Sand and gravel to most people are stupefyingly dull."

But not anymore. Today, aggregate — whether it consists of sand, gravel or crushed rock — is hot. Really.

#### Rock On

Just ask Martin Marietta Corp. The company makes products that inspire awe — spacecraft, jet fighters, Titan missiles. But the product that most excites its executives is aggregate. Martin Marietta is deep in aggregate, but not as deep as it wants to be. A big gravel acquisition last year made Martin Marietta the nation's second-largest aggregate producer, behind Vulcan Materials Co. of Birmingham, Ala. And "we want more rocks," declares Norman Augustine, Martin Marietta's chairman.

Mr. Augustine swears that in terms of profit margins, "rocks are a lot better than

rockets." Furthermore, he says, "we've never had a rock blow up."

Rocks are a sexy commodity these days because a shortness of supply has caused prices to rise. Not that the stuff itself is rare. What's rare, rather, is government permission to open a new pit. The number of operating pits is dwindling as some run out of reserves. Meanwhile, hundreds of proposed pits have been stopped by environmentalists.

"People want gravel delivered in small bags at night by Federal Express so they don't have to see it," laments Valentin Tepordel, an aggregates expert at the U.S. Bureau of Mines.

Breaking into the rock business is impossible for some. In 1969, with their existing gravel mine near Philadelphia almost played out, Joseph Mignatti and his brothers sought approval to open a second one. The local authorities balked and the Mignattis went to court and won. But by the time the state's top court refused to hear the last appeal by local opponents — 21 years later — the Mignattis were no longer in the business. "It was such a long ordeal, we needed to go on to other things," says Mr. Mignatti, who is in construction now. **Everybody Must Get Stoned**

Stones have been in demand for ages, of course, but today they are being used for all kinds of things. Gravel is the stuff of concrete, driveways and gardens. It scrubs emissions in coal-fired power plants. It is an ingredient in poultry feed and is replacing grass in the lawns of desert cities. In the Phoenix suburb of Guadalupe, a rock retailer called All-Star Materials sells 25 varieties of gravel, with names such as Apache Pink and Palomino Gold.

The same people creating demand for gravel — those flocking to new suburbs — are limiting its supply, by opposing proposed pits. Along the booming eastern flank of the Rockies in Colorado — where yearly sand, gravel and stone demand is approaching 12 tons per person — no new aggregate mine has been permitted in the past 20 years. In the suburban areas surrounding Denver, one of the nation's

fastest growing cities, vocal citizens have killed three proposed quarries in three years.

Meanwhile, the Denver area is already coming up short of aggregate. Rubble for the new Denver International Airport had to be brought by rail from Wyoming. People who don't want pits in their neighborhood say the rubble should be brought in from elsewhere. But experts say the cost doubles every 30 miles that it is transported by truck. Consequently, in urban areas that are running out of gravel, costs are skyrocketing, and the high prices are drawing sea-faring shipments from Mexico and Canada. While in smaller cities gravel costs as little as \$6 a ton, the Philadelphia street department, for example, is paying \$11.70 a ton to have gravel delivered.

Little wonder that gravel has caught the eye of big corporations. At Martin Marietta, executives recently decided to spin off their gravel unit — while retaining majority ownership — because they thought its stock would trade at a higher value. Now the stock of Martin Marietta Materials Inc., the aggregates unit, is trading at 15 times earnings, while plain old Martin Marietta is trading at nine times earnings.

The difficulty of meeting regulations and gaining permission "plays right into the hands of the big players," who can afford it, says Stephen P. Zelnak Jr., president of Martin Marietta Materials. Further, he says, after Martin Marietta received some of its permits, local governments tightened the regulations, making it more difficult for others to open new pits and virtually granting his company local monopolies.

It took Martin Marietta 10 years to win all the necessary permits to build a tree-lined quarry in Forsyth County, Ga. When approval came, in 1988, only farmland surrounded the site. Now the land in the area is being re-zoned for residential growth. All that growth feeds demand for gravel, to build new roads and the concrete foundations of new homes.

But that hasn't made the site popular.

Every week, angry neighbors who discovered they live near a tree-bitten mine drive up to the small office back in the woods where operations manager Mark Goethel oversees the automated pit's affairs. "They come in hounding me," says Mr. Goethel. "People are putting down \$90,000 for a lot and when the leaves fall off the trees they look out and see the hole in the ground."

But even an empty pit may be another man's gold mine. A developer recently placed an advertisement in the industry publication Pit & Quarry, looking for an abandoned, flooded quarry. He wants to turn it into a lake-front subdivision.

**Appendix 4: Joint Resolution of the County of Ventura and the  
Ventura County Flood Control District Establishing a  
“RedLine” Profile and Width Policy For Surface  
Mining and Excavation In the Santa Clara  
River, May 28, 1995**



BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

TUESDAY, MAY 28, 1985, AT 8:30 O'CLOCK A. M.

ALL MEMBERS PRESENT

FC-Santa Clara/222/1.8.CUP-1812

HOLDING CONTINUED PUBLIC HEARING  
RE ADOPTION OF "RED LINE" -  
SANTA CLARA RIVER

This is the time and date set to hear limited testimony regarding the adoption of "Red Line" Profile and Width Policy for Mining and Excavation in the Santa Clara River.

The Board hears testimony of Phil Drescher, Attorney representing United Water Conservation District and Don Shields, representing Symons Corporation.

After discussion and due consideration, upon motion of Supervisor Dougherty, seconded by Supervisor Lacey, and duly carried, the Board hereby approves and adopts the attached Resolution.

COPIES TO:

PWA (2)  
RMA  
Planning (2)  
Files (4)  
Item 10  
5/28/85

fw

TUESDAY, JAN 28, 1959, AT 8:00 P.M.

FC-Santa Clara

222/1.8.CUP-1812

JOINT RESOLUTION OF THE COUNTY OF VENTURA  
AND THE VENTURA COUNTY FLOOD CONTROL DISTRICT  
ESTABLISHING A "RED LINE" PROFILE AND  
WIDTH POLICY FOR MINING AND EXCAVATION  
IN THE SANTA CLARA RIVER

WHEREAS, environmental and sediment transport studies of the Santa Clara River have identified sand and gravel mining as the major cause of riverbed degradation which has resulted in damage to in-river structures and bank erosion during past major floods; and

WHEREAS, the Hydraulic, Erosion and Sedimentation Study of the Santa Clara River by Simons, Li and Associates, Inc. developed optimal red-line profile and width of excavation standards based on the considerations of structural safety, sand and gravel replenishment, and downstream channel impact; and

WHEREAS, Simons, Li and Associates, Inc. recommends the optimal red-line profile and width standards for regulating river excavation to control further degradation near structures while allowing mining where more balanced sediment flow conditions can be achieved; and

WHEREAS, establishment of a "red line" profile and width policy for mining and excavation in the Santa Clara River is needed to provide guidance and direction for management of the total river system, including planning and regulating the construction of in-river facilities and use of river resources.

NOW, THEREFORE, be it resolved that the Board of Supervisors of the County of Ventura and the Ventura County Flood Control District adopt the following policy:

1. In-river mining will be considered on the basis of a river management strategy which generally limits mining to the aggradation reaches of the river, with the constraint of protecting structures. The most appropriate area of mining is upstream of Santa Paula. Primarily, only lateral mining will be allowed between Saticoy and Santa Paula, and no mining will be permitted in the degraded area downstream of Highway 118.

2. Excavation will be limited to the red-line profile and width standards as determined by the Flood Control District and Simons, Li and Associates, Inc. and defined by the attached table of horizontal and vertical control data and excavation widths which have been plotted on drawings on file with the Public Works Agency.

3. Exempted from this policy are excavation required for emergency measures to protect life and property and flood control control approved channelization projects.

PASSED, APPROVED AND ADOPTED this 28th day of May, 1985, upon motion of Supervisor Dougherty, seconded, by Supervisor Lacey, and duly carried, this Resolution is hereby adopted.

ATTEST:

RICHARD D. DEAN, County  
Clerk of the County of  
Ventura and ex officio  
Clerk of the Ventura  
County Flood Control  
District/Board of  
Supervisors

By

*Sam Willard*  
Deputy Clerk



BOARD OF SUPERVISORS  
COUNTY OF VENTURA

*Ed Jones*  
Chair

BOARD OF SUPERVISORS  
VENTURA COUNTY FLOOD CONTROL DISTRICT

*Ed Jones*  
Chair

COPIES TO:

PWA (2)	Files (
RMA	Item 10
Planning	5/28/85

SANTA CRUZ RIVER "RED LINE" EXCAVATION LIST

TABLE 1  
HORIZONTAL CONTROL POINTS  
From Harbor Blvd. to Highway 23

ZONE 5 COORDINATES		
Station (100 ft.)	North (ft.)	East (ft.)
290 + 00	269,775	1,620,070
332 + 20	269,855	1,624,275
416 + 10	269,720	1,632,650
465 + 30	270,030	1,637,550
475 + 20	270,340	1,638,500
497 + 10	271,650	1,640,275
510 + 00	272,830	1,640,810
605 + 00	278,960	1,648,060
637 + 50	281,680	1,649,860
652 + 50	282,415	1,651,155
692 + 50	283,745	1,654,930
712 + 50	285,225	1,656,280
742 + 50	287,825	1,657,760
870 + 00	294,910	1,668,355
917 + 50	299,280	1,670,195
981 + 50	303,510	1,674,975
1001 + 50	305,350	1,675,745
1041 + 50	308,450	1,678,270
1086 + 50	310,310	1,682,365
1096 + 50	310,425	1,683,355
1181 + 50	312,860	1,691,490
1245 + 60	316,000	1,697,075
1403 + 70	320,900	1,712,110
1416 + 90	321,380	1,713,340
1502 + 90	324,820	1,721,220
1553 + 90	325,275	1,724,420

TABLE 2  
VERTICAL CONTROL POINTS  
From Harbor Blvd. to Highway 23

STATION (100 ft.)	ELEVATION (ft.)
295 + 00	5.5
415 + 00	32.3
510 + 00	58.0
590 + 00	80.0
660 + 00	100.0
700 + 00	107.0
720 + 00	113.0
750 + 00	125.0
770 + 00	132.0
832 + 50	149.5
855 + 00	156.0
945 + 00	187.0
990 + 00	196.0
1020 + 00	211.0
1070 + 00	230.0
1100 + 00	241.0
1130 + 00	252.0
1160 + 00	260.0
1200 + 00	266.0
1240 + 00	279.0
1290 + 00	296.0
1340 + 00	319.0
1380 + 00	337.0
1420 + 00	350.0
1553 + 90	412.3

TABLE 3

MAXIMUM ALLOWABLE EXCAVATION WIDTHS  
From Harbor Blvd. to Highway 23

STATION (100 ft.)	WIDTH (ft.)
295 + 00	1000
415 + 00	1000
510 + 00	(No excavation permitted)
830 + 00	600
857 + 50	800
895 + 00	900
921 + 50	550
991 + 50	900
1046 + 50	750
1106 + 50	900
1141 + 50	1200
1171 + 50	1200
1553 + 90	1200

# VENTURA COUNTY PUBLIC WORKS AGENCY

SHEET 1 OF 1

PROJECT SANTA CLARA RIVER

JOB NO. \_\_\_\_\_

FILE NO. \_\_\_\_\_

ITEM EXCAVATION LIMITS

DESIGNED BOARD OF SUPV. RESOLUTION

DATE 5-28-

RED LINE PROFILE

CHECKED \_\_\_\_\_

DATE \_\_\_\_\_

STATION	ELEVATION	STATION	ELEVATION	STATION	ELEVATION
290+00	4.38	465+00	45.83	637+50	93.57
295+00	5.50	470+00	47.18	642+50	95.00
300+00	6.62	475+00	48.53	647+50	96.43
305+00	7.73	480+00	49.88	652+50	97.86
310+00	8.85	485+00	51.24	657+50	99.29
315+00	9.97	490+00	52.59	662+50	100.44
320+00	11.08	495+00	53.94	667+50	101.31
325+00	12.20	500+00	55.29	672+50	102.19
330+00	13.32	505+00	56.65	677+50	103.06
335+00	14.43	510+00	58.00	682+50	103.94
340+00	15.55	515+00	59.38	687+50	104.81
345+00	16.67	520+00	60.75	692+50	105.69
350+00	17.78	525+00	62.13	697+50	106.56
355+00	18.90	530+00	63.50	702+50	107.75
360+00	20.02	535+00	64.88	707+50	109.25
365+00	21.13	540+00	66.25	712+50	110.75
370+00	22.25	545+00	67.63	717+50	112.25
375+00	23.37	550+00	69.00	722+50	114.00
380+00	24.48	555+00	70.38	727+50	116.00
385+00	25.60	560+00	71.75	732+50	118.00
390+00	26.72	565+00	73.13	737+50	120.00
395+00	27.83	570+00	74.50	742+50	122.00
400+00	28.95	575+00	75.88	747+50	124.00
405+00	30.07	580+00	77.25	752+50	125.88
410+00	31.18	585+00	78.63	757+50	127.63
415+00	32.30	590+00	80.00	762+50	129.38
420+00	33.65	595+00	81.43	767+50	131.13
425+00	35.01	600+00	82.86	772+50	132.70
430+00	36.36	605+00	84.29	777+50	134.10
435+00	37.71	610+00	85.71	782+50	135.50
440+00	39.06	615+00	87.14	787+50	136.90
445+00	40.42	620+00	88.57	792+50	138.30
450+00	41.77	625+00	90.00	797+50	139.70
455+00	43.12	630+00	91.43	802+50	141.10
460+00	44.47	635+00	92.86	807+50	142.50

# VENTURA COUNTY PUBLIC WORKS AGENCY

PROJECT SANTA CLARA RIVER

SHEET 2A OF 3

ITEM EXCAVATION LIMITS

JOB NO. BOARD OF SUPV.

FILE NO.                     

DESIGNED RESOLUTION

DATE 5-28-85

\* L-G SETTLEMENT

DATE 9-10-85

## RED LINE PROFILE

STATION	ELEVATION		STATION	ELEVATION	STATION	ELEVATION
812+50	143.90		981+50	193.07	1156+50	259.07
817+50	145.30		986+50	194.80	1161+50	260.23
822+50	146.70		991+50	196.75	1166+50	260.99
827+50	148.10		996+50	199.25	1171+50	261.73
832+50	149.50		1001+50	201.75	1176+50	262.48
835+50	150.37		1006+50	204.25	1181+50	263.23
840+00	151.67		1011+50	206.75	1195+20	265.28
845+00	153.11		1016+50	209.25	1200+00	266.00
850+00	154.56		1021+50	211.57	1217+20	271.59
855+00	156.00		1026+50	213.47	1240+00	279.00
860+00	157.20		1031+50	215.37	1253+20	283.49
865+00	158.40		1036+50	217.27	1274+20	290.63
870+00	159.60		1041+50	219.17	1288+20	295.39
875+00	160.80		1046+50	221.07	1290+00	296.00
880+00	162.00		1051+50	222.97	1305+20	302.99
885+00	163.20		1056+50	224.87	1319+20	309.43
890+00	164.40		1061+50	226.77	1335+20	316.79
895+00	165.60		1066+50	228.67	1340+00	319.00
900+00	166.80		1071+50	230.55	1348+90	323.01
905+00	168.00		1076+50	232.38	1357+20	326.74
910+00	169.20		1081+50	234.22	1364+20	329.89
915+00	170.40		1086+50	236.05	1380+00	337.00
917+50	171.03		1091+50	237.88	1382+20	337.72
921+50	172.41		1096+50	239.72	1393+70	341.45
926+50	174.13		1101+50	241.55	1408+20	346.17
931+50	175.85		1106+50	243.38	1420+00	350.00
936+50	177.58		1111+50	245.22	1425+20	352.42
941+50	179.30		1116+50	247.05	1436+90	357.86
946+50	181.02		1121+50	248.88	1450+00	363.96
951+50	182.74		1126+50	250.72	1460+00	368.61
956+50	184.46		1131+50	252.40	1470+00	373.26
961+50	186.19		1136+50	253.73	1480+00	377.92
966+50	187.91		1141+50	255.07	1490+00	382.57
971+50	189.63		1146+50	256.40	1500+00	387.22
976+50	191.35		1151+50	257.73		

# VENTURA COUNTY PUBLIC WORKS AGENCY

SHEET 3 OF 3

PROJECT SANTA CLARA RIVER

JOB NO. \_\_\_\_\_

FILE NO. \_\_\_\_\_

ITEM EXCAVATION LIMITS

DESIGNED BOARD OF SUPV.  
RESOLUTION

DATE 5-28-85

RED LINE PROFILE

CHECKED \_\_\_\_\_

DATE \_\_\_\_\_

STATION	ELEVATION
1520+00	396.53
1530+00	401.18
1540+00	405.83
1551+20	411.04
1553+90	412.30

**JRA COUNTY PUBLIC WORKS AGENCY**  
**SANTA CLARA RIVER PROJECT**  
**Excavation Limits Redline Profile**

**Date: May 28, 1985**

STATION	ELEVATION
926.50	174.13
931.50	175.85
936.50	177.58
941.50	179.30
946.50	181.02
951.50	182.74
956.50	184.46
961.50	186.19
966.50	187.91
971.50	189.63
976.50	191.35
981.50	193.07
986.50	194.80
991.50	196.75
996.50	199.25
1001.50	201.75
1006.50	204.25
1011.50	206.75
1016.50	209.25
1021.50	211.57
1026.50	213.47
1031.50	215.37
1036.50	217.27
1041.50	219.17
1046.50	221.07
1051.50	222.97
1056.50	224.87
1061.50	226.77
1066.50	228.67
1071.50	230.55
1076.50	232.38
1081.50	234.22
1086.50	236.05
1091.50	237.88
1096.50	239.72
1101.50	241.55
1106.50	243.38
1111.50	245.22
1116.50	247.05
1121.50	248.88
1126.50	250.72
1131.50	252.40
1136.50	253.73

STATION	ELEVATION
1141.50	255.07
1146.50	256.40
1151.50	257.73
1156.50	259.07
1161.50	260.23
1166.50	260.99
1171.50	261.73
1176.50	262.48
1181.50	263.23
1195.20	265.28
1200.00	266.00
1217.20	271.59
1240.00	279.00
1253.20	283.49
1274.20	290.63
1288.20	295.39
1290.00	296.00
1305.20	302.99
1319.20	309.43
1335.20	316.79
1340.00	319.00
1348.90	323.01
1357.20	326.74
1364.20	329.89
1380.00	337.00
1382.20	338.26
1393.70	344.84
1408.20	353.14
1420.00	359.90
1425.20	362.34
1436.90	367.84
1450.00	374.00
1460.00	378.71
1470.00	384.41
1480.00	388.11
1490.00	392.81
1500.00	397.51
1510.00	402.21
1520.00	406.91
1530.00	411.62
1535.20	414.06

[illegible]



VENTURA COUNTY PUBLIC WORKS AGENCY  
SANTA CLARA RIVER PROJECT  
Excavation Limits Redline Profile

Date: May 28, 1985

STATION	ELEVATION
290.00	4.38
295.00	5.50
300.00	6.62
305.00	7.73
310.00	8.85
315.00	9.97
320.00	11.08
325.00	12.20
330.00	13.32
335.00	14.43
340.00	15.55
345.00	16.67
350.00	17.78
355.00	18.90
360.00	20.02
365.00	21.13
370.00	22.25
375.00	23.37
380.00	24.48
385.00	25.60
390.00	26.72
395.00	27.83
400.00	28.95
405.00	30.07
410.00	31.18
415.00	32.30
420.00	33.65
425.00	35.01
430.00	36.36
435.00	37.71
440.00	39.06
445.00	40.42
450.00	41.77
455.00	43.12
460.00	44.47
465.00	45.83
470.00	47.18
475.00	48.53
480.00	49.88
485.00	51.24
490.00	52.59
495.00	53.94
500.00	55.29

STATION	ELEVATION
505.00	56.65
510.00	58.00
515.00	59.38
520.00	60.75
525.00	62.13
530.00	63.50
535.00	64.88
540.00	66.25
545.00	67.63
550.00	69.00
555.00	70.38
560.00	71.75
565.00	73.13
570.00	74.50
575.00	75.88
580.00	77.25
585.00	78.63
590.00	80.00
595.00	81.43
600.00	82.86
605.00	84.29
610.00	85.71
615.00	87.14
620.00	88.57
625.00	90.00
630.00	91.43
635.00	92.86
637.50	93.57
642.50	95.00
647.50	96.43
652.50	97.86
657.50	99.29
662.50	100.44
667.50	101.31
672.50	102.19
677.50	103.06
682.50	103.94
687.50	104.81
692.50	105.69
697.50	106.56
702.50	107.75
707.50	109.25
712.50	110.75

STATION	ELEVATION
717.50	112.25
722.50	114.00
727.50	116.00
732.50	118.00
737.50	120.00
742.50	122.00
747.50	124.00
752.50	125.88
757.50	127.63
762.50	129.38
767.50	131.13
772.50	132.70
777.50	134.10
782.50	135.50
787.50	136.90
792.50	138.30
797.50	139.70
802.50	141.10
807.50	142.50
812.50	143.90
817.50	145.30
822.50	146.70
827.50	148.10
832.50	149.50
835.50	150.37
840.00	151.67
845.00	153.11
850.00	154.56
855.00	156.00
860.00	157.20
865.00	158.40
870.00	159.60
875.00	160.80
880.00	162.00
885.00	163.20
890.00	164.40
895.00	165.60
900.00	166.80
905.00	168.00
910.00	169.20
915.00	170.40
917.50	171.03
921.50	172.41

**Appendix 5: Permit Streamlining Act; Excerpts from the California  
Government Code '65920 to 65957.1; OPR**

# Permit Streamlining Act

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*Excerpts from the California Government Code  
Sections 65920 to 65957.1*

**State of California**  
Pete Wilson, Governor



**Governor's Office of Planning and Research**  
Richard Sybert, Director

**Office of Permit Assistance**  
1400 Tenth Street  
Sacramento 95814  
(916) 322-4245

## Chapter 4.5. Review and Approval of Development Projects

### Article 1. General Provisions

65920. Notwithstanding any other provision of law, the provisions of this chapter shall apply to all public agencies to the extent specified in this chapter, except that the time limits specified in Division 2 (commencing with Section 66410) of Title 7 shall not be extended by operation of this chapter.

*(Amended by Stats. 1982, Ch. 87, Effective March 1, 1982.)*

65921. The Legislature finds and declares that there is a statewide need to ensure clear understanding of the specific requirements which must be met in connection with the approval of development projects and to expedite decisions on such projects. Consequently, the provisions of this chapter shall be applicable to all public agencies, including charter cities.

*(Added by Stats. 1977, Ch. 1200.)*

65922. The provisions of this chapter shall not apply to the following:

(a) Activities of the State Energy Resources Development and Conservation Commission established pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code.

(b) Administrative appeals within a state or local agency or to a state or local agency.

*(Amended by Stats. 1982, Ch. 87, Effective March 1, 1982.)*

65922.1. During a year declared by the State Water Resources Control Board or the Department of Water Resources to be a critically dry year, or during a drought emergency declared by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2, the time limits established by this chapter shall not apply to applications to appropriate water pursuant to Part 2 (commencing with Section 1200) of Division 2 of, to petitions for change pursuant to Chapter 10 (commencing with Section 1700) of Part 2 of Division 2 of, or to petitions for certification pursuant to Section 13160 of, the Water Code for projects involving the diversion or use of water.

*(Added by Stats. 1991, Ch. 12 of extraordinary session, Effective October 9, 1991.)*

65922.3. The Office of Permit Assistance is hereby created in the Office of Planning and Research. The office succeeds to, and is vested with, all of the duties, purposes, and responsibilities required to be performed by the Office of Planning and Research pursuant to former Article 6 (commencing with Section 65050) of Chapter 1.5 of Division 1 of Title 7 of the Government Code. The office shall develop guidelines to provide technical assistance to counties and cities in establishing and operating an expedited development permit process. The guidelines shall include, but not be limited to, all of the following elements of a local permit process:

(a) A central contact point with a public agency where all permit applications can be filed and information on all permit requirements can be obtained.

(b) A referral process to (1) refer the applicant to the appropriate functional area for resolution of problems and fulfillment of requirements, (2) refer the applicant to cities within the county in whose sphere of influence the proposed project lies for review, comment, or imposition of condition permits, (3) assign an individual from the local government to be responsible for guiding the application through all local permit bodies, or (4) include any combination of the above.

(c) A master permit document which covers permits for all functional areas and which could be used for obtaining the approvals of the various functional areas.

(d) A method of tracking progress on various permit applications, which may include identifying a staff person responsible for monitoring permits.

(e) A determination as to completeness of the master permit document upon its submission and a written statement of specific information that is missing, if any.

(f) Timetables for action on individual permits.

(g) An expedited appeal process to assure fair treatment to the applicant using existing agencies, staffs, commissions or boards, where possible.

(h) A variety of administrative mechanisms that will describe the least costly approaches for implementation in a variety of local circumstances.

In developing the guidelines, local variations in population rate of growth, types of proposed development projects, geography and differences in local government structure shall be recognized.

*(Added by Stats. 1983, Ch. 1263.)*

65922.5. The guidelines established by the Office of Permit Assistance pursuant to Section 65922.3 shall be advisory in nature and in no way shall they constitute a mandate upon cities and counties to take any of the actions contained therein.

*(Added by Stats. 1983, Ch. 1263.)*

65922.7. Subject to the availability of funds appropriated therefor, the Office of Permit Assistance shall provide technical assistance and grants-in-aid to assist counties and cities in establishing an expedited permit process pursuant to Section 65922.3. Any city or county receiving such a grant shall enact an expedited permit process within 10 months of the date

of receipt. Nothing in this section or Section 65922.3 shall in any way preclude a county or city from establishing an expedited permit process pursuant to a procedure established solely by that county or city. If the office has adopted guidelines pursuant to Section 65922.3 and a county or city has established an expedited permit process pursuant to its own procedures, in all cases the process established by the city or county shall prevail over conflicting provisions of the guidelines.

*(Added by Stats. 1983, Ch. 1263.)*

65923. The Office of Permit Assistance shall provide information to developers explaining the permit approval process at the state and local level. The office shall ensure that all state agencies comply with applicable requirements of this chapter.

*(Amended by Stats. 1983, Ch. 1263.)*

65923.5. (a) The Office of Permit Assistance may call a conference of parties to resolve questions or mediate disputes arising from permit applications on any proposed development project.

(b) The office shall assist state and local agencies in an attempt to streamline the permit approval process at the state and local level.

(c) The office shall provide information to developers to assist them in meeting the requirements of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

*(Amended by Stats. 1983, Ch. 1263.)*

65923.8. Any state agency which is the lead agency for a development project shall inform the applicant for a permit that the Office of Permit Assistance has been created in the Office of Planning and Research to assist, and provide information to, developers relating to the permit approval process.

*(Added by Stats. 1983, Ch. 1263.)*

65924. With respect to any development project an application for which has been accepted as complete prior to January 1, 1978, the deadlines specified in Sections 65950 and 65952 shall be measured from January 1, 1978. With respect to such application received prior to January 1, 1978, but not determined to be complete as of that date, a determination that the application is complete or incomplete shall be made not later than 60 days after the effective date of the act amending this section in 1978.

*(Amended by Stats. 1978, Ch. 1113. Effective September 26, 1978.)*

## Article 2. Definitions

65925. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

*(Added by Stats. 1977, Ch. 1200.)*

65926. "Air pollution control district" means any district created or continued in existence pursuant to the provisions of Part 3 (commencing with Section 40000) of Division 26 of the Health and Safety Code.

*(Added by Stats. 1977, Ch. 1200.)*

65927. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density of intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Nothing in this section shall be construed to subject the approval or disapproval of final subdivision maps to the provisions of this chapter.

"Development" does not mean a "change of organization", as defined in Section 56021, or a "reorganization", as defined in Section 56073.

*(Amended by Stats. 1978, Ch. 1113. Effective September 26, 1978; Amended by Stats. 1986, Ch. 688.)*

65928. "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate.

"Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

*(Amended by Stats. 1978, Ch. 1113. Effective September 26, 1978.)*

65928.5. "Geothermal field development project" means a development project as defined in Section 65928 which is composed of geothermal wells, resource transportation lines, production equipment, roads, and other facilities which are

necessary to supply geothermal energy to any particular heat utilization equipment for its productive life, all within an area delineated by the applicant.

*(Added by Stats. 1978, Ch. 1271.)*

65929. "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project.

*(Added by Stats. 1977, Ch. 1200.)*

65930. "Local agency" means any public agency other than a state agency. For purposes of this chapter, a redevelopment agency is a local agency and is not a state agency.

*(Amended by Stats. 1978, Ch. 1113. Effective September 26, 1978.)*

65931. "Project" means any activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

*(Added by Stats. 1977, Ch. 1200.)*

65932. "Public agency" means any state agency, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision.

*(Added by Stats. 1977, Ch. 1200.)*

65933. "Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.

*(Added by Stats. 1977, Ch. 1200.)*

65934. "State agency" means any agency, board, or commission of state government. For all purposes of this chapter, the term "state agency" shall include an air pollution control district.

*(Added by Stats. 1977, Ch. 1200.)*

### Article 3. Applications for Development Projects

65940. Each state agency and each local agency shall compile one or more lists which shall specify in detail the information which will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

*(Amended by Stats. 1982, Ch. 84; Amended by Stats. 1986, Ch. 1048 and Ch. 1019; Amended by Stats. 1987, Ch. 985.)*

Note: SEC. 2. 65940. (Section 65940 of the Government Code, as added by Section 2 of Chapter 84 of the Statutes of 1982, is repealed by Stats. 1986, Ch. 1048 and Ch. 1019.)

65940.5. (a) No list compiled pursuant to Section 65940 shall include a waiver of the time periods prescribed by this chapter within which a state or local agency shall act upon an application for a development project.

(b) No application shall be deemed incomplete for lack of a waiver of time periods prescribed by this chapter within which a state or local government agency shall act upon the application.

*(Added by Stats. 1986, Ch. 396.)*

65941. The information compiled pursuant to Section 65940 shall also indicate the criteria which such agency will apply in order to determine the completeness of any application submitted to it for a development project. In the event that a public agency is a lead agency for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code, such criteria shall not require the applicant to submit the informational equivalent of an environmental impact report as part of a complete application; provided, however, that such criteria may require sufficient information to permit the agency to make the determination required by Section 21080.1 of the Public Resources Code.

*(Amended by Stats. 1978, Ch. 1113. Effective September 26, 1978.)*

65941.5. Each public agency shall notify applicants for development permits of the time limits established for the review and approval of development permits pursuant to Article 3 (commencing with Section 65940) and Article 5 (commencing with Section 65950), of the requirements of subdivision (e) of Section 65962.5, and of the public notice distribution requirements under applicable provisions of law. The public agency shall also notify applicants regarding the provisions of Section 65961. The public agency may charge applicants a reasonable fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

*(Added by Stats. 1983, Ch. 1263; Amended by Stats. 1987, Ch. 985.)*

65942. The information and the criteria specified in Sections 65940, 65941, 65941.5 shall be revised as needed so that they shall be current and accurate at all times. Any revisions shall apply prospectively only and shall not be a basis for determining that an application is not complete pursuant to Section 65943 if the application was received before the revision is effective except for revisions for the following reasons resulting from the conditions which were not known and could not have been known by the public agency at the time the application was received:

(a) To provide sufficient information to permit the public agency to make the determination required by Section 21000.1

of the Public Resources Code, as provided by Section 65941.

(b) To comply with the enactment of new or revised federal, state, or local requirements, except for new or revised requirements of a local agency which is also the lead agency.

*(Amended by Stats. 1983, Ch. 1263; Amended by Stats. 1987, Ch. 802 and Ch. 803.)*

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

*(Amended by Stats. 1979, Ch. 1207, Effective October 2, 1979; Amended by Stats. 1984, Ch. 1723, Operative July 1, 1985; Amended by Stats. 1987, Ch. 985; Amended by Stats. 1989, Ch. 612.)*

65943. *(Added by Stats. 1987, Ch. 985; Repealed by Stats. 1989, Ch. 612.)*

65944. (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.

(c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

*(Amended by Stats. 1982, Ch. 84.)*

65945. (a) At the time of filing an application for a development permit with a city or county, the city or county shall inform the applicant that he or she may make a written request to receive notice from the city or county of a proposal to adopt or amend any of the following plans or ordinances:

- (1) A general plan.
- (2) A specific plan.
- (3) A zoning ordinance.
- (4) An ordinance affecting building permits or grading permits.

The applicant shall specify, in the written request, the types of proposed action for which notice is requested. Prior to taking any of those actions, the city or county shall give notice to any applicant who has requested notice of the type of action



proposed and whose development project is pending before the city or county if the city or county determines that the proposal is reasonably related to the applicant's request for the development permit. Notice shall be given only for those types of actions which the applicant specifies in the request for notification.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this subdivision, the fee shall be collected as part of the application fee charged for the development permit.

(b) As an alternative to the notification procedure prescribed by subdivision (a), a city or county may inform the applicant at the time of filing an application for a development permit that he or she may subscribe to a periodically updated notice or set of notices from the city or county which lists pending proposals to adopt or amend any of the plans or ordinances specified in subdivision (a), together with the status of the proposal and the date of any hearings thereon which have been set.

Only those proposals which are general, as opposed to parcel-specific in nature, and which the city or county determines are reasonably related to requests for development permits, need be listed in the notice. No proposals shall be required to be listed until such time as the first public hearing thereon has been set. The notice shall be updated and mailed at least once every six weeks; except that a notice need not be updated and mailed until a change in its contents is required.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice, including the costs of updating the notice, for the length of time the applicant requests to be sent the notice or notices.

*(Added by Stats. 1983, Ch. 1263.)*

65945.3. At the time of filing an application for a development permit with a local agency, other than a city or county, the local agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a rule or regulation affecting the issuance of development permits.

Prior to adopting or amending any such rule or regulation, the local agency shall give notice to any applicant who has requested such notice and whose development project is pending before the agency if the local agency determines that the proposal is reasonably related to the applicant's request for the development permit.

The local agency may charge the applicant for a development permit, to whom notice is provided pursuant to this section, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

*(Added by Stats. 1983, Ch. 1263.)*

65945.5. At the time of filing an application for a development permit with a state agency, the state agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a regulation affecting the issuance of development permits and which implements a statutory provision.

Prior to adopting or amending any such regulation, the state agency shall give notice to any applicant who has requested such notice and whose development project is pending before the state agency if the state agency determines that the proposal is reasonably related to the applicant's request for the development permit.

*(Added by Stats. 1983, Ch. 1263.)*

65945.7. No action, inaction, or recommendation regarding any ordinance, rule, or 65945.3, or 65945.5 by any legislative body, administrative body, or the officials of any state or local agency shall be held void or invalid or be set aside by any court on the ground of any error, irregularity, informality, neglect or omission (hereinafter called "error") as to any matter pertaining to notices, records, determinations, publications or any matters of procedure whatever, unless after an examination of the entire case, including evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

*(Added by Stats. 1983, Ch. 1263.)*

65946. (a) The Office of Planning and Research shall develop a consolidated project information form to be used by applicants for development projects. This form shall provide for sufficient information to allow state agencies to determine whether or not the project will be subject to the requirement for a permit from the agency.

(b) Applicants for development projects may submit the form provided by subdivision (a) to the Office of Planning and Research for distribution to state agencies which have permit responsibilities for development projects. The Office of Planning and Research shall send copies of the form to such agencies within three days of receipt.

(c) Within 30 days of receipt of the form, each agency shall notify the Office of Planning and Research in writing whether or not a permit from that agency may be required and it shall send the Office of Planning and Research the appropriate permit application forms.

(d) Within 15 days of receipt of the completed form from such agencies, the Office of Planning and Research shall notify the applicant for a development project in writing of any permits required for the project specified, and it shall send the applicant the appropriate permit application forms received from the state agencies.



(e) The Office of Planning and Research may charge an applicant for a development project a fee not to exceed the estimated reasonable cost of providing the services performed pursuant to this section. Before levying or changing a fee, the Office of Planning and Research shall adopt or amend regulations pursuant to the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The Office of Planning and Research shall make available to the public upon request data indicating the amount of cost, or estimated cost, required to provide the service and the revenue sources anticipated to provide the service, including general or special fund revenues.

*(Added by Stats. 1983, Ch. 827.)*

## Article 5. Approval of Development Permits

**65950.** Any public agency which is the lead agency for a development project for which an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code shall approve or disapprove the project within one year from the date on which an application requesting approval of the project has been received and accepted as complete by that agency. If a negative declaration is adopted or if the project is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, the development project shall be approved or disapproved within six months from the date on which an application requesting approval of the project has been received and accepted as being complete by that agency, unless the project proponent requests an extension of the time limit. As specified in Sections 21100.2 and 21151.5 of the Public Resources Code, the period specified in those sections shall also begin on that date.

*(Amended by Stats. 1983, Operative January 1, 1990; Amended by Stats. 1989, Ch. 847.)*

**65950.1.** Notwithstanding Section 65950, if there has been an extension of time pursuant to Section 21100.2 or 21151.5 of the Public Resources Code to complete and certify the environmental impact report, the lead agency shall approve or disapprove the project within 90 days after certification of the environmental impact report.

*(Added by Stats. 1983, Ch. 1240.)*

**65951.** In the event that a combined environmental impact report-environmental impact statement is being prepared on a development project pursuant to Section 21083.6 of the Public Resources Code, a lead agency may waive the time limits established in Section 65950. In any event, such lead agency shall approve or disapprove such project within 60 days after the combined environmental impact report-environmental impact statement has been completed and adopted.

*(Added by Stats. 1977, Ch. 1200.)*

**65952. (a)** Any public agency which is a responsible agency for a development project that has been approved by the lead agency shall approve or disapprove the development project within whichever of the following periods of time is longer:

(1) Within 180 days from the date on which the lead agency has approved the project.

(2) Within 180 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.

(b) At the time a decision by a lead agency to disapprove a development project becomes final, applications for that project which are filed with responsible agencies shall be deemed withdrawn.

*(Added by Stats. 1977, Ch. 1200; Amended by Stats. 1988, Ch. 1187.)*

**65952.1. (a)** Except as otherwise provided in subdivision (b), where a development project consists of a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), the time limits established by Sections 65950 and 65952 shall apply to the approval or disapproval of the tentative map, or the parcel map for which a tentative map is not required.

(b) The time limits specified in Sections 66452.1, 66452.2, and 66463 for tentative maps and parcel maps for which a tentative map is not required, shall continue to apply and are not extended by the time limits specified in subdivision (a).

*(Added by Stats. 1982, Ch. 87, Effective March 1, 1982; Amended by Stats. 1989, Ch. 847.)*

**65953.** All time limits specified in this article are maximum time limits for approving or disapproving development projects. All public agencies shall, if possible, approve or disapprove development projects in shorter periods of time.

*(Added by Stats. 1977, Ch. 1200.)*

**65954.** The time limits established by this article shall not apply in the event that federal statutes or regulations require time schedules which exceed such time limits.

*(Added by Stats. 1977, Ch. 1200.)*

**65955.** The time limits established by this article shall not apply to applications to appropriate water where such applications have been protested pursuant to Chapter 4 (commencing with Section 1330) of Part 2 of Division 2 of the Water Code, or to petitions for changes pursuant to Chapter 10 (commencing with Section 1700) of Part 2 of Division 2 of the Water Code.

*(Amended by Stats. 1978, Ch. 1113, Effective September 26, 1978.)*

**65956. (a)** If any provision of law requires the lead agency or responsible agency to provide public notice of the development project or to hold a public hearing, or both, on the development project and the agency has not provided the public notice or held the hearing, or both, at least 60 days prior to the expiration of the time limits established by Sections 65950 and 65952, the applicant or his or her representative may file an action pursuant to Section 1085 of the Code of Civil Procedure

to compel the agency to provide the public notice or hold the hearing, or both, and the court shall give the proceedings preference over all other civil actions or proceedings, except older matters of the same character.

(b) In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by this article, the failure to act shall be deemed approval of the permit application for the development project. However, the permit shall be deemed approved only if the public notice required by law has occurred. If the applicant has provided seven days advance notice to the permitting agency of the intent to provide public notice, then no earlier than 60 days from the expiration of the time limits established by Sections 65950 and 65952, an applicant may provide the required public notice using the distribution information provided pursuant to Section 65941.5. If the applicant chooses to provide public notice, that notice shall include a description of the proposed development substantially similar to the descriptions which are commonly used in public notices by the permitting agency, the location of the proposed development, the permit application number, the name and address of the permitting agency, and a statement that the project shall be deemed approved if the permitting agency has not acted within 60 days. If the applicant has provided the public notice required by this section, the time limit for action by the permitting agency shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the permitting agency shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, may constitute grounds for disapproving a development project.

(d) Nothing in this section shall diminish the permitting agency's legal responsibility to provide, where applicable, public notice and hearing before acting on a permit application.

*(Amended by Stats. 1982, Ch. 460; Stats. 1987, Ch. 985.)*

65957. The time limits established by Sections 65950, 65950.1, and 65952 may be extended once for a period not to exceed 90 days upon consent of the public agency and the applicant.

*(Amended by Stats. 1983, Ch. 1240.)*

65957.1. In the event that a development project requires more than one approval by a public agency, such agency may establish time limits (1) for submitting the information required in connection with each separate request for approval and (2) for acting upon each such request; provided, however, that the time period for acting on all such requests shall not, in aggregate, exceed those limits specified in Sections 65950 and 65952.

*(Added by Stats. 1978, Ch. 1113.)*

65958. Renumbered to 66009 by Stats. 1988, Ch. 968.

65959. Renumbered to 66005 by Stats. 1988, Ch. 418.

**Appendix 6: Correspondence, Southern Pacific Milling Company,  
January 31, 1995**



# **SOUTHERN PACIFIC MILLING COMPANY**

READY-MIX CONCRETE

ROCK & SAND

ASPHALTIC CONCRETE

1/31/95

License No. A248254

Mr. Randy Axell  
14732 Telegraph Road  
Santa Paula, CA 93060

Subject: River Mining Permitting Effort  
Briggs Road

Dear Mr. Axell:

As requested, Southern Pacific Milling Company (SPMCo) has summarized the permitting effort from summer, 1992 to March, 1994 in pursuit of river mining permits (see attached report entitled Briggs Road River Mining Permit Effort).

River mining in the Briggs Road area began in the 1950's and is still authorized by active Conditional Use Permits. However, prior to the reinitiation of mining, additional approvals are required such as a Corps Individual Permit.

SPMCo committed significant funds and staff resources to prepare those additional permit applications. Agency staff was consulted, consultants (including hydraulic engineer) retained, biological studies conducted, and a constraints map developed to aid in designing an environmentally sensitive river mining plan. The plan also provided flood protection for adjacent landowners and enhanced the post-mining environment by creating additional river habitat area. Due to habitat constraints, less than one-half of the Conditional Use Permit areas were proposed for mining.

However in spite of considerable effort and positive feedback from staff, it became apparent that obtaining all permits/approvals required for river mining would be extremely difficult. Major obstacles included the EPA's rejection of the practicable alternatives analysis and Fish and Wildlife's late objection to a permanent flood control channel. It appeared to SPMCo that the major obstacles would lead to escalating mitigation demands and continued pursuit of the additional permits would lead to significant additional expense. These factors would make the Briggs Road project economically infeasible.

Furthermore, the experiences of other mining operators such as Granite Construction highlighted the difficulty in obtaining permits for river mining. After 5 years of effort and \$500,000 in costs, Granite Construction concluded it would be economically infeasible to obtain river mining permits and so halted permit efforts.

Therefore, SPMCo curtailed permitting efforts at Briggs Road and other sites in the Santa Clara River. Our permitting program has been focussed on properties which would provide high-quality volume aggregate, but do not involve the difficulties of river mining.

Please contact this office if further data is required.

Sincerely,

*Steven Zacks*

Steven Zacks  
Property/Environmental Administrator

cc Bill Berger

envirbriggs/perm3a



# SOUTHERN PACIFIC MILLING COMPANY

READY-MIX CONCRETE

ROCK & SAND

ASPHALTIC CONCRETE

ASPHALT PAVING

License No. A248254

## BRIGGS ROAD RIVER MINING PERMIT EFFORT Prepared 1/95

### A. Background

Southern Pacific Milling Company (SPMCo) owned or leased approximately 2.6 miles within the Santa Clara River located between Mission Rock Road and just upstream of the City of Santa Paula/County boundary. Mining in the project area began in the 1950's. Conditional Use Permits (CUP's) for river mining were renewed in 1985 and 1986 by Ventura County and the City of Santa Paula. However, prior to the reinitiation of river mining, the following additional permits/approvals were needed:

1. Individual 404 Permit from U.S. Army Corps of Engineers
2. Section 7 Endangered Species Act Consultation from U.S. Fish and Wildlife Service
3. Water Quality Certification from State Regional Water Quality Control Board
4. Streambed Alteration Agreement from the State Department of Fish and Game
5. Annual Development Plan from Ventura County Public Works

SPMCo held CUP's over most of the river area between the Route 118 bridge in Saticoy and the 12th Street bridge in Santa Paula. The goal was to first obtain additional permit/approvals for river mining in the Briggs Road area and then pursue permit/approvals in other portions of the river. The subsequent permit/approvals would be obtained using the mining and mitigation concepts developed for the Briggs Road project.

### B. Development of Mining and Mitigation Plans

Mining and mitigation plans were developed over a 9-month period. The sequence for plan development is summarized as follows:

1. SPMCo met with regulatory agencies in the field to review the site. There were no pre-conceived ideas on where mining would be conducted, other than proximity to the plant site would be desired. Obvious constraints were identified such as dense riparian vegetation and the presence of an endangered species (least Bell's vireo). Also discussed were the type of studies needed to further define constraints (such as habitat and least Bell's vireo (vireo) surveys), recommended consultants, and potential mitigation measures.

2. The site's resources were surveyed with the goal of developing a constraints map that defines areas most and least suitable for mining. The studies included habitat mapping (by Fugro West) and vireo surveys (by Jim Greaves). Clearpoint Engineering provided consultation on hydraulic considerations. Richard Nichols of Fugro West was the project manager.

3. Based on site studies, a constraints map was developed. The constraints map showed the CUP boundaries, existing vireo habitat,

potential vireo habitat, a potential upstream mining area, a potential downstream mining area, lateral river mining limits per the CUP (river corridor) and redline elevations (maximum allowable depth of excavation as determined by the Ventura County Flood Control District). The potential upstream and downstream mining areas generally contained sparse mulefat scrub or non-native giant reed scrub with minimal willow scrub. Separating the two potential mining areas was denser willow-dominated vegetation.

4. A mining plan was developed based on the constraints map. A description of the mining plan is as follows:

- No mining was proposed in the existing vireo habitat, potential vireo habitat, or willow-dominated areas.
- Mining was proposed in the two areas dominated by sparse mulefat or giant reed scrub, a river widening area, and a terrace area.
- The mining plan also reflected conditions outlined in the CUP's such as setbacks and the prohibition against creating depressions.
- The end result of river mining would be to provide some bank protection and create a channel in the center of the river that would enhance flood protection.

Due to biological constraints, less than one-half of the CUP areas were proposed for mining. Reserves were further reduced by the prohibition against depressions which restricted most mining to above redline elevations.

The mining plan was revised as the constraints were updated. For instance, the downward mining area was reduced in size and a river crossing relocated due to an expansion in the vireo population and habitat. The mining plan as of 7/93 is described in the Corps' notification (attached).

5. Concurrent with mining plan preparation, mitigation measures were developed by Fugro West and Jim Greaves. The river widening area was recommended by Jim Greaves as a method for enhancing existing vireo habitat. Other mitigation measures included restricting mining from July 1 to November 15 (or perhaps later) and cowbird trapping (cowbirds are nest predators) to benefit vireo populations, and removal of non-native vegetation to enhance habitat values. Mitigation measures as of 7/93 are described in the Corps' notification.

### C. Contact With Regulatory Agencies

The application for an Individual 404 Permit was filed with the U.S Army Corps of Engineers (Corps) on 4/14/93. Prior to the filing, the applicant met with State Department of Fish and Game (Fish and Game), U.S. Fish and Wildlife Service (Fish and Wildlife) and other agencies to discuss the project. Agency meetings are summarized below:

#### Meetings Prior to Individual Permit Submittal

<u>Date</u>	<u>Agency</u>	<u>Location</u>
Summer '92	Fish and Game	Field
1/21/93	Ventura County Flood Control Department	Ventura County Public Works
1/27/93	EPA (very brief review of schematic sketch of mining plan)	Seminar (Sacramento)
2/16/93	Interagency Meeting-Corps, Fish and Wildlife, Regional Water Quality Control Board	Fugro Office- Ventura
3/01/93	Corps, Fish and Wildlife	Field

Unfortunately, records from 1992 needed to document meetings are not available.

#### Meetings After Individual Permit Submittal

<u>Date</u>	<u>Agency</u>	<u>Location</u>
4/19/93	Corps, EPA	Field
4/21/93	Interagency Meeting- Corps, Fish and Game, Regional Water Quality Control Board, Fish and Wildlife, EPA	Corps- Ventura
8/19/93	Fish and Wildlife	Field
9/16/93	Corps, EPA	Field

There were additional meetings with agency staff, but exact dates cannot be determined at this time. For instance, both Maurice Cardenas and Morgan Bouke of Fish and Game reviewed the project at different times. Also, there were numerous phone conversations.

Mining plans were reviewed by adjacent landowners and a local oil company on 2/12/93 at Randy Axell's barn. As a result of this meeting, the channel created by river mining was realigned to the center of the river.

#### D. Permitting Process

An application for an Individual 404 Permit was submitted in 4/93 that included river mining, mitigation measures such as mitigation banking, river crossing reconstruction, haul road reconstruction, river-bed widening, and terrace mining. River mining was eliminated from the project by the applicant in 9/93 due to the reasons listed in item E below.

If it appeared that the 404 permit would be granted, then applications would be prepared and submitted for the Water Quality Certification, Streambed Alteration Agreement, and Annual Development Plan listed in item A above. Since approval of an Individual Permit was not granted, the other applications were not prepared. Key dates in the permitting process are summarized below:

<u>Date</u>	<u>Activity</u>
4/14/93	Individual Permit application submitted
7/6/93	SPMCo sends data to Fish and Wildlife for Section 7



...

	Consultation
7/30/93	Corps sends out first public notice- comment period is 7/30/93-8/29/93
8/31/93	Public notice comments sent to SPMCo (some comments received prior to 8/31). Comments received from Coastal Commission, Dept of Navy, Dept of Conservation, EPA, Fish and Game, Fish and Wildlife, United Water Conservation District, and Ventura County Public Works
9/16/93	EPA reviews site (with Corps) with focus on practicable alternative analysis
9/27/93	Second review letter by EPA
9/28/93	SPMCo revises application to eliminate in-river mining in response to comments received from first public notice
10/28/93	Mitigation banking concept plan submitted
10/29/93	Corps asks Fish and Wildlife to continue Section 7 consultation
10/29/93	Corps sends out revised public notice
12/3/93	Public notice comments sent to SPMCo (some comments received prior to 12/3)
1/20/94	SPMCo responds to comments from second notification
2/7/94	Biological opinion on revised project from Fish and Wildlife- revised project will not jeopardize vireo
3/4/94	Additional information on Mitigation Bank requested in writing by Corps (previous verbal requests)

Several regulatory agencies including Fish and Wildlife commended the methods used by SPMCo (including agency consultation) to develop mining and mitigation plans. Various Fish and Game staff were very helpful in the permitting process, including providing input on the mitigation measures. Corps staff was cooperative and diligent during the entire permitting process and encouraged SPMCo to pursue a mitigation bank.

#### E. Why SPMCo Halted Project

The primary purpose of the permitting effort was to obtain aggregate in a timely manner since SPMCo has limited reserves. However, the primary source of aggregate was reduced when in-river mining was eliminated from the project (see attached letter dated 9/28/93). River mining was eliminated for the following reasons:

1. SPMCo had conducted an extensive and ongoing search in Western Ventura County for new aggregate sources that could immediately meet approximately 5-years demand and be economically transported to the Briggs Road or El Rio facilities for processing. The search focussed on finding out-of-river sites to avoid wetland and endangered species issues. Only one site was found which was the proposed Boulder Creek project (subsequently replaced by a smaller, more limited project known as Sycamore Ranch). However, the Boulder Creek project would not satisfy SPMCo's immediate need for material. It was anticipated that at least 3-4 years would be needed to complete permitting for this project with no certainty as to the outcome (as of 1/95, the project is a minimum of 9-12 months away from a hearing on the CUP). Appeals and court challenges

could further delay mining at the Boulder Creek site.

The scarcity of aggregate material is confirmed by a Division of Mines and Geology (DMG) report. The report concluded there is less than a 3-year supply of PCC-grade aggregate reserves in Western Ventura County. However, the EPA in letters dated 8/31/93 and 9/27/93 and at a 9/16/93 field meeting indicated that agency was unwilling to accept the SPMCo research and the DMG report as meeting their rigid standard for the practicable alternatives test.

2. Fish and Wildlife objected to a permanent pilot channel following cessation of mining and recommended this component be deleted from the project (see Fish and Wildlife letter dated 9/1/93). Deletion of the channel would be objectionable to SPMCo's lessor's and would require developing a new mining concept. It is unfortunate this objection was not raised in earlier meetings held with the applicant prior to the 4/93 submittal, while the mining plan was being developed.

3. Fish and Wildlife did recognize SPMCo took "strong positive measures to minimize effects of the project to the least Bell's vireos" but also felt the "the project may result in substantial and unacceptable impacts to aquatic resources of national importance". Fish and Wildlife also stated "the Service cannot recommend approval of the project as currently presented". This indicates that Fish and Wildlife would not be granting a favorable Section 7 biological opinion which is crucial for obtaining a Corps permit. None of these opinions were indicated in previous meetings with Fish and Wildlife staff.

4. Habitat and topographic conditions changed in the river during the permitting process. This demonstrates a major problem with developing an environmentally sensitive plan in a dynamic river environment- nature can change faster than the permitting process. Development of a new concept in response to the Fish and Wildlife comment regarding elimination of the permanent channel may ultimately require another round of habitat mapping. Since SPMCo is short on reserves, it cannot afford further delay.

5. A significant element of the mitigation plan was to widen the river and allow for natural revegetation (with removal of non-natives by the applicant). The river's natural ability to revegetate has been demonstrated by the dense habitat which became established within the highly disturbed area upstream of the Freeman Diversion Structure. Furthermore, part of the project's offset requirement was for proposed removal of vegetation that naturally reestablished in a haul road since hauling was discontinued. However, the EPA believed "the proposed mitigation will not create viable habitat". Additional effort would be required to demonstrate the proposed mitigation measures are feasible or to devise additional mitigation measures. The cost of additional mitigation could render the project economically infeasible.

6. Other potential impacts were identified during the notification process, including groundwater loss and reduced sand supply to the coast. The Coastal Commission may require a Consistency Certification if sand is removed from the river. Additional effort would be required to deal with these issues.

7. The experiences of other mining operators such as Granite

Construction highlighted the difficulty in obtaining permits for river mining. After 5 years of effort and approximately \$500,000 in costs, Granite Construction concluded it would be economically infeasible to obtain river mining permits and so halted permit efforts.

SPMCo continued to pursue an Individual Permit after in-river mining was eliminated, but with less enthusiasm since most reserves had been eliminated from the application. The initial strategy was to obtain a 404 permit for the mitigation bank, obtain some aggregate from excavation of the bank, and simultaneously develop solutions to the river mining issues. Corps staff strongly supported the mitigation bank proposed in the revised application, but SPMCo felt the cost to obtain approval of a mitigation bank outweighed the immediate benefits.

Eventually SPMCo decided although considerable time and expense had already been incurred on the permitting effort, the chances for eventually fully permitting river mining authorized by the existing CUP's were not high. Furthermore, significant additional expense could be required to continue the pursuit of river mining permits. These costs include resurvey of the river habitat, developing a new mining plan, dealing with the practicable alternatives test, and proving the feasibility of mitigation measures.

Therefore, permitting efforts were curtailed at Briggs Road and other sites in the Santa Clara River. Company efforts were focussed on out-of-river sites for reserves.

envir\briggs\permit3



REGULATORY BRANCH  
LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS

## PUBLIC NOTICE OF PERMIT APPLICATION

Public Notice/Application No. 93-962-MJ  
Comment Period: July 30, 1993 through August 29, 1993

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### Applicant(s)

Southern Pacific Milling Company  
3555 Vineyard Avenue  
Oxnard, CA 93030

### Contact

Mr. Steven Zacks  
Property/Environmental Admin.  
(805) 485-3101

### Location

In the Santa Clara River, in and just west of the City of Santa Paula, western Ventura County, California.

### Activity

To mine approximately 940,000 cubic yards of sand and gravel material from 81 acres of the Santa Clara River, which includes diverting and channelling flows as mining activities proceed. In addition, the applicant proposes to reestablish a haul road and river crossing within jurisdictional areas, resulting in direct impacts to about 19 acres of waters of the U.S., including 5 acres of riparian wetland habitat. The total acreage of waters of the United States directly disturbed as a result of the project is estimated at 100 acres, including approximately 22 acres of wetland riparian habitat. For more information see page 3 of this notice.

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Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act. Comments should be mailed to:

U.S. Army Corps of Engineers  
Ventura Regulatory Field Office  
ATTN: CESPL-CO-R-93-962-MJ  
2151 Alessandro Drive, Suite 100  
Ventura, California 93001

## Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

## Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 of the Clean Water Act requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers.

Cultural Resources- The applicant's consultant conducted a records and literature search, and a field survey of the proposed project area. The combined efforts revealed no prehistoric or historic sites located within the area of potential effects (APE). All documentation will be transmitted to the State Historic Preservation Officer (SHPO) with the determination that the project as planned will not involve National Register listed or eligible properties. With SHPO's concurrence of our letter of determination, the project will be in compliance with Section 106 of the National Historic Preservation Act (36 CFR 800).

impacts to threatened and endangered species, preliminary determinations indicate that the proposed activity may affect the least Bell's vireo, or its critical habitat, designated as endangered under the Endangered Species Act of 1973. Therefore, formal consultation under Section 7(c) of the Act has been initiated.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

#### Proposed Activities for Which a Permit is Required

The proposed project includes several activities that require authorization from the Corps of Engineers. These are:

1) Discharge fill material associated with excavation - Up to 940,000 cubic yards (cy) of sand and gravel material is to be removed from 75 acres of the Santa Clara River. Sand and gravel mining activities will take place in two areas within the property limits (see figure 1). The maximum downstream mining area is approximately 1,650' long and 800' wide, and excavation will occur to a average depth of 5'. About 26 acres of waters of the U.S., including about 7 acres of wetlands, could be impacted (see figure 3). The maximum upstream mining area is approximately 4,600' long and 700' wide, and excavation will occur to a maximum depth of 13'. About 49 acres of waters of the U.S., including about 10 acres of wetlands, could be impacted (see figure 4). The areal extent of mining in these areas will depend on the amount of offset credit established beforehand [see (7) and (8) below]. For example, if five acres of mitigation area are established in advance, then the applicant would be limited to five acres of impacts to wetland habitat in the mining areas.

2) Reconstruct a haul road - Portions of the haul road connecting the Briggs Road Plant to the west end of South Mountain were washed-out by high flows in the last two years. The applicant wishes to reestablish the road so that material can be moved between two plants. The alignment of this road will not be changed from its past alignment (see figure 2). Approximately 38,000 cy of material will be used to repair the segment. Of this amount, 15,000 cy will be used to build a ramp at the Freeman Diversion structure and 19,000 cy will be used to repair the haul road along the United Water Conservation District silt pond, which will include the installation of six culverts (see figure 8). The applicant also wishes to construct water diversion berms to keep flows away from the reestablished haul road. Reconstruction of the haul road will impact approximately 19 acres of waters of the U.S., including 5 acres of riparian wetland habitat.

3) Reconstruct a portion of a river crossing - A portion of a road crossing washed-out by high flows the last two years will be reconstructed from the Briggs Road Plant on the north side of the river to the terrace land/bank areas [as described in (7) and (8)]

below] located on south side (see figure 1). The crossing will have four culverts to convey flows (see figure 8). This aspect of the overall project is expected to impact 0.2 acre of waters of the U.S.

4) Construct an interim flow diversion - The applicant will probably not be able to implement the full mining plan in 1993. However, there is a need to provide some flood control protection for upstream properties that were severely eroded in the last two years. Therefore, concurrent with riverbed widening and/or terrace revegetation excavation [as described in (7) and (8) below], the applicant proposes to create a channel diversion before the next rainy season. The applicant would like to construct a 3,600' long by 100' wide channel in the middle of the river, including two berms to divert flows into the channel (see figure 10). The diversion channel will be located in the same approximate alignment as the "permanent pilot channel" [see (6) below]. This immediate flood control measure would be done to protect agricultural land in the area and is not necessarily related to mining activities.

5) Construct a temporary pilot channel - If adequate rock reserves are encountered in the upstream mining area, then the applicant proposes to construct a temporary pilot channel, including diversion berms and culverted crossings, along the north side of the river, to facilitate mining activities (see figure 9). This channel would be approximately 2000' long by 100' wide, and would be located in the upstream mining area. A "permanent" pilot channel will be built as mining proceeds.

6) Construct a permanent pilot channel in the center of the river and provide bank protection - Adjacent farmland was severely eroded in this reach of the Santa Clara River and mining activities have been designed to provide some flood control protection. As mining in the upstream area proceeds, the applicant proposes to relocate flows from the temporary pilot channel to the center of the river in a permanent pilot channel (see figure 9). This permanent pilot channel will be approximately 3,600' long by 100' wide and include diversion berms and culverted crossings. A majority of the area disturbed for construction of the permanent pilot is located in the upstream mining area. A portion of the channel (4 acres), however, will be located beyond mining limits. In addition to the pilot channel, some excavated river material may be placed in heavily eroded bank areas to provide some bank stabilization. A sandbar, approximately 2.0 acres in size, partially responsible for directing flows into the bank may also be removed. The total impact to waters of the U.S. associated with construction of the permanent pilot channel is about 6 acres.

In addition, the applicant proposes to:

7) Remove a maximum of 10.5 acres of upland terrace immediately adjacent to the river, which will effectively result in a widening of the channel - The applicant proposes to mine uplands next to the river which will enhance flood control in the area (see figures 3 and 7). The amount of upland terrace removed depends on the rock content encountered during the excavation



acres will be removed. Upon the cessation of mining, the widened area is to revegetate naturally. The applicant will maintain the area free of non-native vegetation for five years.

8) Excavate a maximum of 10 acres of upland terrace near the existing river bank - The applicant proposes to excavate a large depression in the uplands just southwest of the river widening area (see figures 3 and 7). A 100' buffer between the active river and the excavated depression will be maintained. The amount of upland terrace material removed depends on the rock content encountered during the excavation process. It is possible that none or a fraction of the 10 acres will be removed. After it has been mined, this area will be planted with native riparian wetland species as upfront mitigation to compensate for impacts generated from future mining activities.

#### Additional Project Information

The overall purpose of the proposed project is to provide an immediate source of sand and gravel to allow the continued operation of the applicant's Briggs Road and the El Rio Plants for at least five years. The Briggs Road Plant has been operating since 1954 (by another company) and the El Rio Plant since the 1920s. The proposed project is intended to help satisfy the current high demand for aggregate material, specifically rock, in western Ventura County. The applicant believes that this area of the river may produce material reserves suitable for industry needs. In addition, the proposed project is also intended to increase bank stabilization and channel capacity for flood control purposes, as well as create and enhance riparian habitat in the project boundary.

The proposed project is to be done in phases. These are:

- |                  |   |
|------------------|---|
| <u>Phase I</u>   | Riverbed widening and/or terrace excavation and mitigation, construction of the road crossing and haul road, construction of the interim flow diversion |
| <u>Phase II</u>  | Mining of the upstream and downstream areas, construction of the temporary and permanent pilot channels   |
| <u>Phase III</u> | Implementation of other mitigation requirements (if necessary)  |

The proposed project has been designed by the applicant to minimize impacts to high-quality riparian habitat and the aquatic ecosystem. The mining areas were selected based on the fact that they are primarily composed of sparse mulefat scrub and stands of the non-native giant reed, with a minimal amount of southern willow scrub habitat. The upstream and downstream mining areas comprise 75 acres in the Santa Clara River, 17 acres of which is southern willow scrub habitat. Areas with extensive southern willow scrub, current and potential habitat for the Federally and State endangered least Bell's vireo, have been excluded from mining.



Field surveys conducted by Mr. Jim Greaves have identified five sensitive species in the vicinity of the proposed project. These species are:

1. Least Bell's vireo - The least Bell's vireo (LBV), a Federally and State endangered species, has been observed on the north and south sides of the Santa Clara River, adjacent to the Briggs Road Plant. This area has been included in an LBV preserve area consisting of a 2500' segment of the riverbed (bank to bank). In addition, an area downstream was identified by Mr. Greaves as suitable LBV habitat and has been excluded from mining to allow this species to expand its population in the area. Mr. Greaves has shown that LBV do not nest in the proposed excavation areas. The LBV has also been observed approximately 400' north of the proposed haul road repair.

2. Loggerhead shrike - Two nesting pairs (with young) of the loggerhead shrike, a candidate for listing under the Endangered Species Act, have been observed along the haul road route. It is felt that construction of the haul road during the breeding season could cause the species to abandon their nests and/or nest off-site.

5. Southwestern pond turtle - This turtle, a candidate for listing under the Endangered Species Act, has been observed in open water on the north side of the river approximately 1000' from the proposed haul road and not within any proposed mining area. The likelihood of this species being present in the project area is low. The applicant does not anticipate any impacts to this species.

In addition to these species, four sensitive reptile species could potentially inhabit the site. These include coast horned lizard, coastal western patch-nose snake, silvery legless lizard, and coastal western whiptail. Even if these species are present, the applicant believes it is unlikely construction and operations of the would substantially affect their populations. A list of breeding wildlife species found by Mr. Greaves is attached.

Wetland areas to be impacted approximate 22 acres of the total 100 acres of waters of the U.S. to be disturbed by the project. The applicant proposes to mitigate for unavoidable impacts to wetlands at a ratio of about 1:1. Mitigation areas will be monitored and maintained for five years. At this time, however, the applicant has not completed a final mitigation plan. In addition to the proposed mitigation, the applicant will implement the following measures based upon the amount of river mined:

Acres Mined

0-10 acres

Measures

Conduct annual vireo and pond turtle surveys, grant permission for cowbird trapping, remove exotics from excavated bank area

10.1-20 acres

As above plus set up cowbird trap and monitor, plant cottonwood windrow on northern bank

20+ acres

As above plus remove giant reed in least Bell's vireo habitat for three years

of each year. River mining will cease by November 15 of each year unless surveys indicate continued mining will not significantly impact biological resources. The nature of these surveys will be determined by the Corps of Engineers in consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service.

The applicant has prepared a preliminary alternatives analysis entitled *Consideration of Practicable Alternatives*, which found that there are "no practicable alternatives... available to meet the overall project purpose of providing sand and gravel for the continued operation of the... plants for the next five years."

All mining will occur within the excavation limits and river corridor boundary established by the Ventura County Flood Control District and defined in Conditional Use Permit numbers 245, 1812, and 85-20. Copies of the C.U.P. Environmental Impact Reports may be obtained through the Ventura County Resource Management Agency.

Mining will proceed such that no depressions are created when the excavation is completed and continuous live stream flow will be maintained (if water is present). A 50-foot wide buffer area will be maintained between the active channel and excavation activity. Equipment will not operate in active channels except as necessary to construct or repair river crossings or barriers. Mined material will not be stockpiled within waters of the U.S. Excavated areas in the river and adjacent eroded banks may be partially refilled with mined river material (minus the rock content).

The applicant has received a Streambed Alteration Agreement (No. 5-357-92) from the California Department of Fish and Game for reestablishment of the haul road.

#### Proposed Special Conditions-

The following special conditions have been suggested by the applicant:

- 1) River mining will commence after July 1 of each year. Mining will cease by November 15 of each year unless surveys indicate continued mining will not significantly impact biological resources (as determined by the Corps).
- 2) Mined material will not be stockpiled within the river.
- 3) A continuous live stream will be maintained (if water is present).
- 4) A 50-foot buffer will be maintained between the active channel and excavation activity.
- 5) Equipment will not operate in active channels, except as necessary to construct river crossings or barriers.
- 6) No depressions will be left when excavation is completed.

---

For additional information please call Mike Jewell of my staff at (805) 641-0301. This public notice is issued by the Chief, Regulatory Branch.

BREEDING WILDLIFE SPECIES OBSERVED AND LIKELY, BRIGGS ROAD PLANT AREA, JUNE-AUGUST 1992

Birds breeding and/or young seen on site

Green-backed Heron  
Mallard  
American kestrel  
California quail  
Killdeer  
Spotted sandpiper  
Mourning dove  
Ground dove  
Black-chinned hummingbird  
Anna's hummingbird  
Hairy woodpecker  
Black phoebe  
Ash-throated flycatcher  
Violet-green swallow  
Tree swallow  
Northern rough-winged swallow  
Cliff swallow  
Scrubjay  
Common raven  
American crow  
Plain titmouse  
Common bushtit  
Bewick's wren  
House wren  
Wrentit  
Northern mockingbird  
Loggerhead shrike  
Phainopepla  
European starling  
Least Bell's vireo  
Hutton's vireo  
Orange-crowned warbler  
Yellow warbler  
Common yellowthroat  
Yellow-breasted chat  
Black-headed grosbeak  
Blue grosbeak  
Lazuli bunting  
Rufous-sided towhee  
Pacific (brown) towhee  
Song sparrow  
Red-winged blackbird  
Brewer's blackbird  
Brown-headed cowbird  
Northern oriole  
House finch  
Lesser goldfinch  
American goldfinch

Possibly breeding: most breed off-site nearby

Pied-billed grebe  
Double-crested cormorant

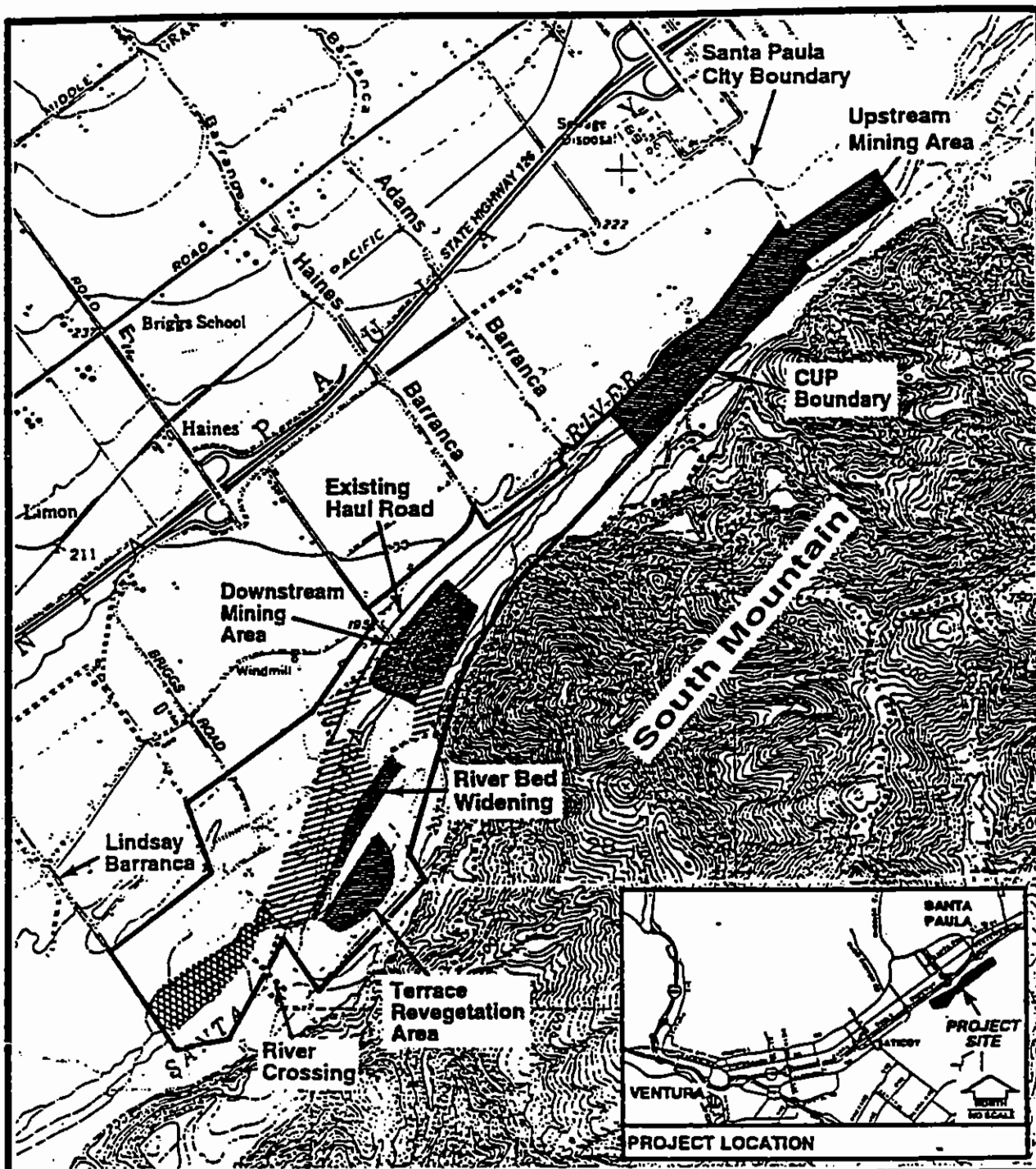
Great-blue heron  
Cinnamon teal  
Ruddy duck  
American coot  
Common moorhen  
Cooper's hawk  
Red-shouldered hawk  
Red-tailed hawk  
Turkey vulture  
Rock dove  
Yellow-billed cuckoo  
Greater roadrunner  
Lesser nighthawk  
White-throated swift  
Costa's hummingbird  
Belted kingfisher  
Downy woodpecker  
Northern flicker  
Western wood pewee  
Cassin's kingbird  
Pacific slope (western) flycatcher  
Blue-gray gnatcatcher  
Western bluebird  
American robin  
California thrasher  
Warbling vireo  
Wilson's warbler  
Lark sparrow  
Purple finch

Reptiles and amphibians

California treefrog - seen  
California red-legged frog - likely  
Bullfrog - seen  
Western pond turtle - likely  
Coast horned lizard - likely  
Side-blotched lizard - seen  
Western fence lizard - seen  
Western whiptail - likely  
Coachwhip - likely  
Common kingsnake - seen  
Gopher snake - seen  
Two-striped garter snake - seen

Mammals



California ground squirrel - seen  
Dusky-footed woodrat - dens nearby  
Mouse - tracks, unidentified species  
Mule deer - tracks seen  
Coyote - several seen  
Bobcat - carcass seen nearby  
Opossums, skunks, mountain lion, bear,  
raccoons, gray & red fox - possible



SOURCE: USGS Santa Paula Calif. Quadrangle, 1951.  
Photorevised 1967.

Ventura County  
River Station 855 to 1001

#### LEGEND

-  Potential Vireo Habitat
-  Vireo Habitat

### VICINITY MAP Briggs Road Mining

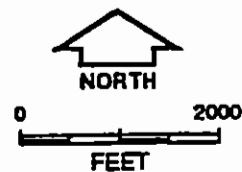
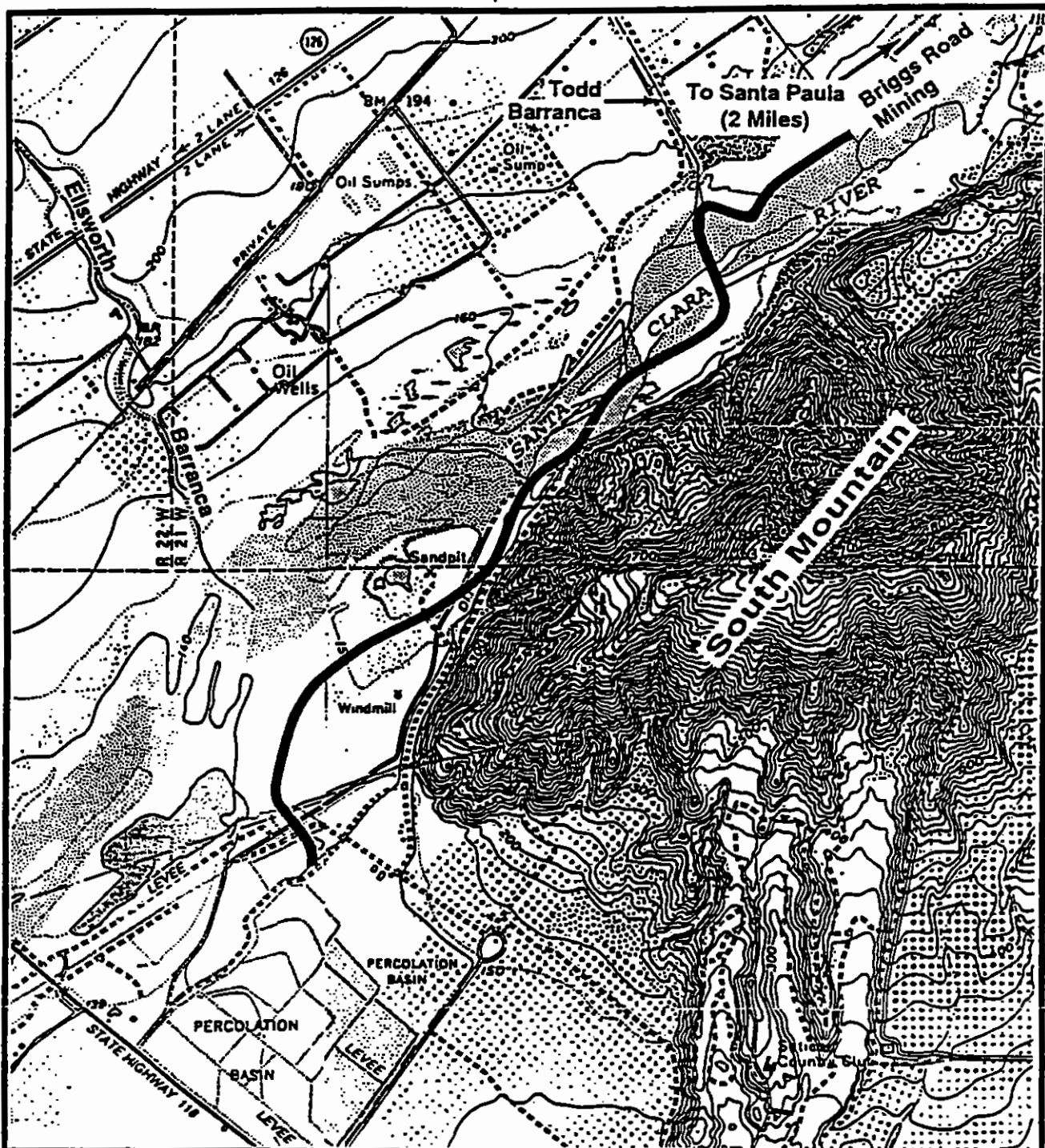


FIGURE 1



SOURCES: USGS Santa Paula Calif. Quadrangle, 1951.  
 Photorevised 1967.  
 USGS Salicoy, Calif. Quadrangle, 1951.  
 Photorevised 1967.

#### LEGEND

— Haul Road  
 Alignment

#### VICINITY MAP Haul Road

Ventura County  
 River Station 740 to 855

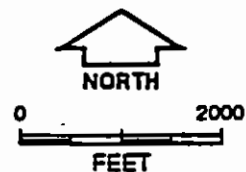
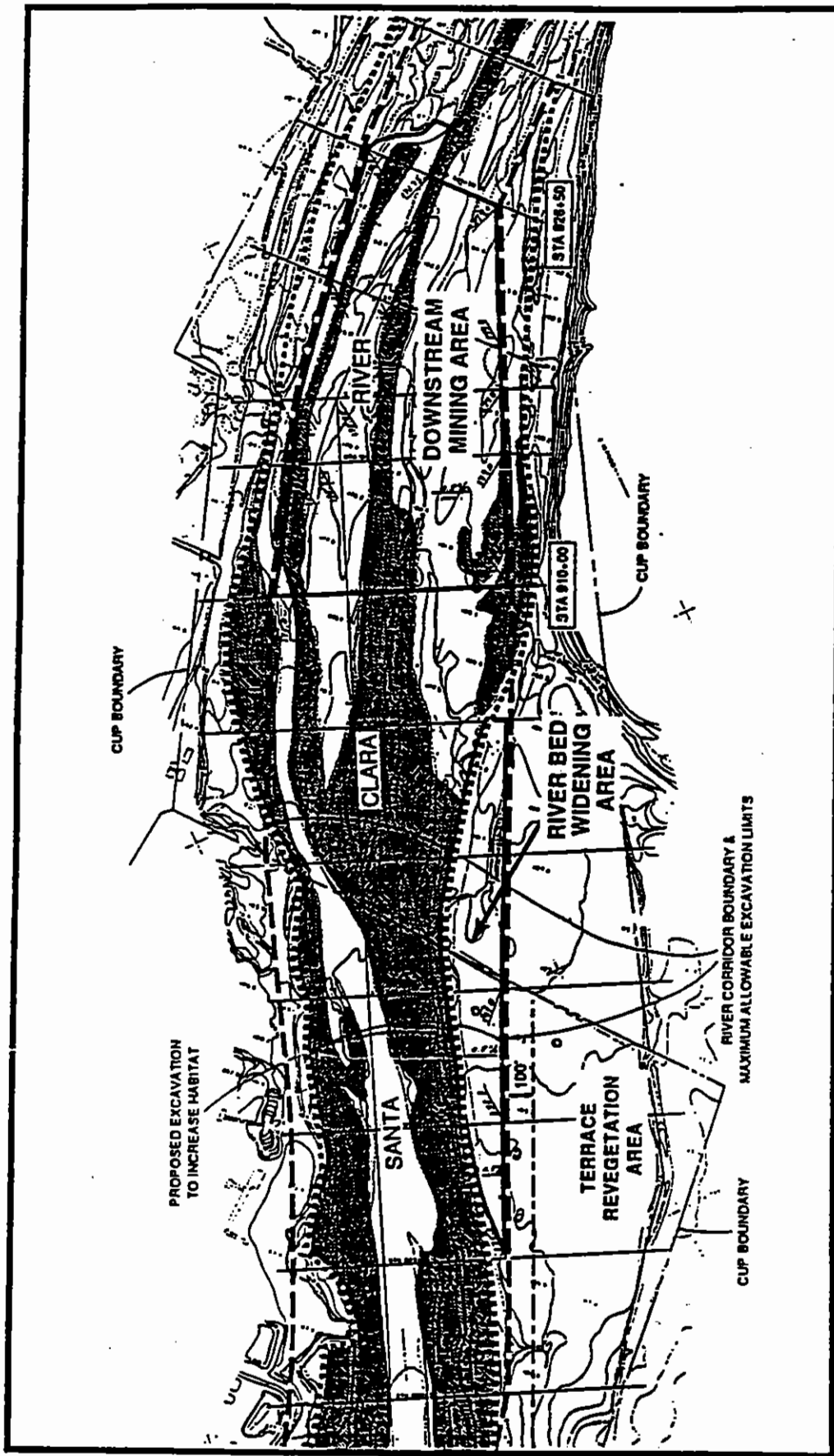


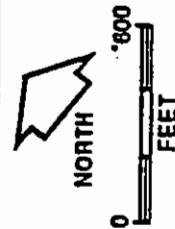
FIGURE 2



#### LEGEND

- River Corridor
  - Mining Area Boundary
  - ..... Ordinary High Water
  - Wetlands
- Volume Excavated in  
Downstream Mining Area:  
219,000 cubic yards

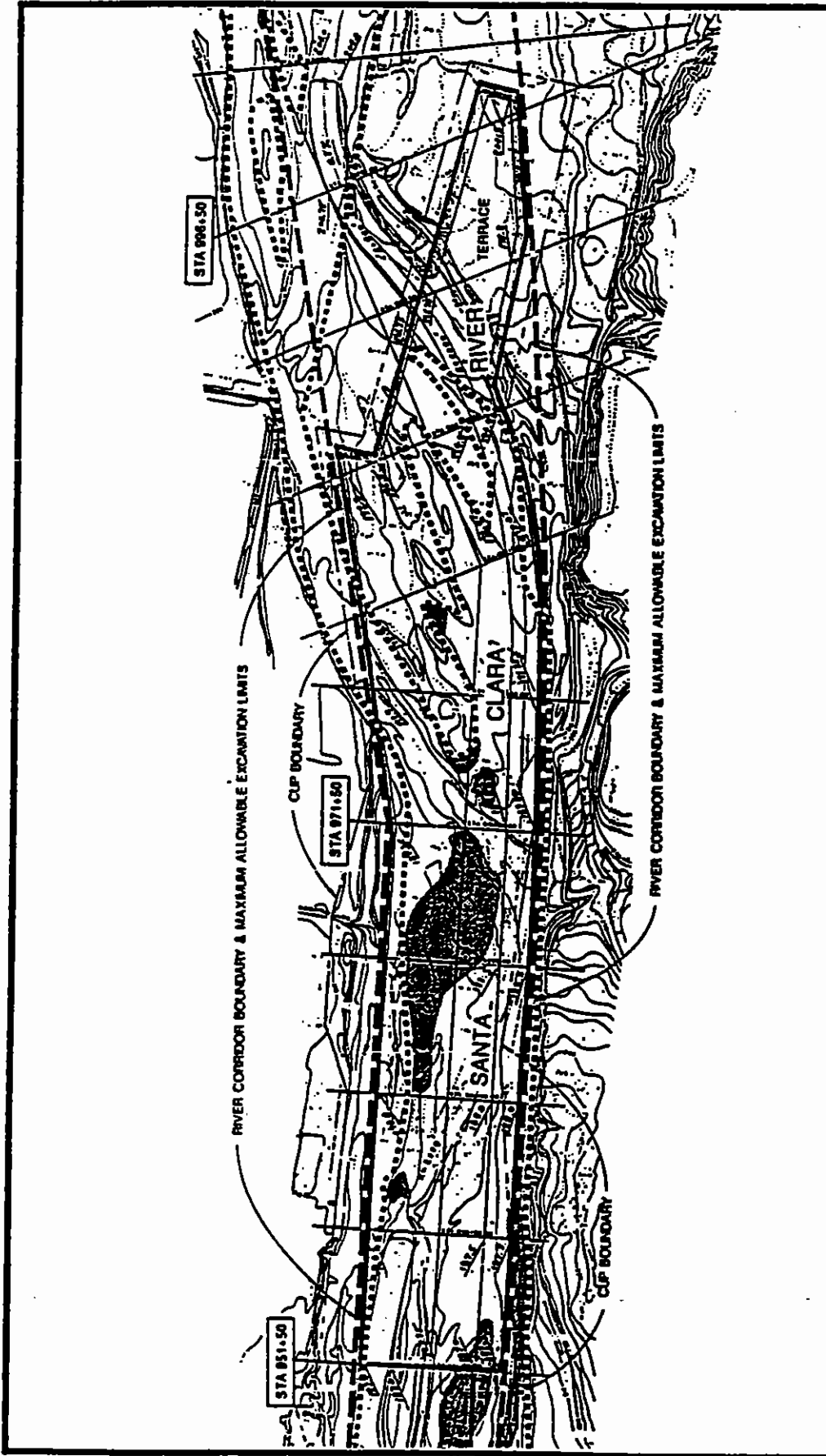
### PLAN VIEW RIVER BED WIDENING AND DOWNSTREAM MINING AREAS



SOURCE: Clearpoint Engineering

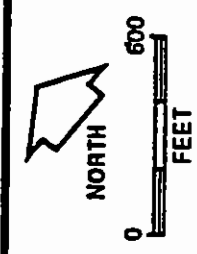
FIGURE 3



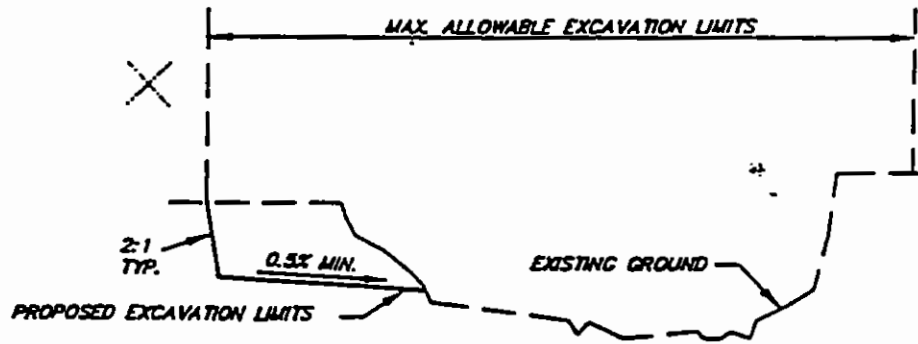


- LEGEND**
- River Corridor
  - Mining Area Boundary
  - ..... Ordinary High Water
  - Wetlands
  - Volume Excavated:  
721,000 cubic yards  
(including Terrace Mining)

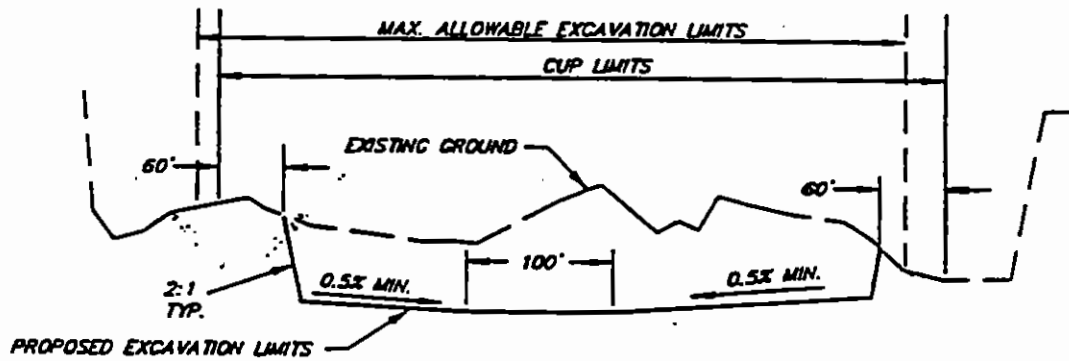
## PLAN VIEW UPSTREAM MINING AREA



SOURCE: Clearpoint Engineering



**TYPICAL SECTION**  
**STATION 895+00**

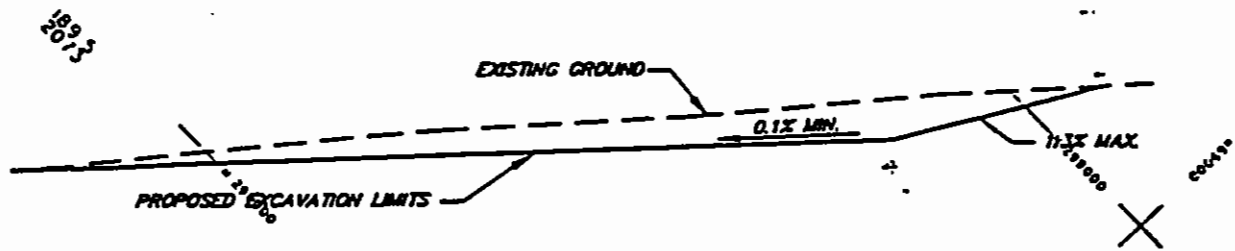


**TYPICAL SECTION**  
**STATION 981+50**

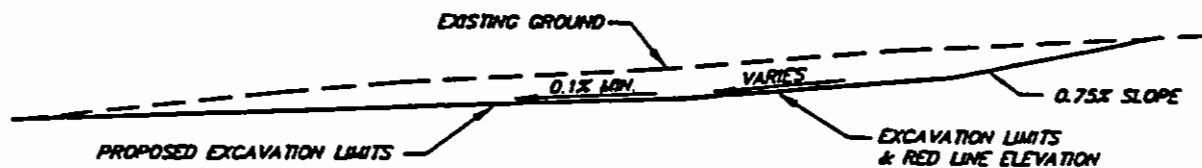
SOURCE: Clearpoint Engineering

## CROSS-SECTION VIEW Briggs Road Mining





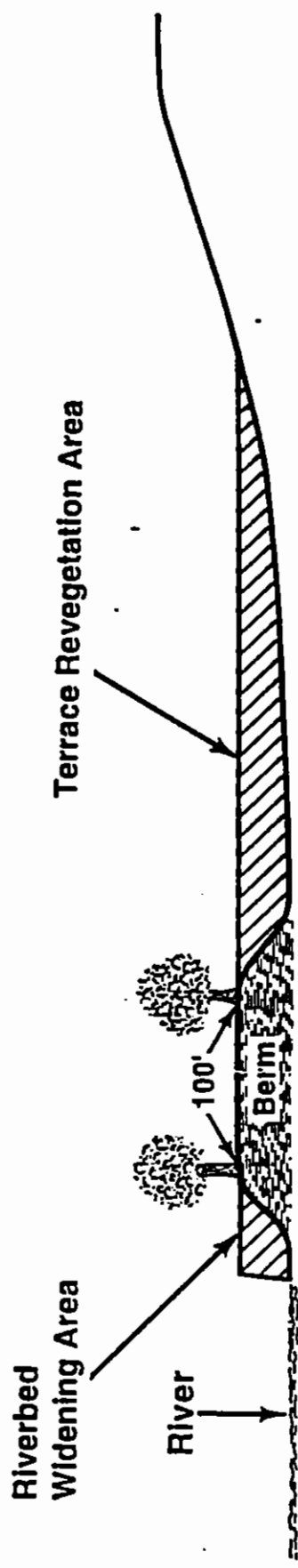
**TYPICAL PROFILE  
DOWNSTREAM MINING AREA**



**TYPICAL PROFILE  
UPSTREAM MINING AREA**

SOURCE: Clearpoint Engineering

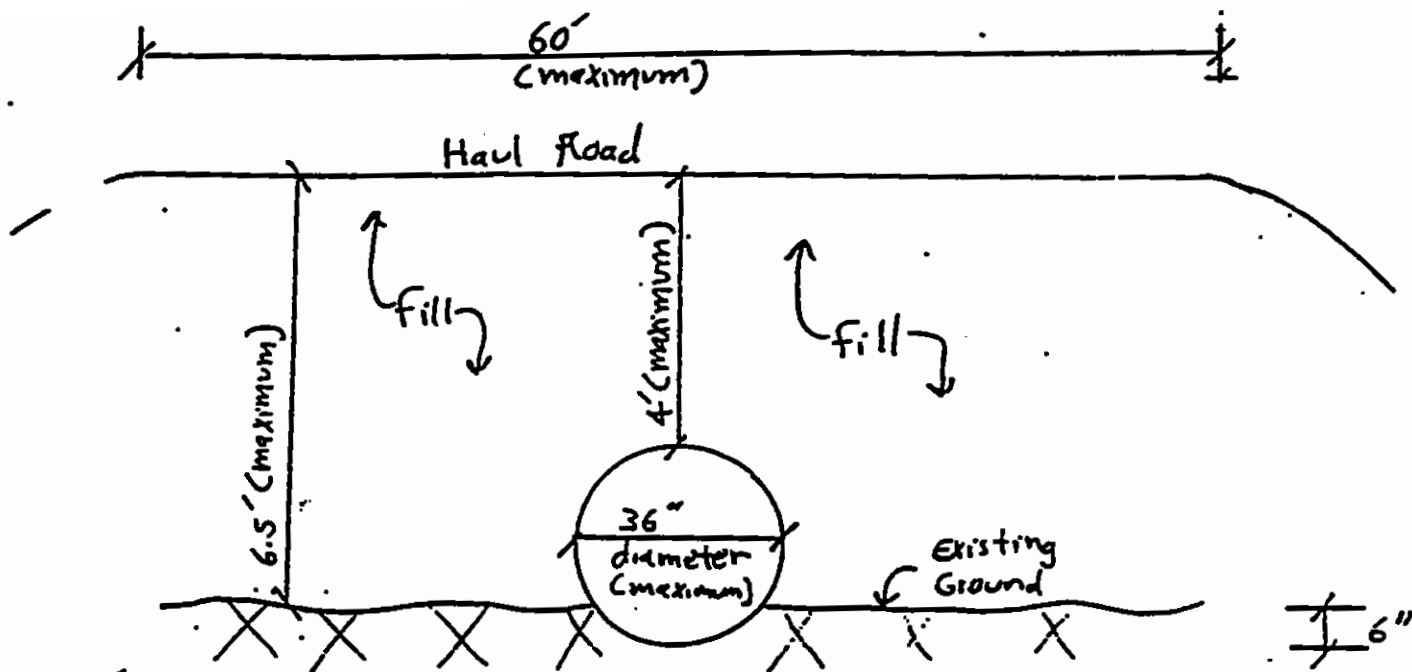
## LONGITUDINAL CROSS-SECTION VIEW Briggs Road Mining



**LEGEND**

-  Material to be Removed
-  Native Riparian Windrow

**REVEGETATION CONCEPT  
CROSS-SECTION  
STATION 890+50**



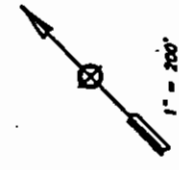
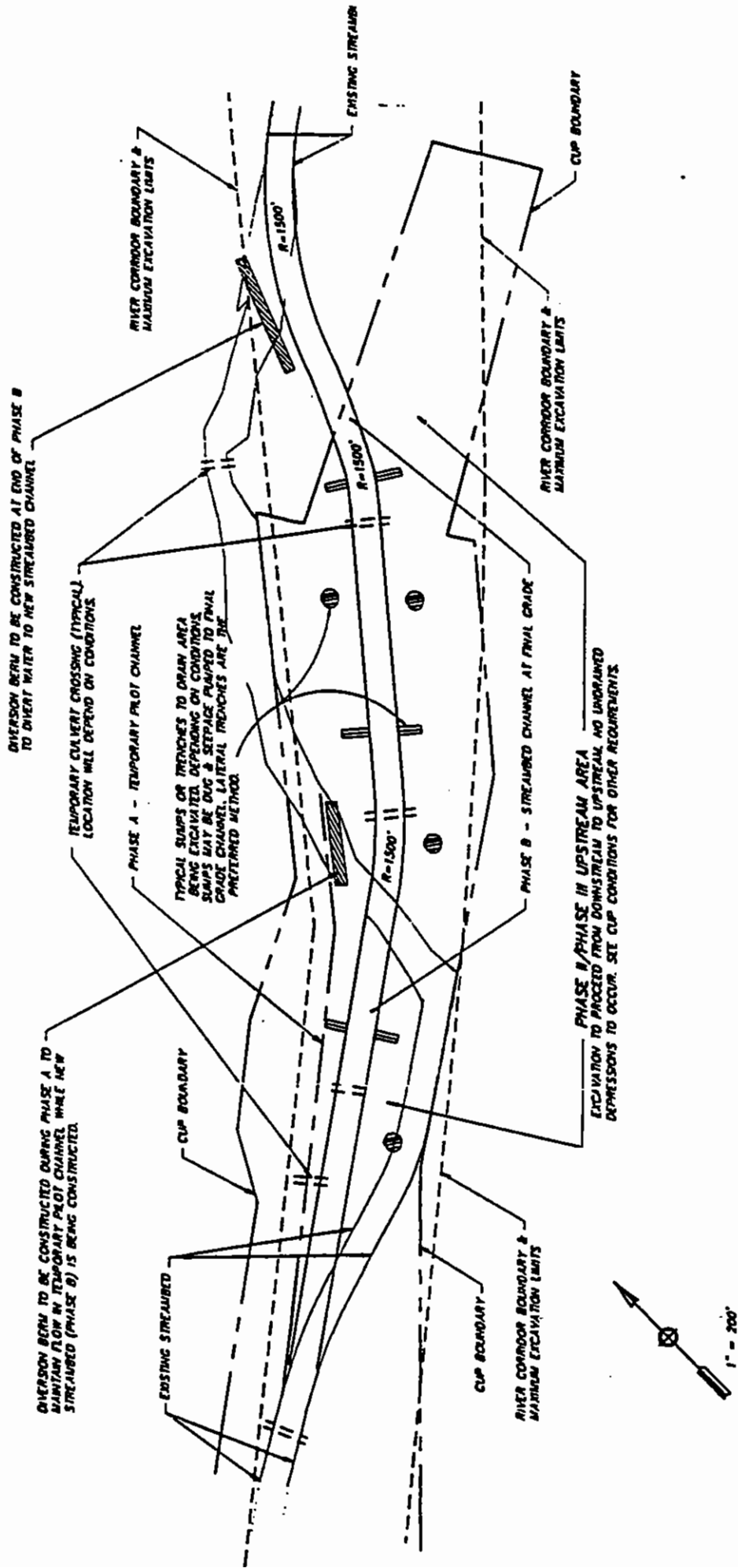
### Notes:

1. The number of 36" pipes installed depends on the amount of water flow. Up to 4 pipes could be installed side-by-side.
2. The 36" pipes may be replaced by elliptical or arch shaped culverts. The height of the elliptical or arch shaped culverts will not exceed 36".

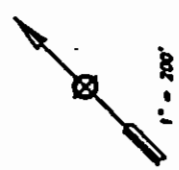
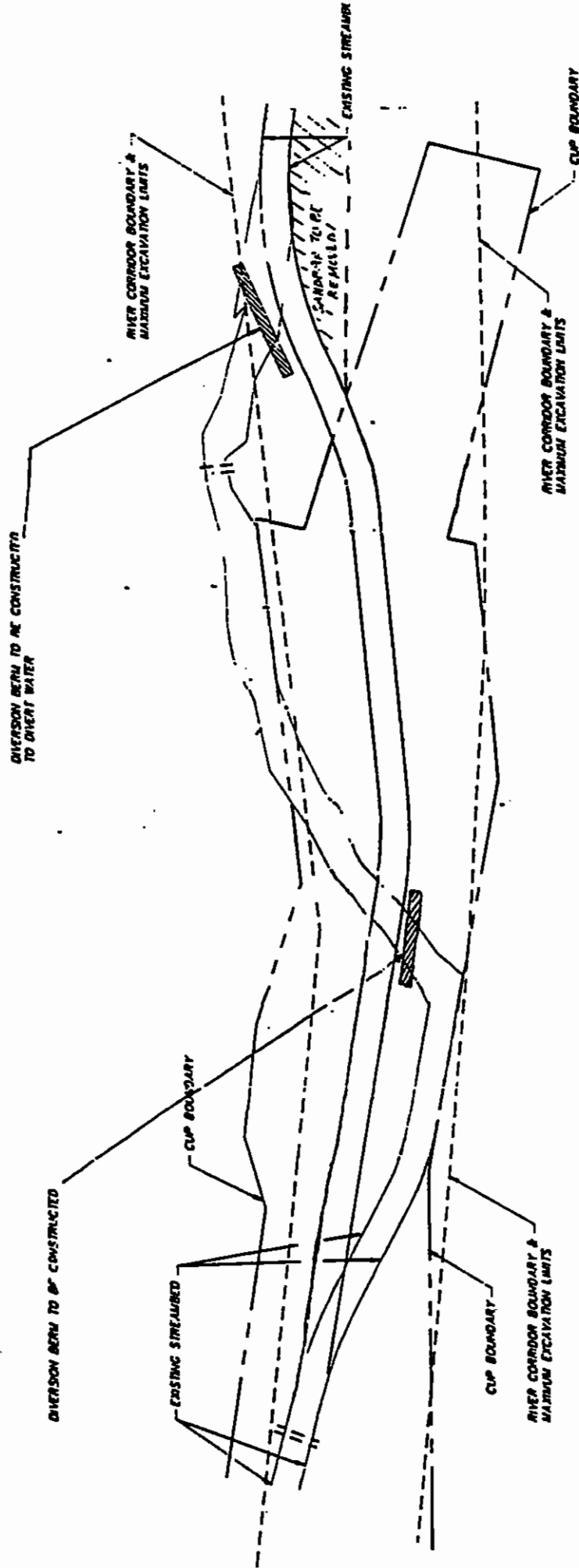
### ATTACHMENT 3

Culvert Detail - WP 92083  
(not to scale) 6/92

FIGURE 8



# PROPOSED TEMPORARY & PERMANENT PILOT CHANNELS



GRAPHIC SCALE



# PROPOSED INTERIM WATER DIVERSION



# SOUTHERN PACIFIC MILLING COMPANY

READY-MIX CONCRETE

ROCK & SAND

ASPHALTIC CONCRETE

ASPHALT PAVING

September 28, 1993

License No. A248254

Army Corps of Engineers  
2151 Alessandro Drive, Suite 100  
Ventura, CA 93001

Attention: Mike Jewell

Subject: Application No. 93-962-MJ  
Briggs Road

Dear Mr. Jewell:

Due to comments received during the notification period for the subject application, Southern Pacific Milling Company (SPMCo) hereby reduces the scope of the project as follows:

1. Remove a maximum of 11.5 acres of upland terrace located immediately adjacent to both sides of the river.

The removal of 11.5 acres of upland terrace immediately adjacent to the river has a dual purpose: a) remove material which widens the river; b) develop area for mitigation banking. Mitigation banking credits could be used for future in-river mining at Briggs Road, mining at another site in the Santa Clara River or tributary (such as Boulder Creek), or sold.

2. Excavate a maximum of 10 acres of upland terrace located near the existing river bank.

The excavation of 10 acres of upland terrace located near the existing river bank would also provide mitigation banking credits.

3. Reconstruct a haul road.

4. Reconstruct a portion of a river crossing.

SPMCo understands that development of mitigation banking credits in no way guarantees approval of future in-river mining at Briggs Road. A separate application will be submitted for this in-river mining and associated flow diversion. We request that the reduced project and future in-river mining be treated as one activity solely in regards to Regional Water Quality Control Board certification.

A revised Practicable Alternatives analysis will be prepared for the revised project.

Sincerely,

*Steven Zacks*

Steven Zacks  
Property/Environmental Administrator

cc Dave Grummitt

envi@briggsleco9



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, Ca. 94105-3901

AUG 31 1993

Colonel Robert VanAntwerp Jr.  
District Engineer  
ATTN: Regulatory Branch  
U.S. Army Corps of Engineers  
P.O. Box 2711  
Los Angeles, CA 90053-2325

Re: Public Notice No. 93-962-MJ, Southern Pacific Milling  
Company, Santa Clara River, Ventura County, California

Dear Colonel VanAntwerp:

The U.S. Environmental Protection Agency (EPA) is pleased to provide you with our comments regarding the discharge of dredged or fill material into waters of the United States, under Section 404 of the Clean Water Act. The proposed project is a sand and gravel operation located within the Santa Clara River. The project will directly impact approximately 100 acres, of which 22 acres are wetland riparian habitat.

**LEAST ENVIRONMENTALLY-DAMAGING ALTERNATIVE**

Under the Guidelines, the applicant must demonstrate that their proposal is the least environmentally damaging practicable alternative [40 CFR 230.10(a)]. "Practicable" means that an alternative is economically, logistically and technically feasible. The first priority is avoidance of adverse impacts by selecting the least environmentally damaging alternative. After impacts have been avoided, unavoidable impacts need to be compensated through development and implementation of a mitigation plan with emphasis on in-kind, on-site replacement of lost acreage, functions and values.

According to the PN, a preliminary alternatives analysis was done by the applicant which found that there were "no practicable alternatives" to meet the overall project purpose of providing sand and gravel for the continued operation of the Briggs Road and El Rio Plants for at least five years.



The definition of project purpose is critical because it determines the scope of alternatives that must be considered by the applicant. EPA believes that the project purpose as described by the applicant is not appropriate. We believe that the basic project purpose is "the extraction of sand and gravel". According to the Corps of Engineers, Director of Civil Works, the basic project purpose "cannot be defined narrowly by the applicant to preclude the existence of practicable alternatives" (Memorandum dated August 17, 1989 to the Commander of the New York District, p. 4) and "the project purposed must be defined so that an applicant is not in the position to direct... the outcome of the Corps evaluation required under the 404(b)(1) Guidelines" (Memorandum dated September 13, 1990 to the Commander, Jacksonville District, p. 7).

Therefore, EPA strongly believes that the Corps should require a thorough alternatives analysis. This alternatives analysis should address alternatives that are available to achieve the basic project purpose, including upland alternative. EPA recognized that newly deposited sand and gravel are typically found in the active stream channel as well as in the adjoining flood plain. However, it should be noted that ancient alluvial deposits comprised of sand and gravel which represent the former channels and floodplain are located outside the existing flood plain. These geologic features were also deposited as alluvium over geologic time by rivers and streams. As a result, water is not always a factor in all sand and gravel extraction.

#### Significant Degradation

The Guidelines prohibit the discharges of dredged material that would cause or contribute to significant degradation of aquatic habitat [40 CFR 230.10(c)]. We believe the loss of approximately 100 acres of waters of the U.S., including wetlands, for the proposed sand and gravel mining operation and associated impacts to upstream/downstream habitat would cause significant degradation. Over 91% of all wetlands have already been lost in southern California (Wetlands Status and Trends, Report to Congress", U.S. Fish and Wildlife Service, 1991).

#### MITIGATION

The Guidelines require that all practicable measures be taken to mitigate unavoidable project impacts to aquatic habitat [40 CFR 230.10(d)]. The applicant should first establish that the 100 acres of impacts are unavoidable. Then a detailed plan to mitigate these losses should be approved by the resource agencies and committed to by the applicant before the project is permitted. We understand that a conceptual mitigation proposal has been developed for this project. However, we are concerned that the project sponsors have not examined all reasonable alternatives to avoid the loss of wetlands (see above, under

Alternatives), prior to relying upon mitigation to compensate for losses. Furthermore, after a review of the proposed mitigation, we believe it does not fully compensate for in-kind replacement of wetland habitat values and acreage. EPA believes that the proposed mitigation will not create viable habitat.

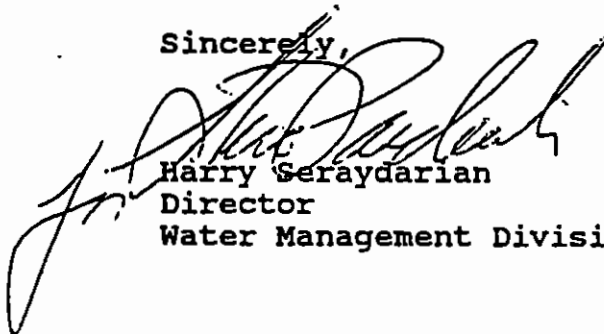
According to the PN, and the U.S. Fish and Wildlife Service (USFWS), the proposed project site may contain habitat for one Federal Endangered Species, the least Bell's vireo (Vireo bellii pusillus), and two candidate species for listing, the Loggerhead shrike (Lanius ludovicianus), and the Southwestern pond turtle (Clemmys marmorata pallida). The USFWS has recommended that the Corps provide information and initiate formal consultation pursuant to Section 7 of the Endangered Species Act.

#### AQUATIC RESOURCE OF NATIONAL IMPORTANCE

EPA believes that the issuance of this permit may result in substantial and unacceptable impacts to an aquatic resource of national importance as defined in Part IV of EPA's Memorandum of Agreement with Army pursuant to Section 404(q) of the Clean Water Act.

Therefore, as described in the PN, EPA believes the proposed project does not comply with the 404(b)(1) Guidelines. EPA recommends that the application for a permit be denied. We would like to thank you for this opportunity to comment on the PN. If the applicant can provide information to adequately address our concerns, we would be available to reconsider our position. Should you have further questions, please direct your comments to James Romero of my staff at (415) 744-1967.

Sincerely,



Harry Seraydarian  
Director  
Water Management Division

cc: USFWS, Ventura, CA  
CDFG, Region 3, CA  
RWQCB, Los Angeles, CA  
Applicant



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

SEP 27 1993

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Colonel Robert VanAntwerp Jr.  
District Engineer  
ATTN: Regulatory Branch  
U.S. Army Corps of Engineers  
P.O. Box 2711  
Los Angeles, CA 90053-2325

Re: Public Notice No. 93-962-MJ, Southern Pacific Milling  
Company, Santa Clara River, Ventura County, California

Dear Colonel VanAntwerp:

This letter is to notify the Corps, as specified in the Section 404(q) Memorandum of Agreement Part IV procedures, that the Environmental Protection Agency (EPA) believes that even after considering mitigation, the discharge associated with the Southern Pacific Milling Project will have a substantial and unacceptable impact on aquatic resources of national importance (ARNI).

**LEAST ENVIRONMENTALLY-DAMAGING ALTERNATIVE**

The applicant has not demonstrated that their proposal is the least environmentally damaging practicable alternative [40 CFR 230.10(a)]. "Practicable" means that an alternative is economically, logistically and technically feasible. The first priority is avoidance of adverse impacts by selecting the least environmentally damaging alternative. After impacts have been avoided, unavoidable impacts need to be compensated through development and implementation of a mitigation plan with emphasis on in-kind, on-site replacement of lost acreage, functions and values.

EPA strongly believes that the Corps should require a thorough alternatives analysis. This alternatives analysis should address alternatives that are available to achieve the basic project purpose.

**Significant Degradation**

The Guidelines prohibit the discharges of dredged material that would cause or contribute to significant degradation of aquatic habitat [40 CFR 230.10(c)]. We believe the loss of

approximately 100 acres of waters of the U.S., including wetlands, for the proposed sand and gravel mining operation and associated impacts to upstream/downstream habitat would cause significant degradation. Over 91% of all wetlands have already been lost in southern California (Wetlands Status and Trends, Report to Congress", U.S. Fish and Wildlife Service, 1991).

#### MITIGATION

The Guidelines require that all practicable measures be taken to mitigate unavoidable project impacts to aquatic habitat [40 CFR 230.10(d)]. The applicant should first establish that the 100 acres of impacts are unavoidable. Then a detailed plan to mitigate these losses should be approved by the resource agencies and committed to by the applicant before the project is permitted. We understand that a conceptual mitigation proposal has been developed for this project. However, we are concerned that the project sponsors have not examined all reasonable alternatives to avoid the loss of wetlands (see above, under Alternatives), prior to relying upon mitigation to compensate for losses. Furthermore, after a review of the proposed mitigation, we believe it does not fully compensate for in-kind replacement of wetland habitat values and acreage. EPA believes that the proposed mitigation will not create viable habitat.

#### ENDANGERED SPECIES

According to the U.S. Fish and Wildlife Service (USFWS), the proposed project site contains habitat for one Federal Endangered Species, the least Bell's vireo (Vireo bellii pusillus), and two candidate species for listing, the loggerhead shrike (lanius ludovicianus), and the Southwestern pond turtle (Clemmys marmorata pallida). The USFWS has recommended that the Corps provide information and initiate formal consultation pursuant to Section 7 of the Endangered Species Act.

We would like to thank you for this second opportunity to comment on this PN. If the applicant can provide information to adequately address our concerns, we would be available to reconsider our position. Should you have further questions, please feel free to call me at (415) 744-1001, or direct your comments to James Romero of my staff at (415) 744-1967.

Sincerely,

*for Harry Krappman*  
John C. Wise  
Acting Regional Administrator

cc: USFWS, Ventura, CA  
CDFG, Region 3, CA  
RWQCB, Los Angeles, CA  
/Applicant



## United States Department of the Interior



## FISH AND WILDLIFE SERVICE

## ECOLOGICAL SERVICES

Ventura Field Office

2140 Eastman Avenue, Suite 100

Ventura, California 93003

September 1, 1993

David Castanon, Section Chief  
U.S. Army Corps of Engineers  
Ventura Regulatory Field Office  
2151 Alessandro Drive, Suite 100  
Ventura, California 93001

Subject: PN 93-962-MJ, S.P. Milling Sand and Gravel Mine  
in the Santa Clara River

Attention: Mike Jewell

Dear Mr. Castanon:

The U.S. Fish and Wildlife Service (Service) has completed review of the referenced public notice for a proposed sand and gravel mining operation in the Santa Clara River west of the City of Santa Paula, in Ventura County, California. The following comments have been prepared under the authority of, and in accordance with, the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and other authorities mandating Department of the Interior concern for environmental values.

The applicant proposes to: 1) discharge fill material associated with the excavation of approximately 940,000 cubic yards of aggregate material from 75 acres of the Santa Clara River; 2) reconstruct an existing haul road; 3) reconstruct a portion of a river crossing; 4) construct an interim flow diversion; 5) construct a temporary pilot channel to allow mining; and 6) to construct a permanent pilot channel in the center of the river and to provide bank protection for adjacent farmland. One hundred acres of waters of the United States would be disturbed as a result of the proposed project, including approximately 22 acres of wetland and riparian habitat. The applicant proposes to mitigate for wetland and riparian habitat losses at a ratio of 1:1 by widening the river channel in an area of up to of 10.5 acres and by excavating 10 acres of upland terrace to create new riparian habitat. Mitigation areas would be created prior to initiation of mining.

A federally listed endangered species, the least Bell's vireo (*Vireo bellii pusillus*), nests in the project area. The project

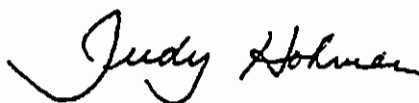
David Castanon

3

purpose of the project, and may result in long-term degradation of the wetland and aquatic resources of the Santa Clara River. We recommend that this component be deleted from the project.

It is the opinion of the Service that the project may result in substantial and unacceptable impacts to aquatic resources of national importance. For this reason and those listed above, the Service cannot recommend approval of the project as currently presented. Thank you for the opportunity to review this project. If you have any questions regarding these comments, please contact Ms. Cat Brown of my staff at 805/644-1766.

Sincerely,



Craig Faanes  
*Acting* Field Supervisor

**Appendix 7: Correspondence, Granite Construction Company,  
August 16, 1995**



August 16, 1993

County of Ventura  
Resource Management Agency  
Planning Division  
800 South Victoria Avenue  
Ventura, CA 93009

**GRANITE**  
**CONSTRUCTION**  
**COMPANY** SINCE  
1922

Attn: Judith Ward

Re: Withdrawal of CUP Applications  
CUP3390-Mod 3 and CUP4539

Dear Judith:

This letter serves as notice that Granite Construction Company withdraws the applications for CUP3390-Mod 3 and CUP 4539. Several factors play into this decision, including the arduous and expensive Ventura County permit review process that we've historically seen and would expect in the future.

I will first say that I have enjoyed working with you and other individuals in the County. You especially have proven to be very courteous, informative and helpful. However, I have stated our concerns in the past about the "Process", and I must echo some of these in this letter.

Ventura County determined our CUP4539 application to be complete on January 23, 1989, and sent a letter stating that according to Section 65941.5 of the California Government Code, if an EIR was prepared, final action on the application was required within 1 year from the date of application completeness. That statement led to business decisions, such as a \$110,000 railroad crossing signal purchase, to ensure timely start-up of our operation. No warning was given that the County had the option to require the applicant to withdraw and resubmit its application on each one year anniversary or face automatic denial. This was done on four separate occasions, which is in total conflict with the intent of the CEQA process and Permit Streamlining Act.

Another problem arose with the selection and management of the EIR consultant. The County developed a scope of work for the EIR, utilizing outside consultants at our expense, and solicited bids to prepare the environmental document. The County selected the high bidder (approx. \$100,000 over the low bidder), stating the low bidder was not qualified. Since that time, the low bidder (Dames and Moore) has done the majority of the mining environmental documents for Ventura County. The low bidder's proposed subcontractor for the hydrology section, Dr. Howard Chang, is highly renowned for his expertise in river hydrology and was definitely qualified to perform the required work.

Once the EIR consultant was selected and a contract was signed, the County poorly represented the financial and time interests of the applicant by not enforcing the terms of the contract. The contract stated that Frugo McClelland had 180 days to submit a Preliminary Administrative Draft EIR to the County for their review. The actual submittal was made almost two years after contract initiation.

Santa Barbara Branch  
P.O. Box 6744  
Santa Barbara, CA 93160  
(805) 964-9951

A major problem with the permitting process was a lack of due process. Because of the continued application withdraw/refile option to the County, a sense of urgency was lacking to meet deadlines. This was especially true in anticipating comments from other agencies or for new laws or policies to come in effect. Awaiting the Public Works Agency decisions on General Plan requirements concerning traffic issues is a prime example of significant delays. If other agencies cannot provide comments in a timely manner, the applicant should deserve continued due process of their project application.

Finally we have concerns about a lack of an appeal process with the Environmental Report Review Committee (ERRC). The public review process and agency comments did not present any new significant impacts that were not already included in the EIR, however the ERRC deemed the report inadequate. Granite's position was that the EIR needed further discussion on several items and could have been corrected with simple revisions to the existing draft. The current process allows the ERRC decision to be final with no appeal mechanism. The result was a recommendation from the County and EIR consultant to terminate the existing EIR contract and initiate a new one. Because of our experience with Ventura County in the permit and CEQA process, this was a major component in our decision to withdraw our applications.

Due to the timing of our application withdrawal, the EIR consultant is no longer required to prepare a final EIR or attend additional hearings. Granite Construction Company expects a reimbursement of monies already paid to the County to cover these portions of the EIR costs. Please continue to direct all correspondence associated with this project to myself.

Sincerely,  
GRANITE CONSTRUCTION COMPANY



Danny Deveraux  
Plants Manager

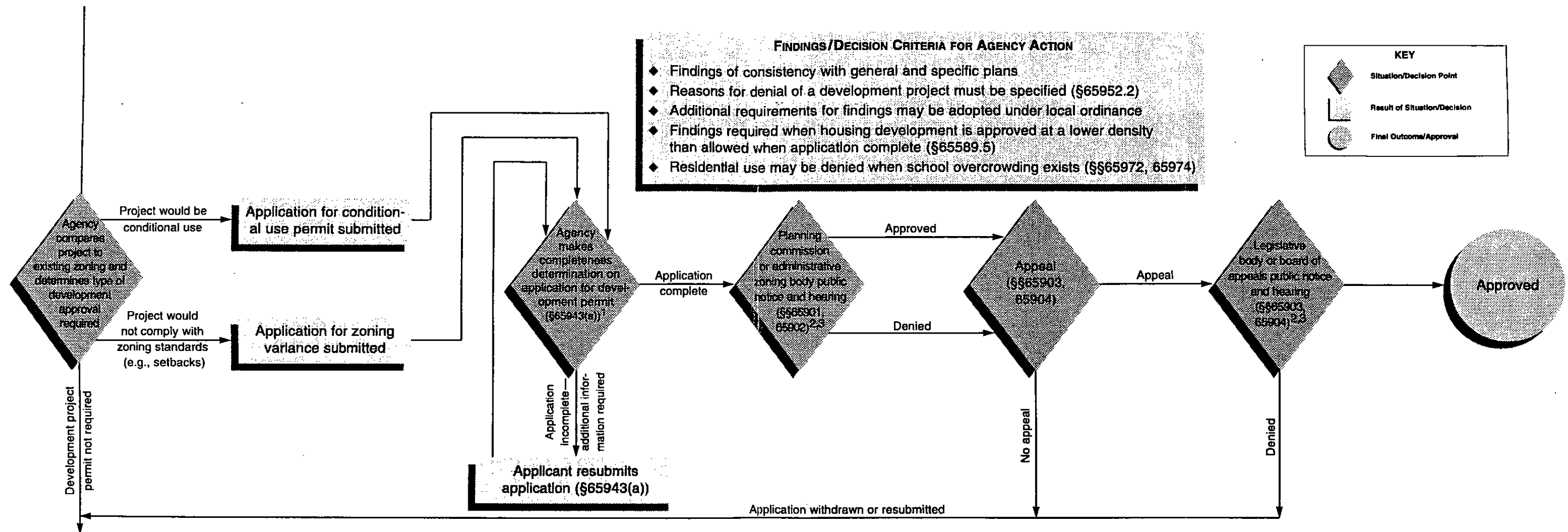
DLD/dld

cc: Scott Wolcott - Sacramento  
Bill Dorey - Watsonville  
Bob Molholm - Santa Barbara

**Appendix 8: Permit Flow Charts**

# DEVELOPMENT PROJECT PERMIT APPROVALS

THE PLANNING AND ZONING LAW (CAL. GOVERNMENT CODE §§ 65000-66025)



## OVERVIEW

Development project permit approvals, such as conditional use permits, are required under California Planning and Zoning Law. Similar to planning and zoning requirements, state law establishes minimum standards but leaves most of the control over these land use decisions to local government. In addition, state planning and zoning law encourages permit streamlining and provides incentives and requirements in order to promote new housing.

Development projects, which are generally considered 'discretionary projects', include conditional use permits and zoning variances. Building permits, which are considered 'ministerial' approvals, are not defined as development projects under planning and zoning law because their issuance generally do not require the agency to exercise discretion or judgment. Building permits are generally

issued if a project strictly conforms to current zoning. Development project approvals relate closely to other planning and land use laws and environmental statutes. For example, applicants may require both a tentative map and conditional use permit to develop property.

Development projects with potentially significant environmental effects may require an environmental impact report under CEQA. In certain cases, a proposed development project may be inconsistent with the existing general plan and zoning and cannot proceed without being modified or without amendments to general/specific plans or zoning ordinances.

Once a development project permit is approved, applicants may be required to obtain environmental permits, if applicable, in order to proceed with the development. For example, proposed developments that would fill a wetland

would require at a minimum a Section 404 permit issued by the U.S Army Corps of Engineers under the Clean Water Act. In taking permit action, the Corps of Engineers would be required to comply with the National Environmental Policy Act which is similar to CEQA in that it mandates that public agencies document and consider the environmental implications of their actions.

## PURPOSE/GOALS OF LAW

- Defines development projects and establishes their minimum requirements.
- Streamlines permitting process for development projects by establishing procedures for review and/or approval and mandating timelines (§§65921-65922).
- Encourages new housing, especially low/moderate income (§65913).

## BASIC REQUIREMENTS AND TERMS

- **Conditional use permits** required for certain uses not permitted by right within existing zoning classifications (§65901).
- **Zoning variances** granted only because special circumstances with property (e.g., slope, soils) make strict application of zoning a hardship not experienced by other property owners in area with same zoning (§§65906, 65911).
- Zoning variances must be conditioned so as not to constitute a grant of special privilege (§65906).
- Zoning variances and conditional use permits provide flexibility in application of zoning requirements (§§65901, 65906, 65911).
- **Use variances** prohibited (§65906).

- **Density bonuses** and other incentives or concessions must generally be granted if developer provides significant low- or moderate-income housing (i.e., between 10-50%) (§§65915, 65918).
- **Affordability** of units for at least 30 years must be ensured by developer of lower income housing units who receives additional concessions or incentives pursuant to §65915(b)(1). (§65915(c)).
- **Development agreements** allow development to proceed in compliance with current policies; protect developer from effect of future policies, unless provided otherwise. Development agreements must be consistent with general/specific plans and are subject to local referendum (§§65866, 65867.5, 65869, 66498.1).

## BOUNDARIES TO GOVERNMENT AUTHORITY

- **Exactions/fees** on project may be imposed to achieve general plan's goals (*J.W. Jones Co.'s v. City of San Diego* (1984)).
- **Exactions/fees** as condition of building permit may be required by ordinance (*Avco Community Developers v. South Coast Regional Comm.* (1976)).
- **Permit conditions** (or exactions/fees) must be reasonably related to public need or burden created or contributed to by development (*Associated Home Builders of the Greater East Bay v. City of Walnut Creek* (1971), (*Nollan v. California Coastal Comm.* (1987), §§65909, 66001(a),(b), 66005)).
- **Low- and moderate-income housing** projects may not be disapproved or conditioned in a manner which makes the project infeasible unless locality makes specific findings based on substantial evidence (§65589.5).
- **Public capital facility improvement fees** may not include costs for facility maintenance or operation when fee is a condition for development project approval; certain exemptions (§65913.8).
- **Requiring payment of fees** on residential development for improvements is generally prohibited until final inspection or certification of occupancy (§66007(a)).
- **Any party** may protest fees or exactions for residential development within 90 days of being imposed (§66008).
- **No special tax** on development for schools may be imposed; localities must not exceed cap on school impact fees contained in §65995 (*Grupe Development Co. v. Superior Court* (1993)).

- **CEQA** does not generally apply to residential projects that implement and are consistent with a specific plan for which an EIR was certified after January 1, 1980 (§65457).
- **No taking of private property** for open space without 'just compensation' (§65912).

## JUDICIAL REVIEW

In order to bring court action under this statute, administrative remedies (e.g., appeals to legislative body) must first be exhausted either orally or in writing.

**Statute of Limitations:** For variances and conditional use permits, action must be brought within 90 days (§65907(a)).

**Standing:** Persons adversely affected who raised all issues previously (§65009).

**Standard of Review:** For variances and conditional use permits, the action must be supported by substantial evidence, contained in the record, that it complies with applicable law; additionally, findings are required.

## DEVELOPMENT PROJECT NOTES

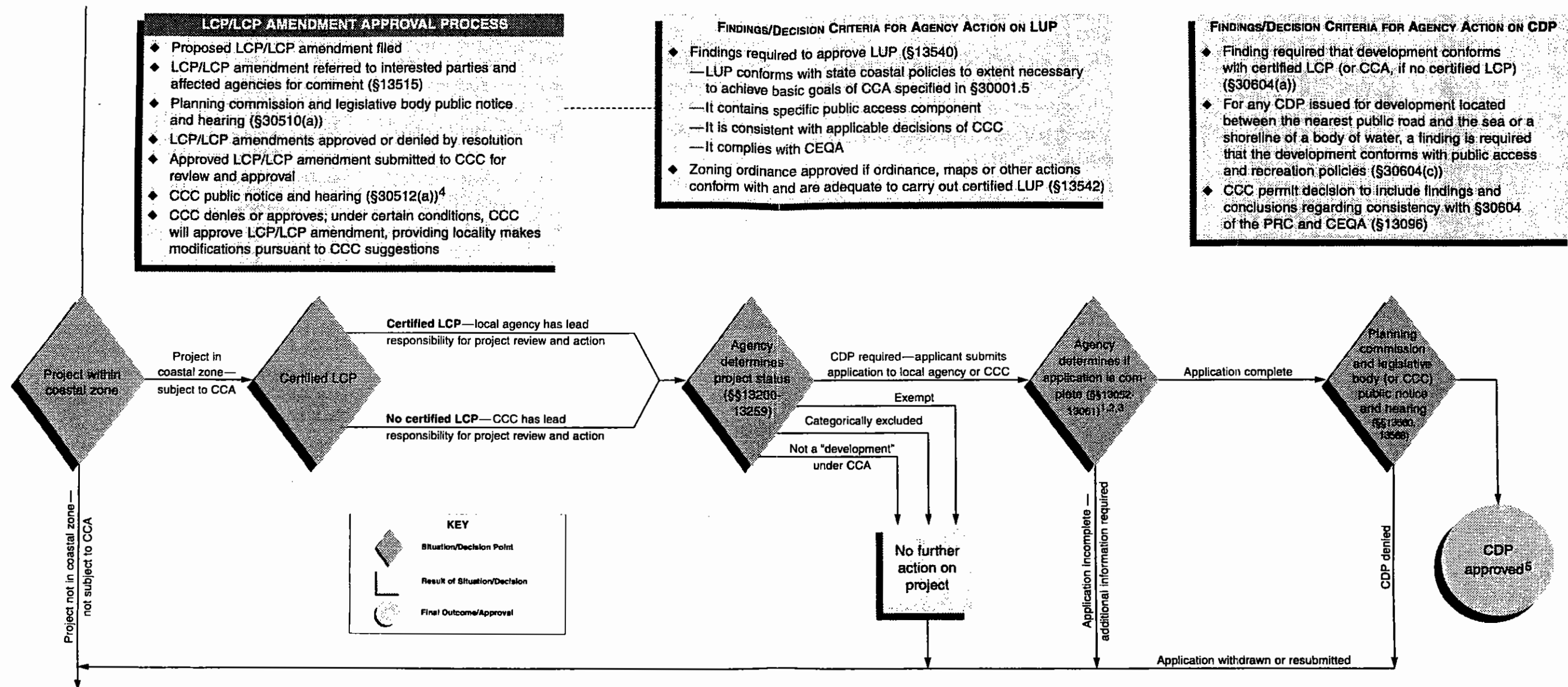
1. Applies to 'development projects' only, pursuant to §65928 and §65940 *et seq.* (Permit Streamlining Act). Application automatically deemed complete if determination is not made within 30 days (§65943(a)). If agency determines application is incomplete more than twice, agency must provide for appeal to legislative body or agency director, as appropriate (§65943(c)).  
In addition to the completeness determination, agency reviews application for consistency with general and specific plans and compliance with zoning, CEQA, and other requirements.
2. Public notice and hearing required by §65905 (public notice given pursuant to §65091 (§65905)). Unless project applicant requests an extension, Lead Agency must approve/deny the development project either within six months of the EIR certification date or within three months of the date the negative declaration is adopted or the date the project was determined to be exempt from CEQA (§65950). Notice and hearing requirements may be consolidated for development projects that require multiple land use approvals (§§65353, 65804). Approval or denial of development

project is generally required within one year of complete application with EIR, or within six months with negative declaration (§65950). Failure to act on development project within time specified in §65956(b) results in automatic approval if public notice and hearing requirements have been met (§65956(b)).

3. Certain variances issued by administrative zoning body may be issued without public notice or hearing (§65901).

# COASTAL PLANNING AND DEVELOPMENT PERMIT APPROVALS

CALIFORNIA COASTAL ACT (CAL. PUBLIC RESOURCES CODE §§ 3000-30900; CAL. CODE OF REGULATIONS, TITLE 14, §§ 13001 *et seq.*)



## OVERVIEW

The California Coastal Act imposes planning, zoning and permitting requirements on development in order to protect the coast. Based on the Coastal Initiative, approved by voters in 1972, the 1976 Coastal Act gives the California Coastal Commission, a state agency, land use authority in the coastal zone. Specifically, the Commission has authority to issue coastal development permits in local jurisdictions until they have certified local coastal programs, and in areas under state authority (e.g., public trust lands including tidelands). Local coastal programs, which must be certified by the Commission, include a land use plan and coastal zoning

ordinances. Local coastal programs can be more stringent than the minimum requirements established by state law.

Coastal development permits are required for development with limited exemptions. Localities must find that developments conform with the certified local coastal program, including public access and recreational policies, in order to issue a coastal development permit. In cities or counties that do not have certified LCPs, the Commission must find that the development conforms to the Coastal Act and public access and recreational policies in order to issue a permit. Locally issued coastal development permits within certain categories may be appealed to the Commission.

Coastal development permits are closely linked to

other planning and land use laws and environmental statutes. General plans and zoning ordinances apply in the Coastal Zone. However, local coastal programs govern compliance with the Coastal Act and its implementing regulations.

Coastal development permits are 'discretionary projects' that require public hearings and are subject to CEQA. Applicants may require a tentative map and a coastal development permit to develop property. Amendments to the local coastal program may be necessary to permit developments that do not conform to the existing program. Similar to development in other areas, once a coastal development permit is approved, depending

on the nature of activities proposed or the location of the development, applicants may be required to obtain environmental permits in order to proceed with development. For example, applicants who propose developments that would 'take' threatened or endangered species would be required to comply with endangered species laws.

## PURPOSE/GOALS OF LAW

- ◆ Imposes planning, zoning, and permitting requirements on development to protect coastal zone resources (§30000 *et seq.*).
- ◆ Promotes public access to coast and public recreational opportunities along coast (§30001.5(c)).



- Protects environmentally sensitive areas (§30001.5(a)).
- Provide the widest possible opportunities for public participation (§30006).

## BASIC REQUIREMENTS AND TERMS

- **Coastal zone**—land generally 1,000 yards from the mean high tide line of sea, but in particular areas (e.g., estuaries), up to five miles, and includes water extending seaward to state's outer limit of jurisdiction (§30103).
- **Environmentally sensitive area**—any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in any ecosystem and which could be easily disturbed or degraded by human activities and development (§30107.5).
- **LCP** (LUP and coastal zoning ordinances) prepared by localities subject to approval by CCC (§30500).
- **LCP must conform with CCA's policies and shall:**
  - Contain a specific public access component (§30500(a)).
  - Provide for public access to and along the coast through new and existing developments by dedications, easements, or by in lieu public access fees (§§30211, 30212, 30214, 30604(c)).
  - Maximize oceanfront land suitable for public recreation; establish priority for visitor-serving commercial recreational facilities (especially lower-cost ones) (§§30213, 30220-30224).
  - Maintain and restore marine resources, including biological productivity, fisheries, water quality, of coastal waters/wetlands (§§30230, 30231, 30234.5).
  - Permit dredging and filling of coastal waters/wetlands for specific projects if there is no reasonable, less environmentally damaging alternative and mitigation is provided (§§30233(a), 30607.1).
  - Permit altering of natural shoreline processes or rivers/streams in limited situations where impacts are mitigated (§§30235, 30236).
  - Protect environmentally sensitive habitat areas against significant disruption; only uses which are dependent on these resources are permitted in these areas (§30240).
  - Protect timberlands and maintain maximum amounts of prime agricultural land (§§30241, 30243).
  - Provide measures to minimize conflicts between agri-

cultural and urban land uses (e.g., stable urban/rural boundaries, limit conversions) (§30241).

- Promote siting of new development close to existing developed areas by limiting development to areas with services (§30254).
- Require that siting/design of new development is compatible with surrounding areas, protects views, minimizes alterations of land forms (§30251).
- Protect against oil spills and provide for effective spill containment/cleanup (§30232).
- **CDP** required for any development in coastal zone; specified exemptions (§§30600(a), 30610-30613).
- Locality given authority to issue CDPs after LCP is certified (§13300 and §§30519(a),(b), 30600.5(b)).
- Before a locality's LCP is certified or for development in areas under state authority (e.g., public trust lands), the CDP is issued by the CCC (30600(c)).
- Map showing areas where state has CDP and appeals authority must be adopted by the CCC (§§13576, 13577).
- Preliminary local development approvals (e.g., tentative map, conditional use permit, EIR certification) must be obtained before CCC accepts CDP application (§§13052, 13053).
- CDP issued if locality finds development conforms to certified LCP (§30604(a)).

## BOUNDARIES TO GOVERNMENT AUTHORITY

- Any permit issued is subject to reasonable terms and conditions to ensure that development conforms with CCA (§30607).
- Any future development whose cumulative effect is both significant and adverse may be prohibited by CCC (*Billings v. Calif. Coastal Comm.* (1980)).
- Permit shall not be denied by locality/CCC because:
  - Proposed development within coastal zone will have adverse environmental effect outside coastal zone (§30604(d)).
  - Public agency is planning to acquire property on or adjacent to property on which proposed development is located, unless agency has been specifically authorized to acquire property and funds are available, or funds could reasonably be expected to be made available within one year (§30604(e)).

- Locality may not prohibit coastal land use permitted under a certified LCP by adopting an ordinance, including those adopted by referendum or initiative, without approval of CCC (70 Ops.Atty.Gen. 220, (1987)).
- When CCC determines that a violation of a permit or provision of CCA has occurred or is threatened, state Attorney General may file an action for equitable relief (§§13172, 13173). After public hearing, CCC may issue cease-and-desist orders for activities inconsistent with or lacking a permit (§30810).
- Any person may maintain action for declaratory and equitable relief to restrain any violation (§30803).
- Violators are subject to substantial civil fines and damages (§§30820-30822).
- Localities may order, after public hearing, site restoration for development that proceeds without a CDP, development inconsistent with CCA, and development causing 'continuing' resource damage (§§30826).

## JUDICIAL REVIEW

In order to bring court action under this statute, administrative remedies (e.g., appeals to legislative body) must first be exhausted either orally or in writing.

**Statute of Limitations:** Bring court action within 60 days of action (§§30801, 30802).

**Standing:** Aggrieved person who raised all issues previously (§§30801, 30802).

**Standard of Review:** LUP/LCPs: whether locality acted in the public interest is limited to whether the action has been arbitrary, capricious, or entirely lacking in evidentiary support. CDPs: permit is upheld unless it is determined not to be supported by substantial evidence, contained in the record, that it complies with applicable law; additionally, findings are required (*Davis v. CCC* (1976)).

## COASTAL PLANNING AND DEVELOPMENT NOTES

1. CDPs must conform to certified LCP. Option to propose an LCP amendment may be available at discretion of locality (see LCP/LCP Amendment Approval Process box). Proposed amendments to LCP can be submitted to the CCC no more than three times a year (§30514(b)).
2. Permit Streamlining Act applies to development projects in coastal zone. Notice must be given to CCC

before automatic approvals are effective (*Ciani v. San Diego Trust and Savings Bank* (1991)).

3. In addition to the completeness review, agency reviews application for conformance to the LCP (or CCA if no certified LCP), CEQA, and other applicable requirements.

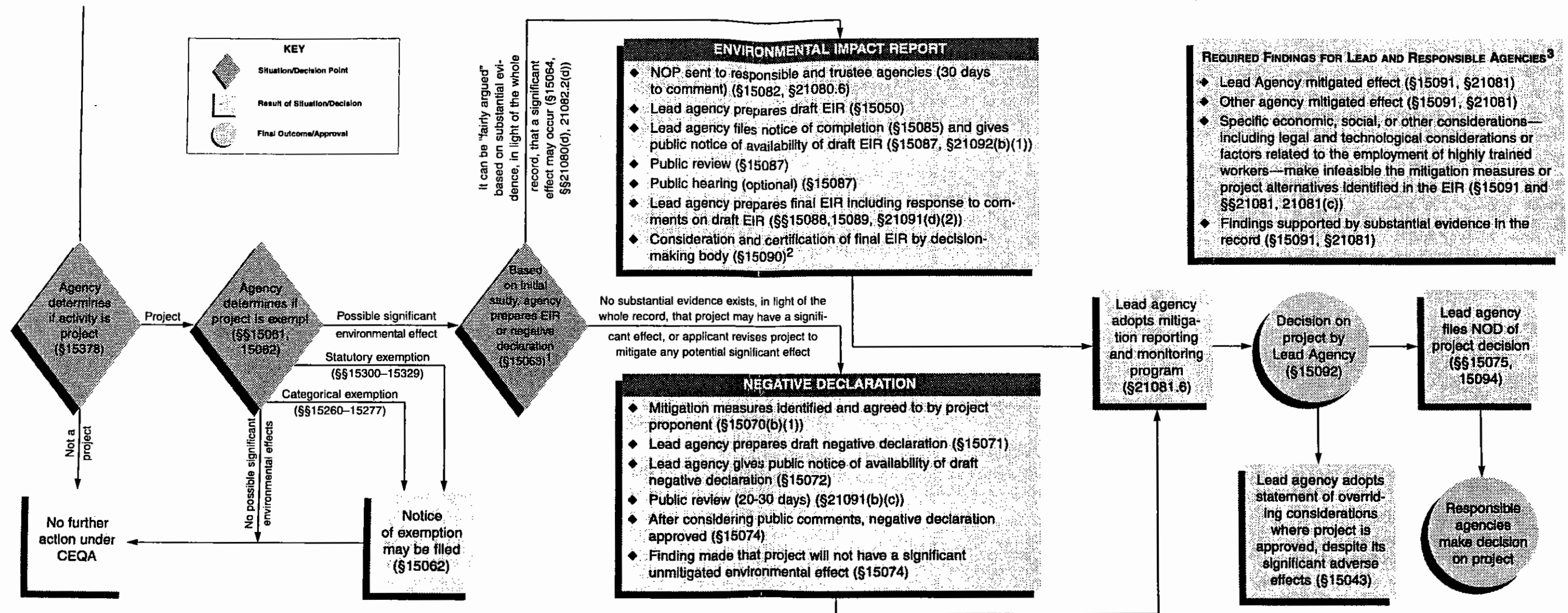
Certain applications for CDPs (e.g., *de minimus* development, principal permitted use) may be processed and decided on administratively by local official or Executive Director of CCC, unless objected to by one-third of legislative body or CCC (§§13145-13153, 13328.2(a),(d), 13328.7).

Public notice and hearings are not required for issuance of these CDPs; but public notice of decision is required (§30624).

4. Executive Director of CCC may decide on minor amendments to LCP, except those changing land use. Decisions on minor amendments are public noticed and reported to CCC at public hearing. CCC may override staff decisions on minor amendments (§§13554-13555 and §30514(c),(d)).
5. Certain local approvals may be appealed to the CCC. Appeals must be filed within ten days of local action. If it determines that the appeal raises a substantial issue as to conformity with the LCP, the CCC takes de novo action on the application (§§13115, 13576-13577 and §30600.5(d), 30603).

# ENVIRONMENTAL REVIEW

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CAL. PUBLIC RESOURCES CODE §§ 21000-21178.1, CAL. CODE OF REGULATIONS, TITLE 14, §§ 15000-15387 (CEQA GUIDELINES))



## OVERVIEW

The California Environmental Quality Act (CEQA), like the National Environmental Policy Act (NEPA), was enacted to require that public agencies document and consider the environmental consequences of their actions. However, unlike NEPA, which is considered merely procedural, CEQA has important substantive requirements. For instance, the CEQA process requires environmental impact reports (EIRs) and other documentation of environmental effects (or impacts) and requirements including specific findings based on environmental review that must be satisfied to approve projects. For example, under CEQA an agency may disapprove a project to avoid a significant effect (although this action is rare and project effects are

usually lessened or avoided by imposing mitigation measures or requiring feasible project alternatives).

CEQA generally applies to 'discretionary projects', including each of the permits and approvals addressed in this Guide. An EIR is required if a project could significantly affect the environment, unless the applicant revises the project to mitigate any potentially significant environmental effects (i.e., mitigated negative declaration). In 1993, CEQA was amended substantially to create additional mechanisms to streamline the EIR process. For instance, new legislation provides for master, tiered, and focused EIRs.

Although the courts have not fully determined "whether the (CEQA) Guidelines are regulatory mandates or only aids

to interpreting CEQA," the state Supreme Court has stated that "at a minimum," courts should "afford them great weight . . . except when a provision is clearly unauthorized or erroneous." (*Laurel Heights Improvement Association v. Regents of the University of California* (1988)). The CEQA Guidelines, which are updated periodically (next revision in 1994), embody both statutory and judicial decisions.

In reviewing the potential environmental effects of projects, lead agencies apply significance criteria which are often based on other laws and regulations. For example, project land use impacts are generally evaluated based on consistency with local planning and zoning requirements. Air and water quality and waste management impacts are evaluated against significance criteria closely related to

state, federal, and local environmental laws. Although CEQA does not directly relate to NEPA, joint CEQA/NEPA environmental documents may be prepared when both laws apply to a project or action. Additionally, regulatory, permitting, and enforcement actions taken under environmental laws are increasingly being reviewed under CEQA. For example, an air quality district may be the lead agency under CEQA on a permit to install air quality equipment when a land use permit is not required by local government.

## PURPOSE/GOALS OF LAW

- ◆ Environmental review of projects with potentially significant effects (or impacts) on environment to ensure that environmental considerations play an important



role in decision making on projects (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986)).

- To inform decision makers and the public of the potentially significant environmental effects of proposed activities (§15002).
- Agencies should not approve projects that will cause significant effects on the environment where such effects can be substantially lessened or avoided by the adoption of feasible mitigation measures or feasible alternatives (§15002(a)(3), §21002).
- CEQA must be interpreted so as "to afford the fullest possible protection to the environment within the reasonable scope of the statutory language" (*Friends of Mammoth v. Board of Supervisors* (1972)).
- Public participation is an essential part of the CEQA process (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986)).

## BASIC REQUIREMENTS AND TERMS

- **Environmental review process** applies generally to discretionary projects (e.g., general plan amendments, conditional use permits, subdivisions) by government or private projects needing government approval (§15002(i)).
- An **initial study** is a preliminary review to determine whether an EIR or negative declaration is required. Initial studies primarily discuss project description, environmental setting, environmental effects, and mitigation measures for any significant effects (§15063).
- **Negative declaration** is a written statement by the lead agency briefly describing reasons why project will not have a significant effect on the environment and therefore does not require an EIR (§§21092.6(a), 15371).
- **Lead agency** is the public agency which has principal responsibility for carrying out or approving a project which may have a significant effect upon the environment (§21067).
- **Significant effect on the environment** means a substantial or potentially substantial adverse change in any of the physical conditions within area affected by the project (§15382).
- An **EIR** is an informational document prepared by the lead agency that analyzes the project's significant environmental effects and discusses mitigation measures and reasonable alternatives (§§15121(a), 15362).
- EIRs should be written in plain language emphasizing

use to decision makers (§§15140).

- EIRs should be prepared as early as feasible in the planning process yet late enough for the information to be meaningful (§15004(b)).
- EIRs must describe a reasonable range of alternatives to the project, or to its location, which could feasibly attain the basic objectives of the project, and evaluate the comparative merits of the alternatives (§15126(d) and *Citizens of Goleta Valley v. Board of Supervisors* (1990)).
- **Mitigation monitoring and reporting program** must be adopted by lead agency to ensure that project's mitigation measures are implemented (§21081.6).
- **Master EIR** may be prepared for general/specific plans and subsequent projects implemented in phases (§21157(a)).
- After an initial study, any subsequent project requires no further environmental documentation (e.g., an EIR or negative declaration) when a written finding indicates that there are no additional significant effects that would require new mitigation measures or alternatives (§21157.1).
- Master EIR may not be used if certified more than five years before filing an application for a subsequent project; specified exceptions (§21157.6);
- **Focused EIR** addresses a subsequent project identified in a master EIR. Focused EIRs generally analyze additional project-specific significant effects and any new mitigation measures or alternatives not addressed in the master EIR (§21158).
- A focused EIR may be used only when the Lead Agency finds that the analysis of cumulative, growth-inducing, and irreversible significant effects in the master EIR is adequate for the subsequent project (§21158(a)).
- Agencies must develop procedures and standards for complying with CEQA, CEQA Guidelines, and for processing CEQA documents (e.g., initial studies, EIRs).

## BOUNDARIES TO GOVERNMENT AUTHORITY

- Agency may require changes to a project to lessen or avoid significant effects, when feasible (§§15040(c), 15041).
- Agency may disapprove a project to avoid a significant effect (§15042).
- Agency may approve a project despite its significant effects if there is no feasible way to lessen or avoid the

significant effect and a statement of overriding considerations is adopted (§15043).

- Agency may impose fees on project applicants for CEQA implementation (e.g., costs of preparing an EIR, negative declaration) (§15045).
- Mitigation proposed for a project must relate to the project's effects (*Nollan v. California Coastal Commission* (1987)), and an agency is limited in reducing the number of housing units as a mitigation measure if it determines that another feasible measure is available (§15092).
- Agency need not select the most environmentally superior alternative (*Laurel Hills Homeowners Assn. v. City Council* (1978)).

## JUDICIAL REVIEW

In order to bring court action under this statute, administrative remedies (e.g., appeals to legislative body) must first be exhausted either orally or in writing.

**Statute of Limitations:** Bring court action between 30 and 180 days, depending on the nature of agency actions (§21167).

**Standing:** Property owner, taxpayer, or elector who establishes a geographical nexus with the site of the challenged project (*Bozung v. LAFCO* (1975)), presents grounds for noncompliance, and objects to the project either during the public comment period, prior to the close of the public hearings, or before issuance of the NOD (§21177).

**Standard of Review:** Court rules only on the sufficiency of the EIR as an informational document by determining whether the agency "interpreted the statute, guidelines, and case law accurately; factual determinations are supported by substantial evidence; [and] the agency complied with procedures required by law." (Remy, Thomas, et al., *Guide to the California Environmental Quality Act*, Solano Press Books, 1994)

## ENVIRONMENTAL REVIEW NOTES

1. If the lead agency determines that an EIR will clearly be required for the project, an initial study, though not required, may still be desirable as a means to identify issues in order to focus the EIR (§15063). However, an initial study is required for any project that is tiered under a long-range development plan EIR or any other program EIR (§21094(c)).

2. Certification of EIR may be appealed to Lead Agency's elected decision-making body (§21151).
3. Applies to projects for which an EIR has been prepared.

# Summary of Related Environmental Approvals/Laws in California

Approval/Law	Purpose	Applicability	Implementing Agencies	Basic Requirements	Procedures
<b>Air Quality</b> Authority to Construct	<ul style="list-style-type: none"> <li>Ensures that emissions do not interfere with attainment and maintenance of state and federal ambient air quality standards.</li> <li>Ensures that emission sources comply with regulations.</li> </ul>	<ul style="list-style-type: none"> <li>Any person proposing to construct, modify, or operate a facility or equipment that may emit pollutants into the atmosphere.</li> <li>Permits to operate are also required after authority to construct is granted.</li> </ul>	<ul style="list-style-type: none"> <li>Air pollution control districts (APCD).</li> <li>Air quality management districts.</li> </ul>	<ul style="list-style-type: none"> <li>All sources that exceed emission thresholds must be constructed using the best available control technology if it is technologically feasible and cost-effective.</li> <li>Offsets required for all net emission increases for facilities larger than certain sizes, depending on the district's nonattainment status for ozone.</li> </ul>	<ul style="list-style-type: none"> <li>File application.</li> <li>Air Pollution Control Officer (or designee) makes permit decision.</li> <li>Public notice.</li> <li>Appeals to APCD hearing board.</li> </ul>
<b>Storm Water</b> National Pollution Discharge Elimination System, ISGP	<ul style="list-style-type: none"> <li>Protects water quality.</li> <li>Reduces pollutants in storm water discharges.</li> </ul>	<ul style="list-style-type: none"> <li>Certain industrial facilities.</li> <li>Construction sites five acres or larger are subject to a separate storm water general permit.</li> </ul>	<ul style="list-style-type: none"> <li>SWRCB (permitting, administration, and outreach).</li> <li>RWQCB (inspections, enforcement, and outreach).</li> </ul>	<ul style="list-style-type: none"> <li>Develop and implement Storm Water Pollution Prevention Plan.</li> <li>Eliminate unpermitted non-storm water discharges to storm drain system.</li> <li>Monitor storm water.</li> </ul>	<ul style="list-style-type: none"> <li>File Notice of Intent with SWRCB.</li> <li>Maintain SWPPP onsite.</li> <li>Compliance dates: Existing facilities—October 1, 1992; new facilities—prior to start of operations.</li> </ul>
<b>Wetlands</b> Clean Water Act Section 404 Permit <sup>1</sup>	<ul style="list-style-type: none"> <li>Regulates discharges of dredged or fill materials into waters of the United States.</li> <li>Protects wetlands.</li> </ul>	<ul style="list-style-type: none"> <li>Any person or public agency proposing to discharge dredged or fill material into waters of the United States, including wetlands, must:               <ul style="list-style-type: none"> <li>obtain a nationwide permit; or</li> <li>secure an individual permit if the discharge is not authorized by a nationwide permit or exempted under regulations.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>U.S. Army Corps of Engineers (Corps) (permitting/enforcement).</li> <li>U.S. Environmental Protection Agency (EPA) (oversight/enforcement).</li> <li>State and federal wildlife agencies (consultation).</li> <li>SWRCB/RWQCB issue water quality certifications/waivers.</li> </ul>	<ul style="list-style-type: none"> <li>Prohibits discharge of dredged or fill material into wetlands without approval of the Corps.</li> <li>Nationwide permits for numerous activities are applicable throughout the United States; uniform permit conditions apply, mitigation may be required.</li> <li>Individual permit:               <ul style="list-style-type: none"> <li>Permit will be granted unless project is found contrary to the public interest (based on environmental and economic factors) or fails to comply with EPA Section 404(b)(1) Guidelines.</li> <li>Guidelines restrict discharges where there are less environmentally damaging, practicable alternatives.</li> <li>Mitigation of unavoidable impacts is required.</li> <li>Wetlands must be delineated pursuant to Corps' 1987 Manual.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Nationwide Permit:               <ul style="list-style-type: none"> <li>Pre-discharge notification for certain activities reviewed by Corps; EPA, USFWS, and other agencies have opportunity to comment.</li> </ul> </li> <li>Individual Permit:               <ul style="list-style-type: none"> <li>File application.</li> <li>Public notice.</li> <li>Public hearing may be held if Corps deems necessary.</li> <li>Corps may issue a Letter of Permission for activities with minimal impacts.</li> </ul> </li> </ul>
<b>Endangered Species</b> State 2081 Management of Endangered Species Permit	<ul style="list-style-type: none"> <li>Protects endangered or threatened species.</li> </ul>	<ul style="list-style-type: none"> <li>Incidental take of state endangered or threatened species ('take' means to "hunt, pursue, catch, capture or kill").</li> </ul>	<ul style="list-style-type: none"> <li>California Department of Fish and Game.</li> </ul>	<ul style="list-style-type: none"> <li>Habitat Conservation Plan.</li> <li>Mitigation.</li> <li>Avoiding a taking is preferred over mitigation.</li> </ul>	<ul style="list-style-type: none"> <li>Letter of request for permit including CEQA documentation, management permit, implementation agreement or MOU.</li> </ul>
Federal Section 10(a) Permit under Endangered Species Act	<ul style="list-style-type: none"> <li>Protects endangered or threatened species.</li> </ul>	<ul style="list-style-type: none"> <li>Incidental take of federal endangered or threatened species ('take' means to "harass, harm, pursue, hunt, shoot, wound, trap, capture, collect, or to attempt to engage in any such conduct").</li> </ul>	<ul style="list-style-type: none"> <li>U.S. Fish and Wildlife Service</li> <li>Other federal agencies are required to consult with USFWS if actions they plan to take could affect a listed or proposed species or its habitat.</li> </ul>	<ul style="list-style-type: none"> <li>Habitat Conservation Plan.</li> <li>Mitigation.</li> <li>Avoiding a taking is preferred over mitigation.</li> </ul>	<ul style="list-style-type: none"> <li>File application including habitat conservation plan and implementation agreement.</li> <li>NEPA compliance.</li> <li>Public hearing if EIS required.</li> </ul>
<b>National Environmental Policy Act (NEPA)</b>	<ul style="list-style-type: none"> <li>Evaluates the potential environmental impact of projects receiving federal funding, on federal land or under federal jurisdiction.</li> <li>Ensures that the lead agency has considered the environmental consequences of its action.</li> </ul>	<ul style="list-style-type: none"> <li>Actions that have a potentially significant environmental impact.</li> </ul>	<ul style="list-style-type: none"> <li>Lead federal agencies.</li> </ul>	<ul style="list-style-type: none"> <li>Evaluate all reasonable project alternatives.</li> <li>Assess environmental impacts.</li> <li>Suggest appropriate mitigation measures.</li> <li>Agency not required to implement mitigation measures or to select the environmentally preferable alternative.</li> <li>Joint environmental documents possible to satisfy NEPA and CEQA where they both apply.</li> </ul>	<ul style="list-style-type: none"> <li>Permit application determined complete.</li> <li>Environmental assessment (unless decision to prepare EIS).</li> <li>Decision to prepare EIS.</li> <li>Notice of Intent and formal scoping.</li> <li>Draft EIS and Federal Register notice/public notice of availability of draft EIS.</li> <li>Public hearing.</li> <li>Response to comments and final EIS.</li> <li>Federal Register notice/public notice of availability of final EIS.</li> <li>Lead agency approves or disapproves project.</li> <li>Public notice of availability of ROD.</li> </ul>

<sup>1</sup> State and national wetlands policy is based on several statutes implemented by various regulatory agencies. The most significant laws are Clean Water Act Section 404 requirements implemented by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency. Note that the Section 404 permit program is much broader than wetlands regulation.

## ACRONYMS

<b>APCD</b>	Air Pollution Control District
<b>BACT</b>	Best Available Control of Technology
<b>CCA</b>	California Coastal Act
<b>CCC</b>	California Coastal Commission
<b>CDP</b>	Coastal Development Permit
<b>CEQA</b>	California Environmental Quality Act
<b>Corps</b>	Army Corps of Engineers
<b>EIR</b>	Environmental Impact Report
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	United States Environmental Protection Agency
<b>ISGP</b>	Industrial Storm Water General Permit
<b>LCP</b>	Local Coastal Program
<b>LUP</b>	Land Use Plan
<b>MOU</b>	Memorandum of Understanding
<b>NEPA</b>	National Environmental Policy Act
<b>NOD</b>	Notice of Determination
<b>NOI</b>	Notice of Intent
<b>NOP</b>	Notice of Preparation
<b>PRC</b>	Public Resources Code
<b>ROD</b>	Record of Decision
<b>RWQCB</b>	Regional Water Quality Control Board
<b>SWRCB</b>	State Water Resources Control Board
<b>SWPPP</b>	Storm Water Pollution Prevention Plan
<b>SMA</b>	Subdivision Map Act
<b>USFWS</b>	United States Fish and Wildlife Service

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**Appendix 9: List of Standard Mining Permit Conditions,  
County of Ventura**

## STANDARD MINING PERMIT CONDITIONS

The conditions that follow are presumed to be the minimum requirements generally applicable, unless it can be demonstrated that they do not apply to the project in question. In such cases, the following conditions may be deleted or modified, or new conditions added to fit the circumstances.

The authority for the imposition of permit conditions is ultimately rooted in the police powers granted the County by the State. However, the justification for specific conditions may also come from the Zoning Ordinance (particularly Sec. 8107-9 and 8111-2.1), the General Plan, the Mineral Resource Management Program Goals and Policies, other policies and plans, studies and reports, and the environmental document for the project.

Underlined blank spaces are to be filled in on a case-by-case basis depending on the specific circumstances. Where words, phrases or numbers are underlined, they illustrate how a given "blank space" would usually be filled in given a typical project. Parenthetical language generally indicates the process by which a blank would be filled in.

### PLANNING DIVISION

#### 1. Permitted Uses

That the Conditional Use Permit is granted for sand, gravel and rock extraction, storage, processing, transporting and facilities, equipment and other appurtenances accessory thereto as described on Plot Plan "A". The Permit is granted for only those uses, facilities, structures and improvements (e.g., the existing and proposed buildings, processing plants, fences, signs, roadways, parking areas, landscaping, catchment basins, and dikes) depicted on Plot Plan "A" (Facilities Plan). Said uses, facilities, structures and improvements shall be located substantially as shown on Plot Plan "A", unless otherwise indicated herein. The areas permitted for mining and the depth and configuration of mining allowed by the conditions of this permit shall be depicted on a contour map with two foot intervals, which shall be labeled Plot Plan "B-1" (Plan View of Excavation Limit) and referred to as the Master Mining Plan. Mining activities shall not exceed the limits set forth on Plot Plan "B-2" (Profile View of Excavation Limit) and Plot Plan "B-3" (Cross Section View of Excavation Limit), unless otherwise provided herein. Current mining activities, however, may be further restricted pursuant to the conditions of the permit as illustrated in the Current Mining Plan (CMP).

#### 2. Time Limit

That the Permit is granted for a period of (per the Mining Time Limit Guidelines) ending \_\_\_\_\_. Operations shall not commence until the appropriate Zoning Clearance is granted.

Unless otherwise excused, the Permit shall become null and void if:

- a) a Zoning Clearance has not been issued within one year of the granting of the Permit. Failure of the County to notify the permittee of the Permit's imminent expiration shall not be grounds for the continuation of the permit beyond this deadline.
- b) the permitted use has been abandoned, discontinued, or terminated for a period of (5 years or the permit review period, whichever is shorter) years.

#### 3. Permit Renewal

That upon the filing of a renewal application 18 months prior to the expiration of the Permit, the Permit shall continue in force until the request is acted upon and all administrative appeals are heard even though the Permit being renewed has expired. The permittee/operator of record is solely responsible for the timely renewal of this Permit. Failure of the County to notify said parties of the permit's imminent expiration shall not

be grounds for the continued operation after the expiration of the Permit. Minor modifications for permit time extensions shall be filed 6 months in advance of the permit's expiration.

4. Issuance of Zoning Clearance(s)

That a Zoning Clearance(s) shall be obtained prior to initiating activities authorized by the permit and as it may be modified. Specifically, a Zoning Clearance shall be obtained prior to initiating each of the following activities/phases of the project: site preparation, commencement of activities, and operations authorized by the Conditional Use Permit.

Prior to the issuance of a Zoning Clearance for site preparation, the permittee shall demonstrate to the satisfaction of the Planning Director that the following conditions/permits have been addressed to the satisfaction of the applicable agency in the manner prescribed below:

Obtained the following permits: Authority to Construct, Grading Permit, Watercourse Permit, Encroachment Permit.

Complied with the provisions of the following permits: \_\_\_\_\_

Complied with the following Conditions: 7, 8, 34, 40, 41, 42, 44

Prior to the issuance of a Zoning Clearance for commencement of activities and operations authorized by the Conditional Use Permit, the permittee shall demonstrate to the satisfaction of the Planning Director that the following conditions and permits have been addressed to the satisfaction of the applicable agency in the manner prescribed below:

Obtained the following permits: Permit to Operate, Uniform Fire Permit

Complied with the provisions of the following permits: Grading Permit

Complied with the following Conditions: 48, 49, 50, 53, 55, 59c, 64a

5. Proposed Permit Modification

That any applicant proposed changes to the conditions of this Permit (the existing and proposed uses, facilities, structures or improvements, the scope and nature of mining or the plot plans) shall be presented in written and mapped form to the Planning Director, who shall determine what type of permits, if any, the proposal will necessitate. The Planning Director may grant a Minor Modification to allow for time extensions beyond deadlines herein referenced if the permittee can demonstrate that he has diligently attempted to meet the deadline specified.

6. Consultant Review of Information

That the County and all other permitting agencies shall have the option of referring any and all subsequent permit modification application requests of the permittee to an independent and qualified consultant for review and evaluation of issues beyond the expertise or manpower of staff. The Scope-of-Work and consultants to be used shall be determined in accordance with Condition 39. The costs for all such consultant work shall be borne by the permittee and are independent of the fees paid for staff processing of a permit application.

7. Maintaining Current Exhibits and Regulations

That unless already provided with the application, the permittee shall, after approval of this Conditional Use Permit, furnish the Planning Director in a form approved by County staff, one copy of the exhibits, plot plans associated with the Conditional Use Permit, and one copy of the exhibits, plot plans, conditions, provisions, and terms associated with other agencies' permits as finally approved. Within 30 days of any subsequent modification of a given permit, the applicable materials in revised form shall be submitted to the Planning Director.

8. Notice of Permit Requirements

That unless otherwise required by the Planning Director, the owner(s) of record, the contractors, and all other parties and vendors regularly dealing with the daily operation of the proposed mining activities shall be informed by the permittee of the pertinent conditions of this Conditional Use Permit. A current set of permit conditions shall be retained at the site unless deemed impractical by the Planning Director. Furthermore, the property owner shall be provided a copy of the Reclamation Plan. The distribution of the materials shall be documented to the Planning Director.

9. Change of Ownership Notice

That no later than 30 days after the permittee has been notified of any change of property ownership or of lessee(s) or operator(s) of the subject use, the name(s) and address(es) of the new owner(s), lessee(s) or operator(s), together with a letter from the permittee acknowledging and agreeing to comply with all conditions of this Permit shall be filed with the Planning Director. Furthermore, amendments and updates of all the applicable materials required pursuant to Condition Nos. 8, 34, 40, 41, 42 and 45 shall also be submitted at the same time.

10. Permittee Defense Costs

That the permittee agrees as a condition of issuance (or renewal) and use of this Permit to defend, at his sole expense, any action brought against the County because of issuance (or renewal) of this permit or, in the alternative, to relinquish this permit. Upon demand from the County, permittee will reimburse the County for any court costs and/or attorney's fees which the County may be required to pay as a result of any such action by a court. County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve permittee of his obligations under this condition.

11. Acceptance of Conditions

That the permittee's acceptance of this Permit and/or commencement of construction and/or operations under this Permit shall be deemed to be acceptance by permittee of all conditions of this Permit.

12. Permittee's Responsibilities

That neither the issuance of a Conditional Use Permit nor compliance with these conditions shall relieve an operator from any responsibility otherwise imposed by law for damage to persons or property, nor shall the issuance of any Conditional Use Permit serve to impose any liability upon the County of Ventura, nor its officers or employees for injury or damage to persons or property.

13. Requirements of Other Agencies

That no condition of this Conditional Use Permit for uses allowed by the Zoning Ordinance shall be interpreted as permitting or requiring any violation of law, or any lawful rules or regulations or orders of an authorized governmental agency. In instances where more than one set of rules apply, the stricter ones shall take precedence.

14. Other Regulations

That the design, maintenance and operation of the Permit area and facilities thereon shall comply with all applicable requirements and enactments of Federal, State, and County authorities, and all such requirements and enactments shall by reference become conditions of this Permit.

15. Severability

That if any of the conditions of this Permit are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth.

16. Hours of Operation

That the maximum operating hours at the site shall be in accordance with the following schedule:

- a. Days of plant operation - seven days a week
- b. Hours of plant operation - 24 hours a day
- c. Shipping of materials and products from the site - 24 hours a day
- d. Receiving of materials and products at the site - 24 hours a day

Pursuant to Sec. 8107-9.6.16, the Planning Director may approve deviations from the above schedule.

17. Setbacks

That no mineral extraction, mining facility, stockpiling of mineral resources, or related mining activities shall be located within a distance of a public or private property, resource or facility that would constitute a significant danger to such property, resource or facility. To achieve this, the following setbacks shall be followed unless a waiver is obtained pursuant to Sec. 8107-9.6.13:

- a) No processing equipment or facilities shall be permanently located, and no mining shall occur within the following setbacks:

100 horizontal feet of any dedicated public street or highway.

100 feet of any dwelling not accessory to the project.

200 feet of any building used as a place of public assembly, institution or school.

- b) The applicable setbacks for accessory structures for the zone in which the use is located.
- c) 60 feet from the permit boundaries.

18. Staking Minable Areas

That the areas approved for mining shall be clearly marked or staked on the permit site during the life of the Permit, so that mining operations do not inadvertently stray into areas where they are not allowed. To the extent practicable, this condition shall be applied to in-river mining operations.

19. Control of Spillage

That the permittee shall take all necessary measures to prevent the depositing of excavated and processed materials associated with the operations on public or private thoroughfares. To this end, no vehicle shall leave the project site carrying products from the site unless said products are loaded in a manner that will prevent them from spilling or flying from the vehicle. Furthermore, all such vehicles shall be washed down or otherwise cleaned as needed to prevent products from the site from being unintentionally deposited off-site.

20. Light Emanation

That light emanation shall be controlled so as not to produce excessive levels of glare or abnormal light levels directed at any neighboring uses. Lighting shall be kept to a minimum to maintain the normal night-time light levels in the area.

21. Color Scheme

That all permanent aboveground facilities and structures shall be painted to mask the facilities from the surrounding environment and uses in the area. Consideration shall also be given to such additional factors as heat buildup and designation of danger areas when choosing colors. Said colors shall be approved by the Planning Director prior to painting of facilities.



22. Site Maintenance

That the permit area shall be maintained in a neat and orderly manner so as not to create any hazardous condition or unsightly conditions which are visible from outside the permitted area. Equipment and materials which are appurtenant to the operation may be stored on the site.

23. Landscape Plan

- a. That the excavated portion of the permit area shall be landscaped and/or screened from view in a manner consistent with the natural character of the area. This shall be accomplished pursuant to a reasonable time schedule established by the Planning Director, once the Director determines that landscaping or screening is necessary. The Plans for this work shall be prepared in accordance with the County's Landscape Guidelines and shall be submitted to the County for review with the current landscape review fee. Such plans shall include specifications and maintenance program and shall be approved by the Planning Director prior to their implementation. Wherever practical, native or other drought-tolerant plants shall be used for landscaping and revegetation, unless their use would not provide effective and timely screening.
- b. That continued landscape maintenance shall be subject to periodic inspection by the County. The permittee shall be required to remedy any defects in ground maintenance, as indicated by the County inspector, within two weeks of notification.

24. Fencing

That at any time during the life of this Permit the site shall be fenced for safety reasons when the Planning Director deems it necessary due to the proximity of urban development. The fencing shall be installed in accordance with a reasonable time schedule established by the Planning Director.

25. Signs

That no signs shall be constructed, erected, or maintained on the property encompassed by this Permit except those required by law or allowed by the County Ordinance Code. Signs shall be posted along the access/haul routes, notifying the users of such thoroughfares that mining related traffic may be using such routes.

26. Explosives

That explosives shall only be allowed as part of the mining operations under the following conditions:

- a. Between the hours of 9:00 a.m. and 6:00 p.m.
- b. After annual notices have been delivered to residents within three thousand (3000) feet of the permit area and the closest cities stating that blasting will occur from time to time during the hours of 9:00 a.m. and 6:00 p.m. for the life of the Permit which expires on \_\_\_\_\_.
- c. After receiving the required permits from the Fire and Sheriff Departments.

27. Archaeology

That if archaeological or historical artifacts are uncovered, the permittee/operator shall immediately notify the Planning Director and preserve the site until a qualified archaeologist can recommend the proper disposition of the site. The Planning Director's written concurrence must be obtained for proper disposition of the site.

28. Noise Standard

That unless herein exempted, mining, production and maintenance operations associated with this Permit shall not produce noise that exceeds the standards listed below measured at a point outside of occupied sensitive uses such as residences, schools, health care facilities, or places of public assembly.

Nomenclature and noise level descriptor definitions are in accordance with ANSI Sec. 3.33-1980, "Second Level Descriptors for Determination of Compatible Land Use." Measurement procedures shall be in accordance with the adopted "Noise Measurement Guidelines and Procedures."

The maximum allowable average sound level is as follows:

AREAS DESIGNATED "URBAN" OR "RURAL COMMUNITY" IN THE GENERAL PLAN

<u>Time Period</u>	<u>Average Noise Levels (LEQ)</u>
Day (6:00 a.m. to 10:00 p.m.)	60 dBA
Night (10:00 p.m. to 6:00 a.m.)	50 dBA

ALL OTHER AREAS

<u>Time Period</u>	<u>Average Noise Levels (LEQ)</u>
Day (6:00 a.m. to 10:00 p.m.)	55 dBA
Night (10:00 p.m. to 6:00 a.m.)	45 dBA

Noise from the subject project shall be considered in excess of the standard when the average sound level, measured over one hour, is greater than the above standards. A violation of the Permit's applicable noise standard shall have occurred when the average noise level (LEQ), measured in accordance with the adopted "Noise Measurement Guidelines and Procedures" (NMGP), exceeds the applicable noise standard, unless the permittee can demonstrate that the average ambient noise level at the occupied sensitive use in question is within 10 dB of the applicable noise standard as measured in accordance with the NMGP. If this can be demonstrated, a violation will have occurred if the average noise level (LEQ) exceeds the applicable noise standard plus 3dB.

Readings of the average ambient noise level may be taken at the project site, nearby sensitive uses and other locations typical to the area prior to the commencement of operations. These measures shall be taken pursuant to the NMGP and shall be used to determine if the 3dB tolerance factor can be used in determining if a noise violation exists at a sensitive use. If ambient noise level readings were not taken at the sensitive use where the alleged violation is occurring, the Planning Director shall decide if the readings taken at other suspected locations are comparable enough to be used.

29. Exception to Noise Standard

That the noise standard established for this permit shall not be exceeded unless exempted under any of the following provisions:

- a. Where the ambient noise levels exceed the applicable noise standard. In such cases, the maximum allowable noise levels shall not exceed the ambient noise levels. In such cases, permitted operations may generate noise levels equal to the ambient noise level, but shall not exceed it. Ambient noise levels must be authenticated to the satisfaction of the Planning Director.
- b. Where the owners/occupants of sensitive uses have signed a waiver pursuant to Sec. 8107-9.6.13 indicating that they are aware that permitted mining and related operations could exceed the allowable noise standard and that they are willing to experience such noise levels. The applicable noise levels shall apply at all locations where the owners/occupants did not sign such a waiver.

- c. Approved blasting pursuant to Condition 26.
- d. Where a sensitive use was established subsequent to the adoption of this exemption.

30. Noise Monitoring

That if the County receives a complaint about noise emanating from the permitted operations, the Planning Director may require the permittee to make informal noise measurements in accordance with the adopted Noise Measurement Guidelines and Procedures (NMGP). In addition, the Planning Director may require a formal noise evaluation to be made by a qualified independent noise expert at the permittee's expense. The noise evaluation shall be conducted in accordance with the NMGP and in a manner approved by the Planning Director. Until such time as a determination is made regarding the existence of a violation, the operator shall take steps to minimize any on-going noise emanations.

31. Compliance with Noise Standard

That when a permittee has been notified by the Planning Division that the operation is in violation of the applicable noise standards, the problem shall be corrected as soon as possible in coordination with the Planning Division. The determination that a violation has occurred shall be based on measurements taken by technically qualified personnel using certified equipment and accepted measuring procedures. In the interim, permitted operations will be allowed to continue, however, the operator shall attempt to minimize the total noise generated at the site by limiting such major sources of noise as the following whenever possible:

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If the noise problem has not been corrected by 10:00 p.m. of the following day, the offending operations, except for those deemed necessary for safety reasons by the Planning Director, shall be suspended until the problem is corrected.

32. Site Reclamation

- a. That the Reclamation Plan shall be consistent with the State Surface Mining and Reclamation Act of 1975, as amended, the Zoning Ordinance, the General Plan, and the County Water Quality Management Plan (208 Plan). It shall consist of the following general provisions which shall be depicted on Plot Plan "D", where applicable:
  - i. The final "reclaimed" contours of the site shall be those shown on Plot Plan "D".
  - ii. With the exception of in-river mining sites, reclamation of the permit area shall occur in phases as depicted on Plot Plan "D". A brief report with illustrative maps shall be submitted to the Planning Director indicating the status of site reclamation once it has begun. The report shall be submitted (at intervals in keeping with the scope and timing of reclamation). All reclamation shall be completed within 180 days from the date of revocation, abandonment, surrender, or expiration of the permit.
  - iii. The ultimate responsibility for reclamation of the permit area rests with the permittee.
  - iv. That prior to the expiration, abandonment, or revocation of the permit the Reclamation Plan on file shall be reviewed by the responsible agencies to determine if natural conditions in the area have changed significantly enough to warrant modifying the previously approved Reclamation Plan. If such modifications as recommended by the Planning Director cannot be mutually agreed upon by the Planning Director and the permittee, revisions to the

Reclamation Plan will be subject to Planning Commission determination with normal appeal rights to the Board of Supervisors.

- v. That unless otherwise specified in the approved Reclamation Plan, all mining related structures, facilities, improvements, stockpiles, surpluses, wastes, debris, and potentially hazardous features or conditions shall be removed or otherwise corrected.
  - vi. That in implementing this Reclamation Plan, all applicable Federal, State, and local laws, ordinances, and regulations shall be adhered to.
  - vii. That minor deviations in the Reclamation Plan may be approved by the Planning Director upon the advice of applicable agencies.
  - viii. Except for in-river mining operations, refill material shall consist of the following in order to avoid water contamination, provide lateral water migration, and the effective re-use of the site:  

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  - ix. That reclamation shall only be deemed complete after it has been demonstrated to the Planning Director's satisfaction that all facets of the Reclamation Plan such as revegetation and slope stability have been implemented and are successfully established.
- b. Reclamation of in-river mining sites shall conform to the following requirements in addition to the preceding general reclamation requirements.
- i. That the final reclaimed use of that portion of the permit area within the floodway (and as it may be changed) shall be a natural river environment.
  - ii. That reclamation shall begin by the permittee removing all structures, facilities, stockpiles, surplus, wastes, debris, and hazardous features or conditions related to the use of the permit and thereafter relying on the natural action of the river to revegetate and refill previously excavated areas.
  - iii. That unless otherwise specified, the final slopes in the permit area, with the exception of those associated with the gradient and profile of the flood channel, shall be left at a 2:1 (horizontal to vertical) or lesser gradient, unless the permittee can demonstrate to the satisfaction of the Public Works Agency that a steeper slope will be stable. Final gradients and profile of the flood channel shall be consistent with the operator's Watercourse Permit and Current Development Plan.
- c. Reclamation of landward mining sites shall conform to the following requirements in addition to the above referenced general reclamation requirements:
- i. That as the final slopes, contours, and configurations of the excavated areas are reached, they shall be revegetated in a manner consistent with the native vegetation in the area as soon as practical, but in not more than one year as per the approved revegetation plan. The revegetation effort shall not preclude the mining of other areas of the Permit. Access ways through revegetated areas to areas being mined may be maintained where needed.
  - ii. That the Revegetation Plan for the site be submitted and approved prior to any reclamation activity. Said Plan shall be processed as any other Landscape Plan.
  - iii. That all final slopes shall be no steeper than two to one (horizontal to vertical), unless it can be demonstrated to the satisfaction of the Public Works Agency that steeper slopes are appropriately stable.

- iv. That the final grade of the floor of mined areas shall have a minimum two percent grade to facilitate drainage unless otherwise provided for in the Reclamation Plan.
- v. That the original streams on the project site shall be rehabilitated and recontoured to resemble a natural drainage pattern for erosion and sedimentation control.
- vi. That open pits shall be refilled to the level depicted on Plot Plan "D" in order to ensure a viable re-use of the site and compatibility with neighboring uses. This level shall be (at least five) feet above historic or predicted future high groundwater pursuant to Policy 10 of the Mineral Resource Management Program Goals and Objectives.
- vii. That no undrained depressions remain except for catchment basins, drainage areas, or other uses authorized as a part of the Reclamation Plan.

33. Reporting Accidents

That the permittee shall immediately notify the Planning Director of any incidents such as fires, explosions, spills, land or slope failures, or other conditions at the site which could pose a hazard to life or property outside the permit area. Upon request of any County agency, the permittee shall provide a written report of any incident within seven calendar days, which shall include, but not be limited to, a description of the facts of the incident, the corrective measures used and the steps taken to prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other governmental entity for reporting incidents as described above.

34. Contact Person

That the permittee shall provide the Planning Director with the current name and/or position, title, address and phone number of the permittee's field agent and other representatives who shall receive all orders and notices as well as all communications regarding matters of condition and code compliance at the permit site. There shall always be such a contact person(s) designated by the permittee. If deemed necessary by the Planning Director, one contact person(s) shall be available 24 hours a day during some or all phases of the project to respond to complaints by citizens and the County. If the address or phone number of the permittee's agents should change, or the responsibility be assigned to another person or position, the permittee shall provide the Planning Director with the new information within 30 days.

35. Resolution of Complaints

The following process shall be used to resolve complaints related to the project:

- a. All complaints shall be first directed to the permittee's contact person established pursuant to Condition 34.
- b. As soon as possible, but no later than one day after receiving a complaint from the County or a citizen, the permittee shall investigate the complaint. In case of noise complaints, the permittee shall investigate the complaint and take cursory noise readings, if necessary, within three operating hours of receiving the complaint.
- c. The permittee shall report his findings to the complainant as soon as possible, but no later than one day after receiving a complaint or within three operating hours for noise complaints, unless otherwise agreed to by the parties in question.
- d. If investigations by the permittee of noise complaints are indicative of a possible violation, the permittee shall take immediate action such as required in Condition 31 to correct the potential problem. Any noise measurements taken informally shall not be sufficient grounds to make an official determination that a violation has occurred.

- e. If the problem persists, a citizen may refer the matter to the County Planning Division through the formal complaint process. When this occurs with respect to noise complaints, the County may require the permittee to conduct informal noise tests pursuant to the NMGP to determine the nature of a noise problem, or other studies to resolve the problem. These shall be at the permittee's expense.
- f. If noise complaints continue despite informal measurements and corrective actions by the permittee and there is reason to believe the informal measurements are not adequately evaluating the situation, the Planning Director may require a formal noise evaluation to be made by a qualified, independent noise expert approved by the County at the permittee's expense. The results of these evaluations may be used to confirm the existence of a violation.

36. Permit Review

That at least once every ten years for landward sites and five years for in-river sites the Permit shall be reviewed by the Planning Director. The deposit fee for said review shall be equal to the present charge for a Planning Director approved Conditional Use Permit. The purpose of said review is to ascertain whether the permittee is in compliance with all conditions of the Permit, and whether there have been significant changes in environmental conditions, land use, or mining technology, or if there is other good cause which would warrant the Planning Director to file an application for modification of the conditions of the Permit. If such an application is filed, it shall be at the County's expense and modification of conditions would not occur without a duly noticed public hearing.

37. Site Inspections

The project site shall be inspected by County staff at the permittee's expense during the following phases of the project: construction of structures and facilities, grading, and reclamation.

38. Consultant Work

That prior to the County engaging any independent consultants or contractors pursuant to the conditions of this Permit, the County shall confer with the permittee regarding the necessary work to be contracted for and the costs of such work, and receive the approval of the Board of Supervisors. Unless otherwise required, the permittee may waive the requirement of Board approval. Whenever feasible, the lowest bidder will be used. The permittee may hire private consultants to conduct work required by the County provided the consultant and the proposed Scope-of-Work are acceptable to the County.

39. Proprietary Information

That proprietary information and/or trade secrets which are required to be submitted shall be so identified by the permittee, submitted apart from the other required materials, and confidentially maintained by the public agencies having access to it. Such information shall be requested on an as needed basis only by the applicable County agency or department head. "Proprietary information" means information which the County determines would reveal production, reserves, or rate of depletion of the operations of the permittee. Any information which is not proprietary is a matter of public record.

40. Monitoring, Review, Enforcement Costs and Billings

That the permittee shall bear the full costs reasonably incurred by the County or its consultant for reviewing and monitoring permit operations as required by specific conditions of this permit and for enforcement activities such as inspections, civil penalty hearings, forfeiture of securities, and suspension of permits which are related to confirmed violations. The work by County personnel shall be billed at the Board of Supervisors approved contract rates in effect at the time.

To ensure that funds are available for the legitimate and anticipated costs incurred for the above described reviews, monitoring, and enforcement, the permittee shall deposit \$1,000.00 with the County prior to the issuance of a Zoning Clearance. Once the project is in full operation, the required deposit fee may be adjusted by the Planning Director to an amount commensurate with the anticipated ongoing costs of review, monitoring, and enforcement of the Permit. The maximum amount of such deposits shall be \_\_\_\_\_.

Upon receiving notice from the County that the required deposit fee is below the required level or that the County is to be reimbursed for its costs associated with the permit, the permittee shall have 30 days to restore the deposit fee to the required level or pay the costs billed to him. Such notice shall be accompanied by an itemized accounting of how deposited funds have been spent. Failure to pay the required bill or maintain the required deposit fee balance shall be grounds for suspension or revocation of the permit.

41. Civil Penalties

That in case of any failure by the permittee to perform or comply with any term or provision of this Conditional Use Permit, the final decision-making authority that would act on the Permit may, after notice to the permittee and a public hearing, determine by resolution the amount of the civil penalty, not to exceed \$ \_\_\_\_\_, to be levied against the permittee. Said penalty shall be paid within 30 days unless the penalty is under appeal. Failure to pay the penalty within the allotted time period shall be considered grounds for suspension of the subject use, pursuant to Sec. 8111-7, until such time as the penalty is paid. The payment of a civil penalty shall not insulate the permittee from liability in excess of the sum of the penalty for damages or injury or expense or liability suffered by the County of Ventura from any breach of permittee of any term or condition of said Permit or of any applicable ordinance or of this security.

42. Performance Bonding (Reclamation and Off-Site Problems)

That a performance bond or other security acceptable to the County in the amount of \$ \_\_\_\_\_ shall be posted by (date) \_\_\_\_\_ to ensure completion of the Reclamation Plan and correction of any off-site damage determined to be caused by the operations associated with the Permit. In case of failure to conform or comply with any term or provision of the Reclamation Plan or to correct off-site damage of problems, the final decision-making authority that would act on the Permit may, by resolution, declare all or part of the security forfeited in accordance with its provisions after notice to the permittee and a public hearing. No security shall be released until all the applicable conditions of the Reclamation Plan have been met to the satisfaction of the Planning Director.

43. Adjustment of Securities for Inflation

That penal and performance bonds and securities shall be adjusted periodically by the Planning Director in accordance with the applicable regional Consumer Price Index to maintain the same relative value of the securities over the life of the Permit and to assure that performance securities still reflect the actual cost for completing a required task.

44. Insurance

That for the life of the Permit, the permittee shall maintain liability insurance of not less than \$500,000 for one person, \$1,000,000 for all persons, and \$2,000,000 for property damage. This requirement shall not preclude the permittee from being self-insured.

AIR POLLUTION CONTROL DISTRICT CONDITIONS

45. Facilities Construction

That facilities shall be constructed and operated in accordance with the Rules and Regulations of the Ventura County Air Pollution Control District.

46. Authority to Construct Permit

That an Air Pollution Control District "Authority to Construct" shall be obtained for all equipment subject to permit prior to construction.

47. Dust Prevention

That the project site and all roads or hauling routes located between the public right-of-way and the subject site shall be improved or otherwise treated (as required by the County) and maintained as necessary to prevent the emanation of dust above limits established by the Air Pollution Control District.

ENVIRONMENTAL HEALTH DEPARTMENT CONDITIONS

48. Sanitary Facilities

That adequate sanitary facilities shall be provided in accordance with the requirements of the Ventura County Department of Environmental Health.

49. Potable Water Supply

That an adequate, safe, potable supply of water shall be provided for the occupants and users of these facilities.

50. Abandoned Wells

That any abandoned wells on the property shall be destroyed in accordance with the Ventura County Well Ordinance.

51. Control of Nuisance Vectors

That appropriate control measures shall be instituted and maintained to prevent development and proliferation of any nuisance vectors, including, but not limited to, insects and rodents.

52. Hazardous Wastes

That disposal of all potentially hazardous wastes shall be by a means approved by the Ventura County Division of Environmental Health.

53. Cross Connection Control Devices

That cross-connection control devices shall be installed on the water system in accordance with the requirements of the Ventura County Division of Environmental Health.

FIRE DEPARTMENT CONDITIONS

54. Uniform Fire Code

That provisions for fire suppression shall be in accordance with the current Uniform Fire Code (UFC) and approved by the Ventura County Fire Chief. Within sixty (60) days of the approval of the Conditional Use Permit, the permittee shall meet with representatives of the Fire Protection District and thereafter jointly finalize a Fire Protection Plan setting forth the provisions within the UFC which apply to the site and how these are to be met. A copy of the plan shall be forwarded to the Planning Director by the permittee.

55. Spark Arresters

That spark arresters shall be installed on all naturally aspired (i.e., non-turbocharged) internal combustion engines.

56. Storage of Flammable and Combustible Liquids

That any storage and use of flammable and combustible liquids shall comply with the Uniform Fire Code.



## PUBLIC WORKS AGENCY CONDITIONS

### 57. Requirements of Permittee

That in order to promote and comply with a determination by the County balancing the relative priorities and requirements arising out of: the intent and provisions of the conditional use permit, the Ventura County Ordinance Code, the Policies of the Board of Supervisors relative to resource management, and the safeguarding of existing and potential public and private land uses, properties and improvements; the transporting of sediment downstream, the safe passage of storm flows; the establishment of a stable gradient within the flood plain, the reduction of headward erosion, vertical degradation and lateral migration, conservation of water resources within and outside the river and the satisfactory reclamation of the site.

- a. The permittee shall limit excavation to meet the requirements of Plot Plans "B" and Plot Plan "C" and as modified pursuant to Conditions 62e and 67 for water resources. Plot Plans "B" will be developed from current applicable setback, slope, depth, and gradient/profile standards established by the Ventura County Flood Control District to protect life and property.
- b. The permittee shall provide all necessary access and data necessary for compliance with these Public Works Agency conditions and bear all associated costs pursuant to Condition 40.

### 58. Flood Control District - Authority and Responsibilities

The Ventura County Flood Control District may impose separate and appropriate requirements beyond those specified in Plot Plan "B", Plot Plan "C", and this Conditional Use Permit to afford protection of life and property through the issuance of a Ventura County Flood Control District Watercourse Permit, pursuant to and within the parameters of ordinance No. FC-18 as amended. A Watercourse Permit or modification thereof shall be secured with each Current Mining Plan.

### 59. Current Mining Plan - General

- a. To facilitate the permittee's compliance with the intent and provisions of the Conditional Use Permit under regularly changing conditions in the river corridor and to assist the County's administration of this Permit, the permittee shall prepare and maintain a Current Mining Plan, which shall be identified as Plot Plan "C". The Current Mining Plan shall describe the characteristic features of all excavations and associated work and shall specify the measures to be taken by the permittee to comply with the conditions of this Permit on an ongoing basis. Unless otherwise specified herein, no excavation or associated work shall occur unless found by the County to be consistent with this Conditional Use Permit and previously approved by the Current Mining Plan.
- b. Post storm meetings of the permittee and the County shall occur where a mean flood annual flood flow of 18,000 cfs or greater has been determined by Ventura County Flood Control District at the Highway 101 Bridge over the Santa Clara River as deemed necessary by the County. During such meetings, the County and the permittee shall mutually evaluate the continued consistency of the Current Mining Plan with changes which may have occurred in the river as a result of storm flows. Factors to be considered in such meetings shall include, but not be limited to: observations of newly created meanders, braiding, bank erosion, bottom erosion or aggregation, the disposition of natural resources including water and biotic resources, and the introduction of previously unforeseen dangers to life and property. Where high water levels or limited accessibility inhibit adequate observation of the river conditions by the County, the permittee shall provide, at the County's request, a Type "C" data package as defined in Condition 66c.
- c. A Current Mining Plan or Temporary Mining Plan shall be approved prior to issuance of a Zoning Clearance. A Current Mining Plan shall remain in effect until any of the following occurs, at which time a subsequent Current Mining Plan shall be submitted to the County:

1. Approval of a subsequent Current Mining Plan where the permittee proposes to conduct new work not approved in the existing Current Mining Plan; or
  2. Upon notification by the County that the Planning Director has determined, after a permit review pursuant to Condition 36, that part or all of the existing Current Mining Plan is not in compliance with this Conditional Use Permit; or
  3. Upon notification by the County that, after a site inspection or a post-storm meeting of the permittee and the County, part or all of the existing Current Mining Plan is no longer consistent with this Conditional Use Permit.
- d. Upon receipt of a subsequent Current Mining Plan, the County shall meet and confer with the permittee on the Current Mining Plan and any revisions thereof and shall, within 30 working days where Type "A" data has been used, 20 working days for Type "B" data, and 10 working days for Type "C" data, make a determination as to whether all, part, or none of the proposed Current Mining Plan is consistent with this Conditional Use Permit and approve those parts found to be consistent. Where the permittee has not received a determination within these specified time periods, the permittee may consider the Current Mining Plan approved.
  - e. The permittee may, within 10 days of receipt of a determination by County staff that all or part of a proposed Current Mining Plan or Temporary Mining Plan is inconsistent with this Conditional Use Permit, file an appeal before the Planning Commission. Said appeal hearing shall be held and the appeal acted upon within 45 days of the filing of the appeal.

60. Current Mining Plan - Content

The required contents of the Current Mining Plans shall be determined by relative levels of change which occur in the river. Each level of said change shall be determined, based on threshold flow rates in cubic feet per second (cfs), as determined by Ventura County Flood Control District at the Highway 101 Bridge. Based on such flow rate determinations, the following data and contents will be required for a Current Mining Plan where the calculated flow rate is:

- a. A 10-year frequency flow of 72,000 cfs or greater - Where such river flows have occurred, the permittee and the County shall meet at the site to evaluate the Current Mining Plan for consistency with this Conditional Use Permit and the County shall proceed in making a determination of consistency.

In making its determination of consistency with this Conditional Use Permit, the County shall identify whether all or part, or none of the Current Mining Plan could be implemented, given the existing identifiable river conditions, while still remaining consistent with this Conditional Use Permit. Where it is determined by the County that all of the Current Mining Plan could be implemented and remain consistent with this Conditional Use Permit, no subsequent Current Mining Plan will be required.

Where the County has made a determination that part or all of the Current Mining Plan is inconsistent with this Conditional Use Permit, the County shall provide a Type "A" data package to the permittee as defined in Condition 66a.

Upon receipt of the Type "A" data, the permittee shall, unless otherwise excused by the County within 30 working days, prepare a subsequent Current Mining Plan which shall consist of a clear plastic overlay(s) defining the proposed mining, including the general direction and phasing of excavation. Said overlay(s) is to be matched to the new aerial photograph(s). All proposed excavation shall additionally be defined on a reproducible copy of the topographic map and the cross sections prepared with the Type "A" data package.

- b. Between a 5-year frequency flow of 45,000 cfs to a 10-year frequency flow of 72,000 cfs. - Where river flows in this range occurred, the County and the permittee shall meet at the site to evaluate the Current Mining Plan for consistency with this Conditional Use Permit given any change which may have occurred in the river.

In making its determination of consistency with this Conditional Use Permit, the County shall identify whether all, part, or none of the Current Mining Plan could be implemented, given the existing identifiable river conditions, while still remaining consistent with this Conditional Use Permit. Where it is determined by the County that all of the Current Mining Plan could be implemented and remain consistent with this Conditional Use Permit, no subsequent Current Mining Plan will be required.

Where the County determines that only part of the Current Mining Plan could be implemented and still remain consistent with this Conditional Use Permit, the County shall proceed in securing the Type "B" data package identified in Condition 66b. The permittee shall, within 20 working days of receipt of said data, prepare a subsequent Current Mining Plan utilizing the Type "B" data. The Current Mining Plan shall be defined on a clear plastic overlay(s) defining the proposed mining, including the general direction and phasing of excavation. Said overlay(s) is to be matched to the new aerial photographs. All proposed mining shall also be defined on a reproducible copy of the cross sections and topography maps in the Type "B" data package.

- c. From a flow of 0 cfs to a five year frequency flow of 45,000 cfs. - No new Current Mining Plan is required within this range except where the permittee proposes to conduct work not previously approved by the then current Current Mining Plan. In this case, the permittee shall secure the Type "C" data package defined in Condition 66c and prepare new overlays, topography maps, and cross sections as necessary to update the existing Current Mining Plan.

Additionally, where flows no greater than 45,000 cfs have been determined by Ventura County Flood Control District the permittee may make "reasonable minor adjustment" in the existing Current Mining Plan, provided such adjustments remain consistent with this Conditional Use Permit and are necessary to preserve the basic intent of the existing Current Mining Plan. Such minor adjustments must be distinctly recorded on the permittee's copy of the Current Mining Plan, made available for review by the County at the County's request, and returned to the County with any subsequent Current Mining Plan proposal. The permittee may submit a request for, and receive within 15 working days, a determination by the County as to the consistency of any proposed minor adjustment in the Current Mining Plan provided the permittee resubmits the Current Mining Plan with new Type "C" data as defined in Condition 60c.

61. Temporary Mining Plan

- a. Where the County has determined that all or part of the existing Current Mining Plan is consistent with the Conditional Use Permit, the permittee may continue to mine only on that part of the Current Mining Plan found to be consistent. The permittee may mine on those parts of the Current Mining Plan found to be inconsistent only after approval of a subsequent Current Mining Plan or a Temporary Mining Plan.
- b. Where a subsequent Current Mining Plan or a Current Mining Plan for a new Conditional Use Permit or renewal is being prepared using Type "A" data package pursuant to Condition 60a, the permittee may, up to April 15 of any year, submit for approval of a Temporary Mining Plan using the Type "C" data package as defined in Conditions 60c and 66c. After April 15, the permittee may submit a Temporary Mining Plan only with the Type "B" data package defined in Conditions 60b and 66b.

- c. Upon receipt of the Temporary Mining Plan, the County shall meet and confer with the permittee on the Temporary Mining Plan and any revisions thereof and shall, within 20 working days where a Type "B" data package is used, and 10 working days where a Type "C" data package is used, make a determination as to whether all, part, or none of the Temporary Mining Plan is consistent with this CUP and approve those parts found to be consistent. The permittee may resubmit additional Temporary Mining Plan proposals or appeal staff's determination to the Planning Commission pursuant to Condition 60.
- d. All Temporary Mining Plans, once approved, shall remain in effect until the subsequent Current Mining Plan is approved or denied.

62. Water Resources Management - General

The permittee shall conduct operations in a manner in which the mining program is integrated with flood plain and water resource management. In so doing, the permittee shall take into account all water resources on the site or affected by the mining operations.

- a. Permitted operations at the site shall be conducted in such a manner that significant adverse water resources impacts are mitigated in accordance with conditions of this permit.
- b. Mining operations shall not cause significant adverse impacts on water conservation operations, including release of water into the river, conveyance of water in the river, diversion of water from the river, and spreading of water for ground water recharge, repressurization or replenishment.
- c. Mining operations shall meet all California Regional Water Quality Control Board waste discharge requirements. Contaminants from the operation, as well as water run-off and siltation off-site, shall be controlled on-site in a manner prescribed by the Public Works Agency.
- d. Ongoing project induced siltation and suspended sediment or turbidity of low flow surface waters 10% or greater than ambient conditions shall be mitigated by measures such as retention of washwater, installation of culvert and bridge crossings, desilting ponds, and silt curtains. If the visual inspection by the Public Works Agency indicates that suspended sediment or turbidity may be 10% or greater than the ambient condition as a result of ongoing project operations, the Public Works Agency will meet with the permittee and jointly determine the method of determining the ambient condition and the method and location of sampling and the method of calculation. Water samples of ambient inflows and project impacted flow shall be collected and analyzed for suspended sediment or turbidity content at a State approved laboratory. If project induced suspended sediment or turbidity is 10% or greater than the ambient condition, project operation shall be modified to reduce suspended sediment or turbidity to less than 10% above the ambient condition. The ambient condition means the suspended sediment or turbidity of flows tributary to the permitting mining area. The method of measurement analysis shall conform to United State Geological Service procedures or as approved by the Public Works Agency.
- e. In-River Conditions

To protect ground water and surface water resources, the maximum depth and width of excavation shall be limited by Plot Plans "B" and Plot Plan "C".
- f. Out-of-River Conditions
  - i. Excavation in the Oxnard Plain Forebay Basin shall not exceed the historic or predicted future high groundwater level shown in Plot Plans "B". These criteria may be re-examined pursuant to adopted Policy 10 of the 1985 Mineral Resource Management Program Goals and Policies.

ii. Refill materials approved by the Public Works Agency for the subsequent land use shall be to at least the "minimum refill level" shown in Plot Plan "C". Those specified in Condition 32c (vi) and applied to at least the "minimum refill level" shown on Plot Plan "D".

iii. Excavation and refill shall be concurrent, unless otherwise excused by the Public Works Director.

**63. Flood Plain Safety**

Nothing in these conditions shall be construed to limit or restrict Ventura County Flood Control District from permitting exceptions to the standards for watercourse maintenance pursuant to Section 8102-0 (Public Works Maintenance - Mining). Additionally, nothing in these conditions shall be construed to allow the permittee to conduct any work which would endanger life or property. The permittee:

- a. Shall obtain a Watercourse Permit from the Ventura County Flood Control District prior to the issuance of a Zoning Clearance and annually thereafter for the life of the permit.
- b. In the application of any standard the most restrictive shall apply when more than one is applicable.
- c. Shall excavate mineral resources in a manner and sequence that generally promotes continuity between various mining operations and promotes the safe flow of flood waters, rather than excavating in a manner which would cause flood flows to erode the bed or banks of the river.
- d. Shall not excavate within a river in a manner which causes significant headcutting erosion and which reduces sediment transport to cause significant degradation and significant reduction in replenishment to degraded portions of the river system.
- e. Shall not stockpile materials within floodways during winter months. All large boulders, steel, and other unwanted materials shall be placed in locations approved by Ventura County Flood Control District or removed from the site prior to the winter months. Overburden and vegetative debris shall be removed from the river or placed in linear mounds in a location and of a height and width as approved by Ventura County Flood Control District which would not adversely affect flood flows or increase downstream deposition.
- f. Shall phase excavations to ensure that interruptions in overall mining do not leave potentially hazardous conditions in the river during winter months.
- g. Shall conduct operations in a manner which does not result in the loss of structural or physical support of neighboring property and improvements or any public or private structure upstream or downstream of in-river mining projects.
- h. Shall maintain haul roads within the site that do not adversely affect the flow of flood waters.

**64. Traffic Safety**

The permittee shall be responsible for and protect the public's safety on all public and private roads affected by the mining operations. To this end the permittee shall:

- a. Improve any road or intersection of an access road or drive with a public road to the following standards (as determined by the Public Works Agency:

- b. Keep the intersection of any public roadway and the access road(s) to the site clear of dirt, sand, gravel, rocks, and other debris associated with the mining operations.

65. Monitoring - General

- a. County employees may, in accordance with the Zoning Ordinance, enter the permit site to inspect the status of mining and/or reclamation. The County indemnifies the permittee and holds the permittee harmless for personal injury to County employees unless accompanied by permittee's representative.
- b. In any major drainage basin, such as the Santa Clara River system, where more than one mining permit exists, the permittee shall submit a fair share portion of the cost of photography, topographic data, survey control digitization as defined in Condition 66 in order to monitor the overall river system stability, and monitoring ongoing onsite and offsite effects of mining operations. Computation of the permittee's fair share shall be the ratio of linear footage for each permit to the total length of permits applied over the entire area to be covered by the data. The area covered shall be 5,000 linear feet above and 5,000 linear feet below the last upstream and downstream permit boundaries.

66. In-River Monitoring

- a. Where a flow greater than a 10-year frequency flow of 72,000 cfs has occurred as determined by Ventura County Flood Control District at the Highway 101 Bridge, and in five year increments beginning in 1985 thereafter, the County shall, at the permittee's expense, secure a Type "A" data package which shall include:
  - 1) Color aerial photography at a scale of 1" = 1,000'
  - 2) Topographic mapping at a scale of 1" = 200' with 2' contour intervals and an accuracy of  $\pm 2\frac{1}{2}'$  for contours and  $\pm 1\frac{1}{4}'$  for spot elevations. All topographic mapping will be on standard County sheets and shall include definition of the Conditional Use Permit boundaries, corridor boundaries, standard cross section stations, centerline and any other data deemed necessary by the Public Works Agency.
  - 3) Digitized cross sections at all stations defined by the Ventura County Flood Control District, within the permit boundaries, and those within 2,000 feet downstream and 2,000 feet upstream of the permit boundaries. Said cross sections shall be on standard County sheets.
- b. Where more than a 5-year frequency flow of 45,000 cfs but less than a 10-year frequency flow of 72,000 cfs has occurred as determined by Ventura County Flood Control District at the Highway 101 Bridge, the County shall secure a Type "B" data package which shall include:
  - 1) New color aerial photography, at a scale of 1" = 1,000' with spot elevations on the aerial photographs at selected points such as sand bars, previously excavated areas, and water surfaces.
  - 2) Digitized cross sections at stations defined by Ventura County Flood Control District. These shall generally be two stations at the downstream end of the permit, two at the upstream end of the permit, stations at or near major structures, and at 1,000' intervals in the remainder of the permit.
  - 3) Reproducible copies of the most recent available topographic maps of the area, including definition of all stations.

- c. Where flows measured at the Highway 101 Bridge have not exceeded a five-year frequency flow of 45,000 cfs, no in-river aerial survey monitoring data will be required except where the permittee proposes to conduct work not approved by a Current Mining Plan or wishes to be advised by the County on the consistency of minor adjustments in the Current Mining Plan which are being contemplated by the permittee. In these cases, the Type C data package required will be:
- 1) New color aerial photography at a scale of 1" = 500'.
  - 2) Reproducible copies of the latest available topographic maps.
  - 3) Copies of the most recently available cross sections. This data package may also be required by the County pursuant to Condition 60b.
- d. The permittee shall at least once, and no more than twice, each year provide the access and survey control as defined in Condition 68 and bear all costs for the County Surveyor to make a quick spot check of the depth and lateral extent of excavation.
- e. The permittee shall accurately monitor the quantity of rising water resulting from mining operations in a method approved by the Public Works Agency and shall accurately determine the quantity of water which is lost by evaporation, rising water to the perched aquifer zone downstream or the ocean as a result of mining operations. A report including all supporting collected data, the quantity of rising water and the quantities of all lost water resulting from project operations shall be submitted to the Public Works Agency annually. The report shall be signed by a qualified registered Civil Engineer or Geologist and by the permittee. Should the County find that the project induced rising water losses are significant, the County will initiate modification of the permit to adjust the depth of excavation shown on Plot Plans "B" and "C" or allow the permittee to use other appropriate mitigation measures approved by the Public Works Agency.

67. Out-of-River Monitoring

In the Oxnard Plain Forebay Basin, the permittee shall immediately report any exposed groundwater in the excavated area to the County Public Works Agency. Should the County find that groundwater levels are higher than predicted for developing Plot Plan "B", the County may initiate modification of the permit to adjust the depth of excavation shown on Plot Plan "B".

68. Survey Control

In all mining operations the permittee shall provide the necessary access and monies as deemed necessary by the Public Works Agency to install and maintain permanent and temporary survey control markers which shall be placed in and around excavation areas for quick monitoring by the operator and the County of the depth and lateral extent of excavation.

OTHER CONDITIONS (NOT AGENCY SPECIFIC)

69. Biological Resources

The permittee shall be responsible for preserving and protecting the biotic resources of the site in the most viable condition practical and shall integrate biotic resource management in all mining plans. The permittee also shall:

- a. Where riverine associated resources exist, including Federally and State listed rare or endangered species, anadromous fisheries, significant riparian resources, and adjacent terrestrial resources as recognized as an issue of significance or potential significance by the environmental documents for the project, and recognized as an issue of significance or potential significance by the County and the California Department of Fish and Game, after reviewing the County's environmental

documents for the project and after meeting with the County one or more times, the permittee shall comply with the following conditions which are considered to be necessary to protect the above named resources:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b. Where biotic resources exist which have been recognized as an issue of potential significance by the environmental documents for the project, the permittee shall comply with the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IH:11



**Appendix 10: Fish and Game Code Section 1603**

## FISH AND GAME CODE SECTION 1603

### 1603 Bid notice to include conditions or modifications.

It is unlawful for any person to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake designated by the department, or use any material from the streambeds, without first notifying the department of such activity, except when the department has been notified pursuant to Section 1601. The department within 30 days of receipt of such notice, or within the time determined by mutual written agreement, shall, when an existing fish or wildlife resource may be substantially adversely affected by such activity, notify the person of the existence of such fish and wildlife resource together with a description thereof, and shall submit to the person its proposals as to measures necessary to protect fish and wildlife. Upon a determination by the department of the necessity for onsite investigation or upon the request for an onsite investigation by the affected parties, the department shall notify the affected parties that it shall make onsite investigation of the activity and shall make such investigation before it shall propose any measure necessary to protect the fish and wildlife.

Within 14 days of receipt of the department's proposals, the affected person shall notify the department in writing as to the acceptability of the proposals, except that this time may be extended by mutual agreement. If such proposals are not acceptable to the affected person, then that person shall so notify the department. Upon request the department shall meet with the affected person within seven days of receipt of notification or such time as may be mutually agreed upon for the purpose of developing proposals which are acceptable to the department and the affected person. If mutual agreement is not reached at such meeting a panel of arbitrators shall be established; provided, however, that the appointment of such panel may be deferred by mutual consent of the parties, the panel shall be established within seven days of such meeting and shall be composed of one representative of the department, one representative of the affected person, and a third person mutually agreed upon, or if no agreement can be reached, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall act as panel chairman. The panel shall have power to settle disagreements and make binding decisions regarding fish and wildlife modifications. Such arbitration shall be completed within 14 days from the day that the composition of the panel is established, unless the time is extended by mutual agreement. Expenses of the department representatives are to be borne by the department, expenses of the representative of the person who diverts or obstructs the natural flow or changes the bed of any river, stream or lake, or uses any material from the streambeds

1603 continued

shall be borne by such person; expenses of the chairman are to be paid one-half by each party.

It is unlawful for any person to commence any activity affected by this section until the department has found it will not substantially adversely affect an existing fish or wildlife resource or until the department's proposals, or the decision of panel of arbitrations, have been incorporated into such projects. If the department fails to act within 30 days of the receipt of notice, the person may commence such activity.

It is unlawful for any person to engage in a project or activity affected by this section, unless such project or activity is conducted in accordance with the department's proposals or the decisions of the panel of arbitrators.

With regard to any project which involves routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required subsequent to the initial notification and agreement unless the work as described in the agreement is substantially changed, or conditions affecting fish and wildlife resources substantially change, and such resources are adversely affected by the activity conducted under the agreement. This provision shall be applicable in any instance where notice to and agreement with the department have been attained prior to the effective date of this chapter.

The provisions of this section shall not be applicable to emergency work necessary to protect life or property. Notification by the person performing such emergency work shall be made to the department within 14 days of commencement of such emergency work.

## DEPARTMENT OF FISH AND GAME

GOLDEN SHORE, SUITE 50  
LONG BEACH, CA 90802

(310) 590-5864



## RE: STREAMBED/LAKE ALTERATION NOTIFICATION

Dear Applicant/Interested Party:

Thank you for your request for information regarding the Streambed/Lake Alteration Notification and Agreement process. Enclosed is Notification Form FG-2023 for your use to notify the Department of your proposed project. Please complete the form and return it to the Environmental Services Division at the above address. For your reference, we have enclosed a copy of the Fee Schedule for Agreements and a copy of Fish and Game Code Sections 1600-1607.

The Department will not consider or accept your Notification as complete unless the following information is submitted:

. Notification Form FG-2023, must be completed as instructed and signed.

A. Completion of Part "A" of Notification. Complete the Notification as instructed, including the following information (use separate sheets whenever necessary to provide the detailed information requested):

1. Complete mailing address of applicant/agency and telephone number where you can be reached to answer any questions about your project;
2. Starting and ending dates of your project (estimates are acceptable);
3. The name of the Stream, River, or Lake involved and the major body of water it is either a tributary to or of (if you do not know the name of the streambed, please identify the closest watershed, stream or river the streambed is associated with);
4. An accurate location of the project site; please provide a detailed written description of the exact project location using common landmarks, highways, streets, etc.;
5. The Section, Township, Range and the USGS Quad Map Name and number in which your project is located;
6. The County Assessor's Parcel Number(s) where your project is located (contact your local county office for this information);
7. The property owner's name and address if different from the applicant;
8. The name and telephone number of a contact person/supervisor at the job site who is familiar with the project designs and the information provided in your Notification.

STREAMBED/LAKE ALTERATION NOTIFICATION  
Page Two

B. Completion of Part "B" of Notification, Sections 1 to 5 & Section 8.

Please fill in the form as accurately as possible and then follow the instructions listed below, using separate sheets whenever necessary to provide the detailed information requested.

1. Written description and final diagram of streambed/lake alteration and detailed description of proposed work. A concise written description, including specific plans and diagrams detailing the work to be done within the streambed, river, lake and all associated riparian vegetation. Be sure to specify in your written description, and highlight in your plans/diagram, the area and dimensions of the work area required for construction (i.e. the area of temporary disturbance) and, if applicable, the area and dimensions of permanent disturbance/impacts (i.e. the footprint of the construction). Include designs of all levees, culverts, bridges, channels, storm drain outfalls, utility crossings, etc. Be sure to state whether or not work within flowing or ponded water will be required. Specify the type of equipment to be used (e.g. type of heavy equipment, hand-operated power tools, hand tools). If blueprints of plans are to be provided, send copies reduced in size to 8 1/2" X 11" if possible.

C. Completion of Part "B" of Notification, Section No. 6. Mitigation plans and/or actions for reducing impacts to fish and wildlife resources, and their habitats, should be included if these documents have been prepared. This would include those impacts and mitigation measures identified in the preparation of a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for your project.

D. Completion of Part "B" of Notification, Section No. 7a and 7b. Copies of any permits, already obtained, that may be required from other regulatory agencies. Obtaining a streambed alteration agreement does not obviate the need for the Operator to obtain all necessary permits and approvals from any/all Federal, State, and local regulatory agencies.

1. For those projects which require environmental review under the California Environmental Quality Act (CEQA), the review process should be completed before a Streambed/Lake Notification form is submitted. We recommend you consult early with the Department during the draft stages of the CEQA document to ensure coordination with the Streambed/Lake Alteration Agreement.

EITHER: Provide a copy of the applicable sections of the final certified CEQA document which address biological, hydrological, and geological impacts, including associated mitigation requirements specified in the document [e.g.: Environmental Impact Report, Mitigated Negative Declaration, Negative Declaration, and any Biological Surveys);

OR: Provide a written explanation as to why your project does not require CEQA compliance and/or specifically indicate which CEQA Exemption applies.

STREAMBED/LAKE ALTERATION NOTIFICATION  
Page Three

2. Provide any other biological survey information available for your project, especially concerning the presence/absence of any rare, threatened, endangered species, or species of special concern to the State of California, which may be impacted by your project.
3. Provide copies of any required permits and conditions at the time of Notification or as they become available from the following agencies: U.S. Army Corps of Engineers (e.g. Nationwide or Section 404), California Regional Water Quality Control Board or the State Water Resources Control Board (e.g. 401 Certification or Permit to Discharge Storm Water), U.S. Fish and Wildlife Service (Federal Section 10A and 7 consultation), and County/City Public Works and Resource Management Departments. List those permits or approvals which still need to be obtained for your project and include any information or correspondence from those agencies listed above indicating why no permits are required.

I. Additional Information/Requests associated with Notification Form FG-2023.

- A. Appropriate fee, as determined from the enclosed Fee Schedule. The purpose of the fee is to fully recover Department costs associated with the administration of this program.
- B. A map showing the project location, in sufficient detail so persons unfamiliar with the area can readily find the site. A copy of a local road map or Thomas Guide page is useful for locating the specific area, and a copy of the appropriate section of the United States Geological Survey map is useful for determining land configuration relationships. Hand drawn maps indicating local streets and providing sufficient detail to locate the project site can be used if the above are not available.
- C. Photographs of the project site and streambed/lake, annotated to project plan, can be particularly useful in describing your proposed work within and adjacent to the streambed/lake, and the overall relationship of the project to the streambed/lake. Good photographs will help in the timely processing of your Alteration Agreement. (A recent vertical aerial photograph of the project site can also be extremely useful.) Be sure to specify the dates of all photographs.
- D. Supplemental Information to Minimize Impacts/Example(s). Depending on the geographical area of your proposed project, supplemental pages may attached to these instructions, providing you with additional information in completing Notification Form FG-2023, and in designing your project to minimize impacts to local fish and wildlife resources. If no "Supplemental" page(s) are attached, please complete the Streambed/Lake Alteration Notification Form as already instructed.

STREAMBED/LAKE ALTERATION NOTIFICATION  
Page Four

*If the Department determines, by review of the submitted materials or other current information, threatened or endangered plant or animal species may be present at the project site, the following items may be required:*

*a. Section 10A Permit and/or Section 7 - A section 10A Permit or Section 7 consultation may be required by the U.S. Fish and Wildlife Service for take of federally listed threatened or endangered species. If you are not sure the permit or consultation is required, contact the U.S. Fish and Wildlife Service.*

*b. California Endangered Species Act-Memorandum of Understanding (MOU), previously called a 2081 Permit - A CESA MOU or documentation of consultation may be required from the Department under the California Endangered Species Act (Fish and Game Code Section 2081 - 2090).*

Please complete the enclosed Notification Form as instructed and submit the required documents/information, along with the appropriate fee, to the California Department of Fish and Game, Environmental Services Division, 330 Golden Shore, Suite 50, Long Beach, California 90802.

The requested information is necessary for the Department to assess potential impacts of the proposed project on fish and wildlife resources. Once your notification is received and accepted you may be contacted regarding a field inspection. Failure to provide the requested information may delay the acceptance and processing of your Notification Form FG-2023, which could delay the start or completion of your Agreement and/or project.

If you have any questions or are unable to provide the required information, please contact the Environmental Services Division at (310) 590-5864, prior to submitting your Streambed/Lake Alteration Notification Form FG-2023.

Environmental Services  
Region 5

Attachments

## FEE SCHEDULE FOR STREAMBED/LAKE ALTERATION AGREEMENTS

Fees are charged pursuant to Title 14, California Code of Regulations, Section 699.5 as summarized below.

1. 1601 APPLICATIONS from "Public Agencies" (Cost includes \$132.00 non-refundable application fee);
  - a. Projects costing less than \$25,000 ——— FEE = \$ 132.00
  - b. Projects costing from \$25,000 to \$500,000 — FEE = \$ 662.00
  - c. Projects costing more than \$500,000 ——— FEE = \$ 1,191.00
2. 1601 ROUTINE MAINTENANCE ACTIVITIES by Public Agencies if performed under a Memorandum of Understanding (MOU) with the Department. Projects under this subsection pertain to those waterways under prior 1601 agreement upon which public agencies propose to perform routine maintenance projects;
  - a. For the first 20 maintenance projects ——— FEE = \$ 111.00 EACH
  - b. For 21 through 40 maintenance projects ——— FEE = \$ 88.00 EACH
  - c. For more than 40 maintenance projects ——— FEE = \$ 67.00 EACH
3. 1603 APPLICATIONS - Private (excluding commercial gravel and timber harvest). Cost includes \$132.00 non-refundable application fee;
  - a. Projects costing less than \$25,000 ——— FEE = \$ 132.00
  - b. Projects costing from \$25,000 to \$500,000 — FEE = \$ 662.00
  - c. Projects costing more than \$500,000 ——— FEE = \$ 1,191.00
4. 1603 APPLICATIONS for GRAVEL OPERATIONS;
  - a. Cost per application ——— FEE = \$ 530.00
5. 1603/1606 APPLICATIONS - TIMBER HARVEST, cost per application;
  - a. with 1 or 2 stream encroachments ——— FEE = \$ 530.00
  - b. with 3 or 4 stream encroachments ——— FEE = \$ 315.00
  - c. with 5 to 9 stream encroachments ——— FEE = \$ 378.00
  - d. with 10 or more stream encroachments ——— FEE = \$ 420.00
6. UNUSUAL PROJECT APPLICATIONS - Public or private projects which are unusually extensive and/or protracted, including but not limited to projects that (1) involve more than one departmental administrative region, or (2) involve more than 15 streams (excluding timber harvest applications), shall be charged fees under the following provisions;
  - a. The project sponsor shall submit the appropriate application fee required in the above fee schedule. Should this application fee be insufficient to defer the department's costs, then the department and the project sponsor shall arrange for a billing schedule to recover the department's additional project-related costs.
7. EXTENSIONS OF 1601/1603 AGREEMENTS - One Year Time Extension (excluding gravel operations). For the purpose of this subsection, extensions include those agreements which expire before completion of the project and which have no changes in the work described in the original agreement. If the agreement expires prior to a request for an extension, a new notification will be required and all appropriate fees will be charged;
  - a. Per Request for Renewal of a One-Year Extension - FEE = \$ 109.00
8. AMENDMENTS (Requested changes) TO EXISTING 1601/1603 AGREEMENTS;
  - a. 50 % of the initial fee of the existing agreement will be charged for each amendment requiring a change in the original agreement.



Department has 30 days from date of receipt of a completed application in which to make its recommendations. This time period does not begin until the department receives the appropriate fee (see attached schedule).

T.H.P. No. \_\_\_\_\_

Notification No. \_\_\_\_\_ Received \_\_\_\_\_

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF FISH AND GAME

NOTIFICATION OF REMOVAL OF MATERIALS AND/OR ALTERATION  
OF LAKE, RIVER, OR STREAMBED BOTTOM, OR MARGIN

APPLICANT Pursuant to Sections 1601-1607 of the California Fish and Game Code

I, \_\_\_\_\_ of \_\_\_\_\_  
Name of Applicant Mailing Address

representing \_\_\_\_\_  
Name and address of Individual, Agency, Company, etc. owning property or doing work.

Hereby notify the California Department of Fish and Game of operations to be carried out by or for me

from \_\_\_\_\_ to \_\_\_\_\_ on or affecting  
Starting Date Ending Date

\_\_\_\_\_ of \_\_\_\_\_ County, tributary to \_\_\_\_\_  
Name of Stream, River, or Lake Major Water Body

located \_\_\_\_\_  
Distance and Direction to Landmarks

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

USGS Map \_\_\_\_\_ Co. Assessor's Parcel No. \_\_\_\_\_

Property owners name and address (if different from applicant) \_\_\_\_\_

\_\_\_\_\_ is responsible for operations at the site.  
Name of Person to Be Contacted at Site During Operations

He can be reached at \_\_\_\_\_  
Mailing Address Telephone

3. Description of operation 1. The nature of said operations will be as follows:

Check all squares which apply.

- |  |   |
|--|---|
| <input type="checkbox"/> Erosion, sand, gravel, and/or boulder removal or displacement | <input type="checkbox"/> Timber harvesting or any related activity required for harvesting timber |
| <input type="checkbox"/> Water diversion or impoundment                                | <input type="checkbox"/> Temporary, recreational or irrigation dam                                |
| <input type="checkbox"/> Mining—other than aggregate removal                           | <input type="checkbox"/> Fill or spoil in bed, bank, or channel                                   |
| <input type="checkbox"/> Road or bridge construction                                   | <input type="checkbox"/> Other—Describe below   |
| <input type="checkbox"/> Levee or channel construction                                 |   |

2. Type of material removed, displaced or added ☐ Soil ☐ Sand ☐ Gravel ☐ Boulders  
Volume \_\_\_\_\_

3. Equipment to be used in the described site \_\_\_\_\_

4. Use of water (i.e., domestic, irrigation, gravel, washing, etc.) \_\_\_\_\_ Quantity \_\_\_\_\_

5. Describe type and density of vegetation to be affected, and estimate area involved. \_\_\_\_\_

6. What actions are proposed to protect fish and wildlife resources and/or mitigate for project impacts? \_\_\_\_\_

7a. Does project have a local or state lead agency or require other permits? ☐ Yes ☐ No

7b. If 7a answer is yes, please attach or identify any available environmental document.

7c. For state-designated wild and scenic rivers, a determination of the project's consistency with the California Wild and Scenic Rivers Act must be made by the Secretary for Resources. Until the Secretary determines the project is consistent with the Act, the Department cannot issue a valid agreement. A tentative agreement will be issued, conditioned upon a finding of consistency by the Resources secretary.

7d. THIS AGREEMENT IS NOT INTENDED AS AN APPROVAL OF A PROJECT OR OF SPECIFIC PROJECT FEATURES BY THE DEPARTMENT OF FISH AND GAME. INDEPENDENT REVIEW AND RECOMMENDATIONS WILL BE PROVIDED BY THE DEPARTMENT AS APPROPRIATE ON THOSE PROJECTS WHERE LOCAL, STATE, OR FEDERAL PERMITS OR OTHER ENVIRONMENTAL REPORTS ARE REQUIRED.

Briefly describe proposed construction methods. Attach diagram or sketch of the location of your operation to clearly indicate the stream, other water and access and distance from named public road. Indicate locked gates with an "X". Show existing features with a solid line (————) and proposed features with a broken line (-----). Show compass direction. Attach larger scale map if necessary.

Signature of Applicant

Date

**Appendix 11: State Water Resources Control Board NOI Checklist**

**STATE WATER RESOURCES CONTROL BOARD**

U. R. BONDERSON BUILDING  
P STREET  
SACRAMENTO, CALIFORNIA 95812-01977  
(916) 657-0757  
(916) 657-1011



RECEIVED  
APR 2 1996

TO: STORM WATER DISCHARGER

SUBJECT: CHECK LIST FOR SUBMITTING A NOTICE OF INTENT

In order for the State Water Resources Control Board to expeditiously process your Notice of Intent (NOI), the following items must be submitted:

1. \_\_\_\_\_ NOI with all applicable sections filled out and signed by the owner/operator;
2. \_\_\_\_\_ Check made out to the "State Water Resources Control Board" with the appropriate fee; and
  - County Fees: \$250.00 OR \$500.00
  - Dairy Farms: \$2,000.00
3. \_\_\_\_\_ Site map displaying the layout of premises.

Please return the above items to the address below. If you have any questions regarding this matter, please contact us at (916) 657-0757.

State Water Resources Control Board  
Division of Water Quality  
Attn: Storm Water Permit Unit  
P.O. Box 1977  
Sacramento, CA 95812-1977

## STATE WATER RESOURCES CONTROL BOARD

PAUL R. SCANDERSON BUILDING  
901 P STREET  
P.O. BOX 100  
SACRAMENTO, CALIFORNIA 95812-0100  
(916) 657-0941  
FAX: (916) 657-0932



OCT 15, 1992

TO: INTERESTED PARTIES

## AMENDED GENERAL INDUSTRIAL ACTIVITIES STORM WATER PERMIT

Enclosed is an updated copy of the General Industrial Activities Storm Water Permit (General Permit) adopted by the State Water Resources Control Board (State Water Board) on November 19, 1991 and amended on September 17, 1992. Dischargers who have not already filed their Notice of Intent (NOI) to comply with the terms of the General Permit and the first annual fee must submit a NOI accompanied by the first annual fee to the State Water Board in order to be covered by this General Permit. The NOI and fee must be sent to the following address:

State Water Resources Control Board  
Division of Water quality  
Attention: Storm Water Permit Unit  
P.O. Box 1977  
Sacramento, CA 95812-1977

The NOI will only be processed if accompanied by the appropriate fee. The fee will be either \$250.00 or \$500.00. Enclosure 1 describes those areas in which the \$250.00 annual fee applies. Dischargers in all other areas of the State must pay the \$500.00 annual fee.

Attachment 2 to the Permit lists the nine California Regional Water Quality Control Boards' (Regional Water Boards) addresses and telephone numbers. You should discuss any questions or issues which relate to the implementation of the General Permit with Regional Water Board staff.

The updated General Permit contains amended monitoring and reporting requirements (Section B of the General Permit) that replace the original monitoring and reporting requirements. The new monitoring and reporting requirements have been simplified and now offer several sampling and analysis exemption options. Existing dischargers must develop and implement a monitoring program by January 1, 1993. New dischargers (those beginning industrial activity after January 1, 1993) must develop and implement a monitoring program prior to the commencement of industrial activity.

OCT 15, 1992

The amended monitoring and reporting provisions require that group monitoring proposals be submitted to the appropriate Regional Water Board(s) by December 1, 1992 and in subsequent years by August 1. Groups with participants within the boundaries of more than one Regional Water Board must send their group monitoring proposal to the State Water Board's Executive Director for approval to the above address.

Also, we would appreciate it if you would inform other industries similar to your own of the need to obtain a storm water permit. If you know of industries that need to obtain a permit but may be unaware of the State's program, please ask them to call Division of Water Quality staff at the telephone number shown below.

If you have any questions regarding this General Permit, please telephone the industrial activities storm water permit information line at (916) 657-0919.

Sincerely,

/s/

Walt Pettit  
Executive Director

Enclosures (2)

January 31, 1995

Enclosure 1

AREAS OF THE STATE IN WHICH THE \$250.00 ANNUAL FEE APPLIES

<u>Municipality</u>	<u>Permitted Area</u>
1. Alameda County	The permitted area consists of the westerly side of the county which drains to San Francisco Bay.
2. Bakersfield	The permitted area consists of the city of Bakersfield and the unincorporated portions of Kern County within the city limits.
3. Contra Costa County	The permitted area consists of the entire county except for the community of Brentwood.
4. El Dorado County	The permitted area consists of the easterly side of the county which drains into Lake Tahoe.
5. Fresno County	The permitted area consists of the cities of Fresno and Clovis, and the California State University of Fresno.
6. Los Angeles County	The permitted area consists of the five hydrologic subbasins which drain into the Pacific Ocean as follows: Santa Monica Bay, Upper Los Angeles River--including Sycamore Channel, Upper San Gabriel River, Lower Los Angeles River, and Lower San Gabriel River--including Santa Clarita Valley. The permit does not cover the cities of Avalon, Lancaster, and Palmdale.
7. Orange County	The permitted area consists of the entire county.
8. Placer Counties	The permitted area consists of the easterly side of the county which drains into Lake Tahoe.
9. Riverside County	The permitted area is delineated by the San Bernardino County line on the north and northwest, the Orange County line on the west, the San Diego County line on the south, and the Santa Ana/Colorado River Basin Regional Board's boundary line on the east (mountain crest).

10. Sacramento County      The permitted area consists of the entire county except for the incorporated city of Isleton.
11. San Bernardino County      The permitted area is delineated by the Santa Ana/Lahontan Regional Board's boundary line on the north and northeast, the Santa Ana/Colorado River Basin Regional Board's boundary line on the east, the San Bernardino/Riverside County boundary line on the south and southeast, the San-Bernardino/ Orange County boundary line on the southwest, and the San Bernardino/Los Angeles County boundary line on the west.
12. San Diego County      The permitted area is delineated by the San Diego County lines on the north and south, the Pacific Ocean on the west, and the San Diego/Colorado River Basin Regional Board's boundary on the east (mountain crest).
13. San Joaquin      The permitted area consists of the city of Stockton and the unincorporated portions of the county within the city limits.
14. San Mateo County      The permitted area consists of the entire county.
15. Santa Clara County      The permitted area consists of the Santa Clara Valley Basin portion of the county containing eleven hydrologic subbasins which discharge into watercourses, which in turn flow into South San Francisco Bay.
16. Stanislaus      The permitted area consists of the city of Modesto and the unincorporated portions of the county within the city limits.
17. Ventura County      The permitted area consists of the cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks, as well as the unincorporated areas of Ventura County--defined as urban by the U.S. Census Bureau.

STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD)  
901 P STREET  
SACRAMENTO, CA 95814

FACT SHEET  
FOR

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES)  
GENERAL PERMIT (AS AMENDED SEPTEMBER 17, 1992) FOR  
STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES  
EXCLUDING CONSTRUCTION ACTIVITIES

BACKGROUND

In 1972, the Federal Water Pollution Control Act (also referred to as the Clean Water Act (CWA)) was amended to provide that the discharge of pollutants to waters of the United States from any point source is effectively prohibited, unless the discharge is in compliance with a NPDES permit. The 1987 amendments to the CWA added Section 402(p) which establishes a framework for regulating municipal and industrial storm water discharges under the NPDES program. On November 16, 1990, the U.S. Environmental Protection Agency (USEPA) published final regulations that establish application requirements for storm water permits. The regulations require that storm water associated with industrial activity (industrial storm water) that discharges either directly to surface waters or indirectly, through municipal separate storm sewers, must be regulated by a NPDES permit. This includes the discharge of "sheet flow" through a drainage system or other conveyance.

The federal regulations allow authorized states to issue general permits or individual permits to regulate industrial storm water discharges. The State Water Board has elected to issue a statewide general permit that will apply to all industrial storm water discharges requiring a permit except construction activity. A separate statewide general permit has been issued for construction activity. To obtain authorization for continued and future industrial storm water discharge, owners, or operators when the owners do not operate the facility (dischargers), must submit a Notice of Intent (NOI) to be covered by this general permit. This approach is consistent with the four-tier permitting strategy described in federal regulations, i.e., Tier 1, Baseline Permitting. Tier 1, Baseline Permitting, enables the State to begin reducing pollutants in industrial storm water in the most efficient manner possible. Thus, as soon as possible, all dischargers will be required by this general permit to begin implementing practices to prevent storm water pollution. Time will not be lost preparing detailed individual and general permit applications before implementing practices to prevent storm water pollution.



The State Water Board has elected not to accept USEPA's group application approach or to adopt general permits for specific industrial groups at this time. All dischargers participating in group applications must either obtain coverage under this general permit or apply for an individual permit by October 1, 1992. The State Water Board bases this decision on the following factors:

1. USEPA does not allow the states to review and approve the group applications.
2. Review of hundreds of USEPA model permits and preparation of hundreds of group-specific general permits is administratively burdensome and is inconsistent with the State Water Board's long-term permitting strategy.
3. Allowing the group application action in California would result in an inequitable and ineffective storm water permitting program. While group applicants would not be required to implement best management practices (BMPs) to reduce pollutants in storm water discharge until they receive a permit (probably several years), dischargers under the State Water Board's general permit will be required to implement BMPs on October 1, 1992.
4. The State Water Board is providing a group monitoring alternative, somewhat similar to the group application monitoring requirements, that should provide reduced monitoring costs to the dischargers.

When USEPA issues model permits for any groups, the Regional Water Boards may consider, as appropriate, adopting group permits based upon the USEPA model permits.

The general permit accompanying this fact sheet is intended to regulate industrial storm water discharges. The consolidation of many discharges under one general permit will greatly reduce the otherwise overwhelming administrative burden associated with start up of a new program to regulate industrial storm water discharges. It is also the least costly way for a discharger to obtain a permit and comply with USEPA's regulations. It is expected that as the storm water program develops, the Regional Water Boards will issue individual and general permits which regulate discharges specific either to industrial categories or to watersheds. As new permits are adopted, dischargers subject to those permits will no longer be regulated by this general permit. As permits are reissued for discharges of treated wastewater that are currently regulated by a NPDES permit, Regional Water Boards may include storm water provisions in the revised permit.

This general permit generally requires dischargers to:

1. Eliminate most non-storm water discharges (including illicit connections) to storm water sewer systems;
2. Develop and implement a storm water pollution prevention plan; and
3. Perform monitoring of discharges to storm water sewer systems.

**TYPES OF STORM WATER DISCHARGES COVERED BY THIS GENERAL PERMIT**

This general permit is intended to cover all new or existing discharges composed entirely of industrial storm water from facilities required by federal regulations to obtain a permit. This includes all facilities that are participating in a group application. The State Water Board notes that officials from USEPA have stated that the regulations include only those facilities which are operated by industries whose primary function is described in the categories listed below. The State Water Board does not agree with this interpretation of the regulations, as the regulations are based on the primary activity at each industrial facility, and not the primary business of the owner or operator of the facility. The State Water Board concludes that, based on its interpretation of the federal regulations, and its duty and authority to protect water quality within California, the general permit must extend to all facilities which are described in the categories below, whether the activity is primary or is auxiliary to the owner or operator of the facility. For example, even though a school district's primary function is education, a facility which it operates for vehicle maintenance of school buses is a transportation facility which is covered by this general permit.

Discharges from facilities and commercial enterprises which are not required by federal regulations to obtain a permit will not be covered by this general permit unless designated by the Regional Water Board.

Discharges requiring a permit are listed by category in 40 Code of Federal Regulations (CFR) Section 122.26(b)(14) (Federal Register, Volume 55 at Pages 48065-66). The facilities can be publicly or privately owned. A general description of these categories are:

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR Subchapter N);
2. Manufacturing facilities;
3. Mining and Oil and Gas facilities;
4. Hazardous waste treatment, storage, or disposal facilities;

5. Landfills, land application sites, and open dumps that receive industrial waste;
6. Recycling facilities such as metal scrap yards, battery reclaimers, salvage yards, automobile yards;
7. Steam electric generating facilities;
8. Transportation facilities;
9. Sewage treatment plants;
10. Construction activity (covered by a separate general permit); and
11. Certain facilities if materials are exposed to storm water.

For the most part, these facilities are identified in the federal regulations by Standard Industrial Classification (SIC). Attachment 1 to the general permit contains a more detailed description including SIC codes of industries to be regulated.

#### Category 1 Dischargers

The following categories of facilities currently have storm water effluent limitations guidelines for at least one of their subcategories. They are cement manufacturing (40 CFR Part 411); feedlots (40 CFR Part 412); fertilizer manufacturing (40 CFR Part 418); petroleum refining (40 CFR Part 419); phosphate manufacturing (40 CFR Part 422); steam electric power generation (40 CFR Part 423); coal mining (40 CFR Part 434); mineral mining and processing (40 CFR Part 436); ore mining and dressing (40 CFR Part 440); and asphalt emulsion (40 CFR Part 443). A facility that falls into one of these general categories should examine the effluent guidelines to determine if it is categorized in one of the subcategories that have storm water effluent guidelines. If a facility is classified as one of those subcategories, that facility is subject to the standards listed in the CFR for that category, and is subject to this general permit. This general permit contains additional requirements (see Section B.7) for facilities with storm water effluent limitations guidelines.

#### Category 5 Dischargers

Inactive or closed landfills, land application sites, and open dumps that have received industrial wastes (Category 5) may be subject to this general permit unless the storm water discharges from the sites are already regulated by a NPDES permit issued by the appropriate Regional Water Board. Owners or operators of closed landfills that are regulated by waste discharge requirements (WDRs) may be required to comply with this general permit. In some cases, it may be appropriate for closed landfills to be covered by the State Water Board's General Construction Activity Storm Water Permit during closure activities. The appropriate Regional Water Board should be contacted for this determination.

### Category 11 Dischargers

Dischargers in Category 11 that believe they are not subject to this general permit because of no exposure should conduct a facility inspection and document that the following minimum conditions have been met:

1. All illicit connections to the storm drainage system have been eliminated;
2. All materials are completely contained at all times;
3. All unhoused equipment associated with industrial activity is not exposed to storm water; and
4. All emissions from stacks or exhaust systems and emissions of dust or particulates do not contribute significant quantities of pollutants to storm water discharge.

Dischargers should evaluate all direct and indirect pathways of exposure. Dischargers are not required to submit this documentation but are advised to keep the above documentation on site.

In a recent ruling, the Ninth Circuit Court of Appeals invalidated the exemption granted by USEPA for storm water discharges from facilities in Category 11 that do not have exposure and remanded the regulation to USEPA for further action. The State Water Board, at this time, is not requiring storm water discharges from facilities in Category 11 that do not have exposure to be covered by this general permit. Instead, the State Water Board will await future USEPA or court action clarifying the types of storm water discharges that must be permitted. If necessary, the State Water Board will reopen the general permit to accommodate such a clarification.

### TYPES OF DISCHARGES NOT COVERED BY THIS GENERAL PERMIT

- o CONSTRUCTION ACTIVITY: Discharges from construction activity of five acres or more, including clearing, grading and excavation. A separate general permit was adopted on August 20, 1992 for this industrial category.
- o FACILITIES LOCATED IN SANTA CLARA COUNTY WHICH DRAIN TO SAN FRANCISCO BAY: The San Francisco Bay Regional Water Board has adopted a general permit for discharges from facilities located in Santa Clara County which drain to San Francisco Bay.
- o FACILITIES COVERED BY INDIVIDUAL PERMITS: While it is the intent of the State Water Board, in order to reduce

administrative burden, to regulate most discharges of industrial storm water by this general permit, dischargers may choose to apply for an individual NPDES Permit. Permit application requirements are set forth in the USEPA regulations at 40 CFR Section 122.21.

- o FACILITIES WHICH HAVE NPDES PERMITS CONTAINING STORM WATER PROVISIONS: The NPDES permits for some industrial waste water discharges already contain requirements regulating storm water. These discharges are in compliance with storm water regulations and will not be regulated by this general permit. When the existing permit for such discharges expires, a Regional Water Board may authorize coverage under this permit, or another general permit, or issue a new permit consistent with the new federal and State storm water requirements.
- o FACILITIES DETERMINED INELIGIBLE BY REGIONAL WATER BOARDS: Regional Water Boards may determine that discharges from a facility or groups of facilities, otherwise eligible for coverage under this general permit, have potential water quality impacts that may not be addressed by this general permit. In such cases, a Regional Water Board may require such dischargers to apply for and obtain an individual permit or a different general permit. Interested persons may petition the appropriate Regional Water Board to issue individual permits. The applicability of this general permit to such discharges will be terminated upon adoption of an individual permit or a different general permit.
- o FACILITIES WHICH DO NOT DISCHARGE STORM WATER TO WATERS OF THE UNITED STATES: The discharges from the following facilities are not required to obtain a permit:
  - 1. FACILITIES THAT DISCHARGE STORM WATER TO MUNICIPAL SANITARY SEWER SYSTEMS: Facilities that discharge storm water to municipal sanitary sewer systems or combined sewer systems are not required by federal regulations to obtain a storm water permit or to submit a NOI to comply with this general permit. (It should be noted that many municipalities have sewer use ordinances that prohibit storm drain connections to their sanitary sewers.)
  - 2. FACILITIES THAT DO NOT DISCHARGE STORM WATER TO SURFACE WATERS OR SEPARATE STORM SEWERS: Dischargers that capture all industrial storm water runoff from their facilities and treat and/or dispose of it with their process waste water, and dischargers that dispose of their industrial storm water to evaporation ponds, percolation ponds, or combined sewer systems, are not required to obtain a storm water permit. To avoid liability, the discharger should

be certain that a discharge of industrial storm water to surface waters will not occur under any circumstances.

- o LOGGING ACTIVITIES: Logging activities described under SIC 2411.
- o MINING AND OIL AND GAS FACILITIES: Oil and gas facilities that have not released storm water resulting in a discharge of a reportable quantity (RQ) for which notification is or was required pursuant to 40 CFR Parts 110, 117, and 302 at any time after November 19, 1988 are not required to be permitted unless the industrial storm water discharge contributed to a violation of a water quality standard. Mining facilities that discharge storm water that does not come into contact with any overburden, raw materials, intermediate product, finished product, by-product, or waste product located at the facility are not required to be permitted. These facilities must obtain a storm water permit if they have a new release of storm water resulting in a discharge of a RQ.
- o FACILITIES ON INDIAN LANDS: Discharges from facilities on Indian lands will be regulated by the USEPA.

#### NOTIFICATION REQUIREMENTS

Dischargers of facilities described in the section entitled "Types of Storm Water Discharges Covered by This General Permit", must obtain a permit to discharge storm water. A NOI must be submitted for each individual facility to obtain coverage. Certification of the NOI signifies that the discharger intends to comply with the provisions of the general permit.

Dischargers that do not submit a NOI for facilities must submit an application for an individual permit. USEPA's regulations (40 CFR 122.21 [a]) exclude dischargers covered by a general permit from requirements to submit permit applications. The NOI requirements of this general permit are intended to establish a mechanism which can be used to establish a clear accounting of the number of dischargers complying with the general permit, their identities, the nature of operations at the facilities, and location.

Dischargers of existing facilities in California were required to obtain coverage by submitting a completed NOI no later than March 30, 1992. Dischargers of new facilities (those beginning operations after March 30, 1992) must submit a NOI 30 days prior to the beginning of operations. The NOI must be sent to the

following address:

California State Water Resources Control Board  
Division of Water Quality  
P. O. Box 1977  
Sacramento, CA 95812-1977  
Attention: Storm Water Permitting Unit

Facilities that do not obtain coverage under this general permit or by an individual NPDES permit for a discharge of industrial storm water, by the appropriate deadlines, will be in violation of the Clean Water Act and the California Water Code. There are substantial penalties which can be pursued by the State or Regional Water Boards, USEPA, or by private citizens for violation of these laws. Facilities that miss the appropriate deadlines for filing their NOIs may file their NOIs late but will be in violation for the period they were late. In general, late filers should develop and implement their SWPPP and Monitoring Plan no more than 30 days following submittal of their late NOI. Dischargers that cannot develop and implement these plans within 30 days should notify the appropriate Regional Water Board.

#### DESCRIPTION OF GENERAL PERMIT CONDITIONS

##### Prohibitions

This general permit authorizes the discharge of industrial storm water from industrial facilities that are required to obtain industrial storm water permits. This general permit prohibits most non-storm water discharges (including illicit connections) and discharges containing hazardous substances in storm water in excess of reportable quantities established at 40 CFR 117.3 and 40 CFR 302.4. Allowable non-storm water discharges are discussed below under the heading Storm Water Pollution Prevention Plan (SWPPP).

##### Effluent Limitations

Permits for discharges of industrial storm water must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require control of pollutant discharges that use best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) to reduce pollutants, and any more stringent controls necessary to meet water quality standards.

USEPA regulations (40 CFR Subchapter N) establish numeric effluent limitations for storm water discharges from facilities in ten industrial categories. For these facilities, the numeric

effluent limitations constitute BAT and BCT for the specified pollutants, and must be met to comply with this general permit.

For storm water discharges from facilities not among the ten industrial categories listed in 40 CFR Subchapter N, it is not feasible at this time to establish numeric effluent limitations. The reasons why establishment of numeric effluent limitations is not feasible are discussed in detail in State Water Board Orders No. WQ 91-03 and WQ 91-04. Therefore, the effluent limitations contained in this general permit are narrative and include best management practices (BMPs).

These effluent limitations constitute compliance with the requirements of the Clean Water Act.

The narrative effluent limitations in this general permit include prohibitions against most discharges of non-storm water. They require dischargers to control and eliminate the sources of pollutants in storm water through the development and implementation of storm water pollution prevention plans. The plans must include best management practices, which may include treatment of storm water discharges along with source reduction, which will constitute BAT and BCT and will achieve compliance with water quality standards. If water quality standards are not met, the appropriate Regional Water Board may specify any additional effluent limitations necessary to meet the specific standards.

#### Storm Water Pollution Prevention Plans (SWPPP)

This general permit requires development and implementation of SWPPP emphasizing storm water BMPs. This approach provides the flexibility necessary to establish controls which can appropriately address different sources of pollutants at different facilities. Existing dischargers must develop and implement a SWPPP by October 1, 1992. New dischargers must submit a NOI, and develop and implement a SWPPP prior to commencement of operations.

All dischargers must prepare, retain on site, and implement a SWPPP. The SWPPP has two major objectives: (1) to help identify the sources of pollution that affect the quality of industrial storm water discharges; and (2) to describe and ensure the implementation of practices to reduce pollutants in industrial storm water discharges.

The SWPPPs are considered reports available to the public under Section 308(b) of the Clean Water Act. Required elements of a SWPPP are: (1) source identification, (2) practices to reduce pollutants, (3) an assessment of potential pollution sources, (4) a materials inventory, (5) a preventive maintenance program,



(6) spill prevention and response procedures, (7) general storm water management practices, (8) employee training, (9) recordkeeping, and (10) elimination of unpermitted non-storm water discharges to the industrial storm water system. Elimination of non-storm water discharges is a major element of the SWPPP. Non-storm water discharges include a wide variety of sources including illicit connections (i.e., floor drains), improper dumping, spills, or leakage from storage tanks or transfer areas. Non-storm water discharges can contribute a significant pollutant load to receiving waters. Measures to control spills, leakage, and dumping can often be addressed through BMPs. Non-storm water discharges and industrial storm water mixed with non-storm water prior to discharge should be covered by a separate NPDES Permit.

There are many discharges that may occur at a facility that are not related to industrial activity (i.e., air conditioning condensate, fire control water line testing, landscaping overflow, etc.). It is not the intent of this Permit to prohibit all non-industrial-related discharges. Non-industrial-related discharges may be appropriate if they:

1. Are not subject to local Regional Water Board permitting requirements.
2. Do not contain significant quantities of industrial-related pollutants.
3. Are infeasible to eliminate.
4. Are identified and addressed in the SWPPP and monitoring program.
5. Are in compliance with local municipal storm water permittee requirements.

#### Monitoring Program

The general permit requires development and implementation of a monitoring program. Existing dischargers must develop and implement a monitoring program by January 1, 1993. New dischargers must develop and implement a monitoring program prior to commencement of operations, but no earlier than January 1, 1993. The objectives of the monitoring program are to (1) demonstrate compliance with the permit, (2) aid in the implementation of the SWPPP, and (3) measure the effectiveness of the BMPs in removing pollutants in industrial storm water discharge.

All dischargers (with the exception of inactive mining operations) are required to:

1. Perform visual observations during the dry and wet seasons. Dry season observations are required to verify that non-storm water discharges have been eliminated. Wet season

observations are required to aid dischargers in evaluating the effectiveness of the SWPPP.

2. Conduct an annual inspection to determine compliance with this general permit.
3. Perform or participate in a sampling and analysis program. Analysis must include pH, total suspended solids (TSS), total organic carbon (TOC), specific conductance, toxic substances, and other pollutants which are likely to be present in storm water discharges in significant quantities. Dischargers subject to federal storm water effluent limitations guidelines in 40 CFR Subchapter N must also sample and analyze for any pollutant specified in the appropriate category of 40 CFR Subchapter N.

Dischargers are not required to collect samples or perform visual observations during adverse climatic conditions. Sample collection and visual observations are required only during scheduled facility operating hours or within two hours after scheduled facility operating hours. Visual observations are required only during daylight hours. Dischargers that are unable to collect any of the required samples or visual observations because of the above circumstances must provide documentation to the Regional Water Board in their annual report.

Dischargers may be exempt from performing sampling and analysis if they: (1) do not have areas of industrial activity exposed to storm water, (2) receive certification from a local agency which has jurisdiction over the storm sewer system that the discharger has developed and implemented an effective SWPPP and should not be required to sample, or (3) receive an exemption from the appropriate Regional Water Board. Dischargers must always perform sampling and analysis for any pollutant specified in storm water effluent limitations guidelines.

Local agencies that wish to provide certifications to dischargers within their jurisdiction should develop a certification program that clearly indicates the certification procedures and criteria used by the local agency. At a minimum, these programs should include site inspections, a review of the dischargers' SWPPP, and a review of other records such as monitoring data, receiving water data, etc. It is recommended that the certification program be sent to the local Regional Water Board for review and comment prior to implementation.

#### Group Monitoring

Each discharger may either perform sampling and analysis individually or participate in a group sampling program. A group monitoring program may be developed either by an entity

representing a group of similar facilities or by a local agency which holds a storm water permit for a municipal separate storm sewer system, for industrial facilities within its jurisdiction. The entity or local agency responsible for the group monitoring program must perform sampling at a minimum of 20 percent of the facilities within the group (and at least four dischargers in a group of less than 20 dischargers). The facilities selected for sampling must be representative of all the facilities in the group. Dischargers subject to federal effluent limitations guidelines in 40 CFR Subchapter N must individually sample and analyze for pollutants listed in the appropriate federal regulations.

Facilities within a group may be located within the jurisdiction of more than one Regional Water Board. Multi-Regional Water Board groups must receive the approval of the State Water Board Executive Director (with the concurrence of the appropriate Regional Water Boards). Groups may request variance from the minimum 20 percent (and a minimum of four facilities for groups of less than 20 dischargers) with adequate justification. As a minimum, the justification should: (1) explain the need for the variance, and (2) show that the variance, if approved, will result in representative monitoring data.

Each entity or local agency responsible for group sampling must: (1) ensure that the monitoring is done correctly, (2) recommend appropriate BMPs to reduce pollutants in storm water discharges from group participants, and (3) evaluate and report the monitoring data to the appropriate Regional Water Board(s).

All group monitoring plans are subject to Regional Water Board(s) review. Consistent with the four-tier permitting strategy described in the federal regulations, the Regional Water Board(s) will evaluate the data and results from group monitoring to establish future permitting decisions. As appropriate, Regional Water Board(s) may terminate or require substantial amendment to the group monitoring plans, dependent, in part, on the group's overall success in meeting the objectives of the Permit.

The State Water Board recognizes that the group monitoring option will result in fewer facilities monitored. The State Water Board believes that this is a desirable trade-off for the following reasons:

1. Review of monitoring data from all individual facilities is administratively burdensome.
2. Monitoring of fewer facilities, but with more parameters and better quality control, will result in more accurate and meaningful monitoring data.

3. Group monitoring is consistent with USEPA's four-tier permitting strategy.
4. As no numeric limits are specified in the Permit (with the exception of 40 CFR Subchapter N facilities), implementation of a SWPPP, performance of visual monitoring, and performance of an annual inspection are consistent with the minimum monitoring requirements of the CWA.
5. Data from group monitoring programs will be indicative of the effectiveness of BMPs to control pollution in storm water discharge. Additional BMPs, useful to the entire group, may be developed from the monitoring data.
6. A large percentage of dischargers are small businesses which do not have the regulatory sophistication, organizational structure, or resources to conduct an adequate individual monitoring program.

#### Retention of Records

The discharger is required to retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the NOI, for a period of five years from the date of measurement, report, or application. This period may be extended by the State and/or Regional Water Boards. All records are public documents.

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STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD)  
WATER QUALITY ORDER NO. 91-13-DWQ  
(AS AMENDED BY WATER QUALITY ORDER NO. 92-12-DWQ)  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
GENERAL PERMIT NO. CAS000001

WASTE DISCHARGE REQUIREMENTS (WDRS)  
FOR  
DISCHARGES OF STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITIES  
EXCLUDING CONSTRUCTION ACTIVITIES

The State Water Board finds that:

1. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency on November 16, 1990 (40 Code of Federal Regulations (CFR) Parts 122, 123, and 124). The regulations require specific categories of facilities, which discharge storm water associated with industrial activity (storm water), to obtain a NPDES permit and to implement Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate industrial storm water pollution.
2. This general permit shall regulate discharges of storm water from specific categories of industrial facilities identified in Attachment 1, excluding discharges covered by existing NPDES permits which already include provisions regulating discharges of storm water, discharges from construction activities, or discharges determined ineligible for coverage by this general permit by the California Regional Water Quality Control Boards (Regional Water Boards). Attachment 2 contains the addresses and telephone numbers of each Regional Water Board office.
3. All dischargers participating in group applications must either obtain coverage under this general permit or apply for an individual general permit by October 1, 1992. The State Water Board has elected not to accept USEPA's group application approach or to adopt general permits for industrial groups at this time.
4. This general permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control discharges of storm water to storm drain systems or other watercourses within their jurisdictions, as allowed by State and federal law.
5. To obtain authorization for continued and future storm water discharge pursuant to this general permit, owners, or operators when the owners does not operate the facility (dischargers), must submit a Notice of Intent (NOI) and appropriate fee to the State Water Board. Dischargers who

submit a NOI and appropriate fee are authorized to discharge storm water under the terms and conditions of this general permit.

6. If an individual NPDES general permit is issued to a discharger otherwise subject to this general permit, or an alternative general permit is subsequently adopted which covers storm water discharges regulated by this general permit, the applicability of this general permit to such discharges is automatically terminated on the effective date of the individual general permit or the date of approval for coverage under the subsequent general permit.
7. Effluent limitations, and toxic and effluent standards established in Sections 208(b), 301, 302, 303(d), 304, 306, 307, and 403 of the Federal Clean Water Act (CWA), as amended, are applicable to storm water discharges regulated by this general permit.
8. This action to adopt a NPDES general permit is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100, et seq.), in accordance with Section 13389 of the California Water Code.
9. The State Water Board adopted the California Ocean Plan on March 22, 1990, and the California Inland Surface Waters Plan and Enclosed Bays and Estuaries Plan on April 11, 1991. In addition, the Regional Water Boards have adopted and the State Water Board has approved Water Quality Control Plans (Basin Plans).

Discharges regulated by this general permit must be in compliance with the water quality standards in these Plans, and subsequent amendments thereto. The State Water Board shall, by April 1996, determine what further actions are appropriate to ensure that discharges subject to this general permit are in compliance with the numerical objectives in the Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan.

10. Federal regulations (40 CFR Subchapter N) establish numeric effluent limitations for storm water discharges from facilities in ten industrial categories.
11. For facilities which do not have established numeric effluent limitations for storm water discharges in 40 CFR Subchapter N, it is not feasible at this time to establish numeric effluent limitations. This is due to the large number of discharges and the complex nature of storm water discharges.

12. Implementation of the provisions of this general permit constitutes compliance with BAT/BCT requirements, and with requirements to achieve water quality standards.
13. Best Management Practices (BMPs) to control and abate the discharge of pollutants in storm water discharges are authorized where numeric effluent limits are infeasible and the BMPs are reasonably necessary to achieve compliance with effluent limitations or water quality standards.
14. Following adoption of this general permit, the Regional Water Boards shall enforce the provisions of this general permit including the monitoring and reporting requirements.
15. Following public notice in accordance with State and Federal law and regulations, the State Water Board, in a public hearing held September 3, 1991, heard, considered, and responded to all comments pertaining to this general permit.
16. This Order is a NPDES general permit in compliance with Section 402 of the Clean Water Act and shall take effect upon adoption by the State Water Board.

IT IS HEREBY ORDERED that all dischargers that file a NOI indicating their intention to be regulated under the provisions of this general permit shall comply with the following:

A. DISCHARGE PROHIBITIONS:

1. Discharges of material other than storm water, which are not otherwise regulated by a NPDES permit, to a storm sewer system or waters of the nation are prohibited.
2. Storm water discharges for those facilities listed in Category I of Attachment 1 of this general permit shall not exceed the numeric effluent limitations as specified in Federal Regulations (40 CFR Subchapter N). Dischargers subject to those regulations who do not have or are unable to obtain copies of the pertinent regulations from other sources (e.g., Government Printing Office) should contact the:  
  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 1977  
Sacramento, CA 95812-1977  
Attn: Storm Water Permitting Unit
3. Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.



4. Storm water discharges regulated by this general permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or 40 CFR Part 302.

B. RECEIVING WATER LIMITATIONS:

1. Storm water discharges to any surface or ground water shall not adversely impact human health or the environment.
2. Storm water discharges shall not cause or contribute to a violation of any applicable water quality standards contained in the California Ocean Plan, Inland Surface Waters Plan, Enclosed Bays and Estuaries Plan, or the applicable Regional Water Boards' Basin Plan.

C. PROVISIONS

1. All dischargers must submit an NOI and appropriate fee for each facility covered by this general permit in accordance with Attachment 3: Notice of Intent--General Instructions.
2. All dischargers must develop and implement a Storm Water Pollution Prevention Plan for each facility covered by this general permit in accordance with Section A: Storm Water Pollution Prevention Plan.
3. All dischargers must develop and implement a Monitoring and Reporting Program Plan for each facility covered by this general permit in accordance with Section B: Monitoring Program and Reporting Requirements.
4. Feedlots as defined in 40 CFR Part 412 that are in full compliance with Section 2560 to Section 2565, Title 23, California Code of Regulations (Chapter 15) will be in compliance with all effluent limitations and prohibitions contained in this general permit. Feedlots must comply with any Regional Water Board WDRs or NPDES general permit regulating their storm water discharge. Feedlots that comply with Chapter 15, however, must perform monitoring in compliance with the requirements of Provisions 5(c) and 16 of Section B: Monitoring Program and Reporting Requirements.
5. All dischargers must comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to storm drain systems or other water courses under their jurisdiction, including applicable requirements in

municipal storm water management programs developed to comply with NPDES general permits issued by the Regional Water Boards to local agencies.

6. All dischargers must comply with the standard provisions and reporting requirements for each facility covered by this general permit contained in Section C: Standard Provisions.
7. This general permit will expire on November 19, 1996. Upon reissuance of the NPDES general permit by the State Water Board, the facilities subject to this reissued general permit are required to file a revised NOI.

D. REGIONAL WATER BOARD AUTHORITIES

1. Following adoption of this general permit, Regional Water Boards shall:
  - (a) Implement the provisions of this general permit, including, but not limited to, reviewing storm water pollution prevention plans, reviewing group monitoring plans, reviewing monitoring reports, conducting compliance inspections, and taking enforcement actions.
  - (b) Issue general permits as they deem appropriate to individual dischargers, categories of dischargers, or dischargers in a geographic area. Upon issuance of such general permits by a Regional Water Board, the affected dischargers shall no longer be regulated by this general permit. The new general permits may address additional storm water pollution prevention plan requirements, more stringent effluent limitations, or additional monitoring and reporting program requirements.
2. Regional Water Boards may provide guidance to dischargers on Storm Water Pollution Prevention Plan and Monitoring Program implementation.

CERTIFICATION

The undersigned, Administrative Assistant to the State Water Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 1991 (as amended by Water Quality Order No. 92-12-DWQ).

AYE: W. Don Maughan  
Edwin H. Finster  
Eliseo M. Samaniego  
John P. Caffrey

NO: None

ABSENT: None

ABSTAIN: None

\_\_\_\_\_/s/  
Maureen Marché  
Administrative Assistant to the Board

Section A: STORM WATER POLLUTION PREVENTION PLAN

1. A storm water pollution prevention plan (SWPPP) shall be developed and implemented for each facility covered by this general permit. The SWPPP shall be designed to comply with BAT/BCT and be certified in accordance with the signatory requirements of Standard Provision C.9. For existing facilities (and new facilities beginning operations before October 1, 1992), a SWPPP shall be developed and implemented no later than October 1, 1992. For facilities beginning operations after October 1, 1992, a SWPPP shall be developed prior to submitting a NOI and implemented when the facility begins operations. The SWPPP shall be retained onsite and made available upon request of a representative of the Regional Water Board and/or local storm water management agency (local agency) which receives the storm water discharge.
2. The Regional Water Board and/or local agency may notify the discharger when the SWPPP does not meet one or more of the minimum requirements of this Section. Within 30 days of notice, the discharger shall submit a time schedule that meets the minimum requirements of this section to the Regional Water Board and/or local agency that requested the changes. After making the required changes, the discharger shall provide written certification that the changes have been made.
3. The discharger shall amend the SWPPP whenever there is a change in construction, operation, or maintenance which may effect the discharge of significant quantities of pollutants to surface water, ground waters, or the local agency's storm drain system. The SWPPP should also be amended if it is in violation of any conditions of this general permit, or has not achieved the general objectives of controlling pollutants in storm water discharges.
4. The SWPPP shall provide a description of potential sources which may be expected to add significant quantities of pollutants to storm water discharges, or which may result in non-storm water discharges from the facility. The SWPPP shall include, at a minimum, the following items:
  - a. A map extending approximately one-quarter mile beyond the property boundaries of the facility, showing: the facility, general topography surface water bodies (including known springs and wells), and the discharge point where the facility's storm water discharges to a municipal storm drain system or other water body. The

requirements of this paragraph may be included in the site map required under the following paragraph if appropriate.

b. A site map showing:

- i. The storm water conveyance and discharge structures;
- ii. An outline of the storm water drainage areas for each storm water discharge point;
- iii. Paved areas and buildings;
- iv. Areas of pollutant contact, actual or potential;
- v. Location of existing storm water structural control measures (i.e., berms, coverings, etc.);
- vi. Surface water locations;
- vii. Areas of existing and potential soil erosion; and
- viii. Vehicle service areas.

c. A narrative description of the following:

- i. Significant materials that have been treated, stored, disposed, spilled, or leaked in significant quantities in storm water discharge after November 19, 1988;
- ii. Materials, equipment, and vehicle management practices employed to minimize contact of significant materials with storm water discharge;
- iii. Material loading, unloading, and access areas;
- iv. Existing structural and non-structural control measures (if any) to reduce pollutants in storm water discharge;
- v. Industrial storm water discharge treatment facilities (if any);
- vi. Methods of on-site storage and disposal of significant materials; and
- vii. Outdoor storage, manufacturing, and processing activities including activities that generate significant quantities of dust or particulates.

- d. A list of pollutants that are likely to be present in storm water discharge in significant quantities, and an estimate of the annual quantities of these pollutants in storm water discharge.
  - e. An estimate of the size of the facility (in acres or square feet), and the percent of the facility that has impervious areas (i.e., pavement, buildings, etc.).
  - f. A list of significant spills or leaks of toxic or hazardous pollutants to storm water that have occurred after November 19, 1988. This shall include:
    - i. Toxic chemicals (listed in 40 CFR Part 372) that have been discharged to storm water as reported on USEPA Form R.
    - ii. Oil or hazardous substances in excess of reportable quantities (see 40 CFR Part 110, 117 or 302).
  - g. A summary of existing sampling data (if any) describing pollutants in storm water discharge.
5. The SWPPP shall describe the storm water management controls appropriate for the facility. The appropriate controls shall reflect identified potential sources of pollutants at the facility. The description of the storm water management controls shall include:
- a. Storm Water Pollution Prevention Personnel. Identify specific individuals (and job titles) who are responsible for developing, implementing, and revising the SWPPP.
  - b. Preventive Maintenance. Preventive maintenance involves inspection and maintenance of storm water conveyance system devices (i.e., oil/water separators, catch basins, etc.) and inspection and testing of plant equipment and systems that could fail and result in discharges of pollutants to storm water.
  - c. Good Housekeeping. Good housekeeping requires the maintenance of clean, orderly facility areas that discharge storm water. Material handling areas shall be inspected and cleaned to reduce the potential for pollutants to enter the storm water conveyance system.
  - d. Spill Prevention and Response. Identification of areas where significant materials can spill into or otherwise enter the storm water conveyance systems and their accompanying drainage points. Specific material handling procedures, storage requirements, and clean-up equipment

and procedures should be identified, as appropriate. Internal reporting procedures for spills of significant materials shall be established.

- e. Storm Water Management Practices. Storm water management practices are practices other than those which control the source of pollutants. They include measures such as installing oil and grit separators, diverting storm water into retention basins, etc. Based on assessment of the potential of various sources to contribute pollutants to storm water discharges in significant quantities, additional storm water management practices to remove pollutants from storm water discharge shall be implemented.
  - f. Erosion and Sediment Controls. The SWPPP shall identify measures to reduce sediment in storm water discharges.
  - g. Employee Training. Employee training programs shall inform all personnel responsible for implementing the SWPPP. Training should address spill response, good housekeeping, and material management practices. Periodic dates for training should be identified.
  - h. Inspections. All inspections, visual observations and sampling as required by Section B, shall be done by trained personnel. A tracking or follow-up procedure shall be used to ensure appropriate response has been taken in response to these activities.
6. Non-storm water discharges to storm water conveyance systems shall be eliminated prior to implementation of this SWPPP. The SWPPP shall include a certification that non-storm water discharges have been eliminated and a description of any tests for the presence of non-storm water discharges, the methods used, the dates of the testing, and any onsite drainage points that were observed during the testing. Such certification may not always be feasible if the discharger (a) must make significant structural changes to eliminate the discharge of non-storm water discharges to the industrial storm water conveyance system, or (b) has applied for, but not yet received, an NPDES general permit for the non-storm water discharges. In such cases, the discharger must notify the appropriate Regional Water Board prior to implementation of the SWPPP that non-storm water discharges cannot be eliminated. The notification shall include justification for a time extension and a schedule, subject to modification by the Regional Water Board, indicating when non-storm water discharges will be eliminated. In no case shall the elimination of non-storm water discharges exceed three years from the NOI submittal date.

7. The SWPPP may incorporate, by reference, the appropriate elements of other program requirements (i.e., Spill Prevention Control and Countermeasures (SPCC) plans under Section 311 of the CWA, Best Management Programs under 40 CFR 125.100, etc.).
8. The SWPPP is considered a report that shall be available to the public under Section 308(b) of the CWA.
9. The SWPPP shall include the signature and title of the person responsible for preparation of the SWPPP and include the date of initial preparation and each amendment, thereto.

#### Section B: MONITORING PROGRAM AND REPORTING REQUIREMENTS

[Note: This Section was modified by Order No. 92-12-DWQ adopted by the State Water Board on September 17, 1992.]

##### 1. Implementation

A monitoring program shall be developed and implemented for each facility covered by this general permit. It shall be certified in accordance with the signatory requirements contained in Standard Provision C.9. A description of the monitoring program shall be retained on site and made available upon request of a representative of the Regional Water Board and/or local agency which receives the storm water discharge.

##### 2. Schedule

For existing facilities (and new facilities beginning operations before January 1, 1993), a monitoring program must be developed and implemented no later than January 1, 1993. For facilities beginning operations after January 1, 1993, a monitoring program shall be developed and implemented concurrent with commencement of industrial activities.

##### 3. Objectives

The monitoring program shall be developed and amended, when necessary, to meet the following objectives:

- a. Ensure that storm water discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in this general permit.
- b. Ensure practices at the facility to control pollutants in storm water discharges are evaluated and revised to meet changing conditions.



- c. Aid in the implementation of the Storm Water Pollution Prevention Plan required by Section A of this general permit.
- d. Measure the effectiveness of best management practices (BMPs) in removing pollutants in storm water discharge.

4. General Requirements for Monitoring Programs

The monitoring program shall contain:

- a. Rationale for selection of monitoring methods.
- b. Identification of the analytical methods to detect pollutants in storm water discharge.
- c. Description of the sampling methods, sampling locations, and frequency of monitoring.
- d. A quality assurance/quality control program to assure that:
  - i. All elements of the monitoring program are conducted; and
  - ii. All monitoring is conducted by trained personnel.
- e. Procedures and schedules by which the effectiveness of the monitoring program in achieving the objectives above can be evaluated.

5. Specific Requirements for Monitoring Programs

The monitoring program shall document the elimination or reduction of specific pollutants, resulting from the implementation of the SWPPP required by Section A of this general permit.

a. Annual Site Inspection

Except for certain inactive mining operations (See Section B.8), all dischargers shall:

- i. Conduct a minimum annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity and to evaluate whether measures to reduce pollutant loadings identified in the SWPPP are adequate and properly implemented in accordance with the terms of the general permit or whether additional control measures are needed. A record of the annual

inspection must include the date of the inspection, the individual(s) who performed the inspection, and the observations.

- ii. Certify, based on the annual site inspection, that the facility is in compliance with the requirements of this general permit and its SWPPP. The certification and inspection records must be signed and certified in accordance with Standard Provisions 9 and 10 of Section C of this general permit. Any noncompliance shall be reported in accordance with Section B.17.

b. Dry Season Observations

No less than twice during the dry season (May through September), all dischargers shall observe and/or test for the presence of non-storm water discharges at all storm water discharge locations. At minimum, all dischargers shall conduct visual observations of flows to determine the presence of stains, sludges, odors, and other abnormal conditions. Dye tests, TV line surveys, and/or analysis and validation of accurate piping schematics may be conducted if appropriate. Records shall be maintained of the description of the method used, date of testing, locations observed, and test results.

c. Wet Season Visual Observations

During the wet season (October through April), all dischargers shall conduct visual observations of all storm water discharge locations during the first hour of one storm event per month that produces significant storm water discharge<sup>1</sup> to observe the presence of floating and suspended materials, oil and grease, discolorations, turbidity, and odor, etc. Feedlots (subject to federal effluent limitations guidelines in 40 CFR Part 412) that are in compliance with Sections 2560 to 2565, Article 6, Chapter 15, Title 23, California Code of Regulations, shall, instead, conduct monthly inspections of their containment facilities to detect leaks and ensure maintenance of adequate freeboard.

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<sup>1</sup>"Significant storm water discharge" is a continuous discharge of storm water for approximately one hour or more.

d. Sampling and Analysis

During the wet season (October through April), dischargers (unless exempted per Section B.9 below) shall collect and analyze samples of storm water discharge from at least one storm event during the 1992/93 wet season and two storm events during each subsequent wet season which produce significant storm water discharge. The samples should be analyzed for:

- i. pH, total suspended solids (TSS), specific conductance, and total organic carbon (TOC). Oil and grease (O&G) may be substituted for TOC; and
- ii. Toxic chemicals and other pollutants that are likely to be present in storm water discharge in significant quantities.

6. Toxic Pollutant Analysis Reduction

Samples shall be analyzed for toxic chemicals and other pollutants as identified in Sections B.5.d.ii for at least two consecutive sampling events. If toxic chemicals or other pollutants are not detected in significant quantities after two consecutive sampling events, the facility may eliminate that toxic chemical or pollutant from future sampling events. A discharger may analyze for alternative representative parameters (e.g., whole effluent toxicity) as a substitute for the toxic chemicals and other pollutants identified in Section B.5.d.ii as long as the discharger submits the alternative monitoring procedures and justification to the appropriate Regional Water Board prior to use. Unless otherwise instructed by the Regional Water Board, dischargers may use the alternative monitoring procedures submitted.

7. Facilities Subject to Federal Storm Water Effluent Limitations Guidelines

Facilities subject to federal storm water effluent limitations guidelines are defined in Attachment 1 of the general permit. In addition to the requirements in Section B.5 above, these facilities must collect and analyze samples of storm water discharge from at least one storm event during the 1992/93 wet season and two storm events during each subsequent wet season which produce significant storm water discharge.

- a. Analyze for any pollutant specified in the appropriate category of 40 CFR Subchapter N;

- b. Estimate or calculate the volume of effluent discharged from each outfall;
- c. Estimate or calculate the mass of each regulated pollutant as defined in the appropriate category of 40 CFR Subchapter N; and
- d. Identify the individual(s) performing the estimates or calculations in accordance with Subsections b and c above.

8. Inactive Mining Operations

Inactive mining operations are defined in Attachment 1 of this general permit. Where annual facility inspections, wet season visual observations, dry season observations, and sampling as required by Section B.5 are impracticable, inactive mining operations may instead obtain certification once every three years by a Registered Professional Engineer that a SWPPP has been prepared for the facility and is being implemented in accordance with the requirements of this general permit. By means of these certifications, the engineer, having examined the facility and being familiar with the provisions of this general permit, shall attest to the SWPPP which has been prepared in accordance with good engineering practices. Dischargers which cannot obtain a certification because of noncompliance must notify the appropriate Regional Water Board and, upon request, the local agency which receives the storm water discharge in accordance with Section B.17.

9. Sampling and Analysis Exemptions

A discharger is not required to collect and analyze samples in accordance with Section B.5.d if the discharger certifies that the facility meets all of the conditions set forth below in Section B.9.a, if the discharger obtains the local agency certification described in Section B.9.b, or if the discharger obtains a Regional Water Board exemption as described in Section B.9.d. A discharger who is not required to comply with Section B.5.d monitoring requirements is still required to comply with all other monitoring program and reporting requirements. If exempted from Section B.5.d monitoring requirements, dischargers subject to federal storm water effluent guidelines in 40 CFR Subchapter N must still comply with the provisions of Section B.7 above.

a. Self-Certification

The certification must state that areas of industrial

activity are not exposed to storm water, including manufacturing, processing, and material handling areas and areas where material handling equipment, raw materials, intermediate products, final products, waste materials, byproducts, and industrial machinery are stored. (See definition of "storm water associated with industrial activity" in Attachment 4 to this general permit.) Exposure includes both direct contact with storm water and the possible release of industrial pollutants into storm water (e.g., spills or leaks). In order to demonstrate that these areas are not exposed to storm water, the following minimum conditions must be met:

- i. All illicit (unpermitted) connections to the storm drainage system are eliminated;
- ii. All materials must be completely contained at all times;
- iii. All unboxed equipment associated with industrial activity is not exposed to storm water; and
- iv. All emissions from stacks or air exhaust systems and emission of dust or particulates do not contribute significant quantities of pollutants to storm water discharge.

b. Certification by Local Agency

A local agency which has jurisdiction over the storm sewer system or other water course which receives storm water discharge from the discharger's facility has certified in writing that the discharger has developed and implemented an effective Storm Water Pollution Prevention Plan and should not be required to collect and analyze storm water samples for pollutants.

c. Submittal of Sampling Exemption Certifications

Dischargers must submit sampling exemption certifications to the appropriate Regional Water Board by December 1, 1992 for the 1992-93 wet season and by August 1 for subsequent years. Unless otherwise instructed by the Regional Water Boards, dischargers who file a sampling exemption certification are exempt from Section B.5.d.

d. Exemptions by Regional Water Board

A Regional Water Board may grant an exemption to Section B.5.d monitoring requirements if it determines that a

discharger has developed and implemented an effective Storm Water Pollution Prevention Plan and should not be required to collect and analyze storm water samples for pollutants.

10. Group Monitoring

Group monitoring may be done in accordance with the following requirements:

- a. A group monitoring plan may be designed and implemented by an entity representing a similar group of dischargers (entity) regulated by this general permit or by a local agency which holds a NPDES general permit (local agency permittee) for a municipal separate storm sewer system. Participants in a group monitoring plan may discharge storm water within the boundaries of a single Regional Water Board or within the boundaries of multiple Regional Water Boards (with State Water Board approval).
- b. At least 20 percent of the dischargers who are members of a group (and at least 4 dischargers in a group of less than 20 dischargers) must collect and analyze samples in accordance with Section B.5.d. The entity or local agency permittee may request that fewer member dischargers be allowed to collect and analyze, but reasons for this exception must be stated in the group monitoring plan (Section B.10.e.v.). The entity or the local agency permittee shall select facilities from which samples are collected and analyzed which best represent the overall quality of the group members' storm water discharges.
- c. The entity or the local agency permittee must have the authority to levy fees against the participating dischargers in the group or be able to otherwise pay for the implementation of the group monitoring plan.
- d. The entity or the local agency permittee is responsible for:
  - i. Developing and implementing the group monitoring plan;
  - ii. Evaluating and reporting group monitoring data;
  - iii. Recommending appropriate BMPs to reduce pollutants in storm water discharges;
  - iv. Submitting a group monitoring plan to the

appropriate Regional Water Board(s) and State Water Board, no later than December 1, 1992 and August 1 in subsequent years; and

- v. Revising the group monitoring plan as instructed by the Regional Water Board or the State Water Board Executive Director.

e. The group monitoring plan shall:

- i. Identify the participants of the group by name and location;
  - ii. Include a narrative description summarizing the industrial activities of participants of the group and explain why the participants, as a whole, are sufficiently similar to be covered by a group monitoring plan;
  - iii. Include a list of significant materials stored or exposed to storm water and material management practices currently employed to diminish contact of these materials with storm water discharge;
  - iv. Identify and describe why the facilities selected to perform sampling and analysis are representative of the group as a whole in terms of processes used or materials managed. To the extent possible, representative facilities with the most extended scheduled facility operating hours should be selected;
  - v. If an exception to the requirement that at least 20 percent of the dischargers in a group (and at least 4 dischargers in a group of less than 20 dischargers) is requested, explain why such an exception is necessary, and how the proposed monitoring will be representative of the entire group; and
  - vi. Contain all items specified in Section B.4 above.
- f. Sampling and analysis must comply with the applicable requirements, including Sections B.5.d, B.6, B.7, and B.11 through 17.
- h. Unless otherwise instructed by the Regional Water Board or the State Water Board Executive Director, the group monitoring plan shall be implemented by January 1, 1993 and, in subsequent years, at the beginning of the wet season.

- i. Upon approval of the State Water Board Executive Director, a group may perform representative monitoring which includes dischargers within the boundaries of more than one Regional Water Board area.
- j. Upon approval by the appropriate Regional Water Board, a group within a single Regional Water Board area may perform representative monitoring.
- k. All dischargers participating in an approved group monitoring plan that have not been selected to perform sampling are required to comply with all other monitoring program and reporting requirements in Sections B.5.a, b, and c.
- l. If any group includes members which are subject to federal storm water effluent limitations guidelines, each of those members must perform the monitoring described in Section B.7, and submit the results of the monitoring to the appropriate Regional Water Board in the discharger's annual monitoring report.

11. Sample Locations

Samples shall be collected from all locations where storm water is discharged. Samples must represent the quality and quantity of storm water discharged from the facility. If a facility discharges storm water at multiple locations, the discharger may sample a reduced number of locations if it is established and documented in the monitoring program that storm water discharges from different locations are substantially identical.

12. Sampling Procedure

Sampling shall consist of a grab sample from a storm event that produces significant storm water discharge that is preceded by at least three (3) working days of dry weather. The grab sample should be taken during the first thirty minutes of the discharge. If collection of the grab sample during the first 30 minutes is impracticable, the grab sample can be taken as soon as practicable thereafter, and the discharger shall explain in the annual monitoring report why the grab sample could not be taken in the first 30 minutes. A discharger may select alternative monitoring procedures (e.g., composite sampling) as long as the discharger has submitted the proposed procedures and justification to the appropriate Regional Water Board prior to use. Unless otherwise instructed by the Regional Water Board, dischargers may use the alternative monitoring procedures submitted.



13. Visual Observation and Sample Collection Exceptions

- a. When a discharger is unable to collect any of the required samples or perform visual observations due to adverse climatic conditions (drought, extended freeze, dangerous weather conditions, etc.), a description of why the sampling or visual observations could not be conducted, including documentation of all significant storm water discharge events, must be submitted along with the annual monitoring report.
- b. Dischargers are required to collect samples and perform visual observations only if significant storm water discharges commence during scheduled facility operating hours<sup>2</sup>, or within two hours following scheduled facility operating hours. Dischargers are required to perform visual observations only within daylight hours. If dischargers do not collect samples or perform visual observations during a significant storm water discharge due to these exceptions, the discharger shall include documentation in the annual monitoring report.

14. Standard Methods

All sampling and sample preservation shall be in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater" (American Public Health Association). All monitoring instruments and equipment shall be calibrated and maintained in accordance with manufacturers' specifications to ensure accurate measurements. All analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this general permit or by the Regional Water Board. All metals shall be reported as total metals. All analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. Dischargers may conduct their own laboratory analyses only if the discharger has sufficient capability (qualified employees, laboratory equipment, etc.) to adequately perform the test procedures.

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<sup>2</sup>"Scheduled facility operating hours" are the time periods when the facility is staffed to conduct any function related to industrial activity, including routine maintenance, but excluding time periods where only emergency response, security, and/or janitorial services are performed.

15. Records

Records of all storm water monitoring information and copies of all reports required by this general permit shall be retained for a period of at least five years from the date of the sample, observation, measurement, or report.

These records shall include:

- a. The date, place, and time of site inspections, sampling, visual observations, and/or measurements;
- b. The individual(s) who performed the site inspections, sampling, visual observations, and/or measurements;
- c. Flow measurements or estimates (if required);
- d. The date and time of analyses;
- e. The individual(s) who performed the analyses;
- f. The analytical techniques or methods used and the results of such analyses;
- g. Quality assurance/quality control results;
- h. Dry season observations and wet season visual observation records (see Sections B.5.b & c);
- i. Visual observation and sample collection exception records (see Section B.13);
- j. All calibration and maintenance records of on-site instruments used; and
- k. All original strip chart recordings for continuous monitoring instrumentation.

16. Annual Report

All dischargers shall submit an annual report by July 1 of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located and to the local agency (if requested).

The report shall include a summary of visual observations and sampling results, the certification required in Section B.5.a.ii, and information as required in Section B.13. The

report shall be signed and certified in accordance with Standard Provisions 9 and 10 of Section C of this general permit. The first report will be due July 1, 1993.

17. Noncompliance Reporting

Dischargers who cannot certify compliance in accordance with Section B.16 above and/or who have had other instances of noncompliance must notify the appropriate Regional Water Board and/or, upon request, the local agency that receives the storm water drainage. The notifications shall identify the type(s) of noncompliance, describe the actions necessary to achieve compliance, and include a time schedule, subject to the modifications by the Regional Water Board, indicating when compliance will be achieved. Noncompliance notifications must be submitted within 30 days of identification of noncompliance.

Section C: STANDARD PROVISIONS

1. Duty to Comply

The discharger must comply with all of the conditions of this general permit. Any general permit noncompliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action; for general permit termination, revocation and reissuance, or modification; or denial of a general permit renewal application.

The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this general permit has not yet been modified to incorporate the requirement.

2. General Permit Actions

This general permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the discharger for a general permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any general permit condition.

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more

stringent than any limitation on the pollutant in this general permit, this general permit shall be modified, or revoked and reissued to conform to the toxic effluent standard or prohibition, and the discharger so notified.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the general permitted activity in order to maintain compliance with the conditions of this general permit.

4. Duty to Mitigate

The discharger shall take all responsible steps to minimize or prevent any discharge in violation of this general permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Proper Operation and Maintenance

The discharger shall at all times properly operate and maintain any facilities and systems of treatment and control (and related appurtenances) which are installed or used by the discharger to achieve compliance with the conditions of this general permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems, installed by a discharger when necessary to achieve compliance with the conditions of this general permit.

6. Property Rights

This general permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

7. Duty to Provide Information

The discharger shall furnish the Regional Water Board, State Water Board, USEPA, or local storm water management agency within a reasonable time specified by the agencies, any requested information to determine compliance with this general permit. The discharger shall also furnish, upon request, copies of records required to be kept by this general permit.

## 8. Inspection and Entry

The discharger shall allow the Regional Water Board, State Water Board, USEPA, and local storm water management agency upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this general permit;
- b. Have access to and copy at reasonable times, any records that must be kept under the conditions of this general permit;
- c. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) that are related to or may impact storm water discharge; and
- d. Sample or monitor at reasonable times for the purpose of ensuring general permit compliance.

## 9. Signatory Requirements

- a. All Notices of Intent submitted to the State Water Board shall be signed as follows:
  - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of the facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
  - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. The principal executive officer of a Federal agency includes the chief executive officer of the agency, or the senior executive officer having responsibility for the overall operations of a

principal geographic unit of the agency (e.g. Regional Administrators of USEPA).

- b. All reports, certification, or other information required by the general permit or requested by the Regional Water Board, State Water Board, USEPA, or local storm water management agency shall be signed by a person described above or by a duly authorized representative. A person is a duly authorized representative only if:
- (1) The authorization is made in writing by a person described above and retained as part of the Storm Water Pollution Prevention Plan.
  - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
  - (3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be attached to the Storm Water Pollution Prevention Plan prior to submittal of any reports, certifications, or information signed by the authorized representative.

10. Certification

Any person signing documents under Provision 9 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information,

including the possibility of fine and imprisonment for knowing violations."

11. Reporting Requirements

- a. Planned changes: The discharger shall give notice to the Regional Water Board and local storm water management agency as soon as possible of any planned physical alteration or additions to the general permitted facility. Notice is required under this provision only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged.
- b. Anticipated noncompliance: The discharger will give advance notice to the Regional Water Board and local storm water management agency of any planned changes in the permitted facility or activity which may result in noncompliance with general permit requirements.
- c. Compliance schedules: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this general permit shall be submitted no later than 14 days following each schedule date.
- d. Noncompliance reporting: The discharger shall report any noncompliance at the time monitoring reports are submitted. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

12. Oil and Hazardous Substance Liability

Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties to which the discharger is or may be subject under Section 311 of the CWA.

13. Severability

The provisions of this general permit are severable, and if any provision of this general permit, or the application of any provision of this general permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this general permit

shall not be affected thereby.

14. Reopener Clause [modified by Order No. 92-12-DWQ, September 1992]

This general permit may be modified, revoked, and reissued, or terminated for cause due to promulgation of amended regulations, receipt of USEPA guidance concerning regulated activities, judicial decision, or in accordance with 40 CFR 122.62, 122.63, 122.64, and 124.5.

15. Penalties for Violations of General Permit Conditions.

- a. Section 309 of the CWA provides significant penalties for any person who violates a general permit condition implementing Sections 301, 302, 306, 307 308, 318, or 405 of the CWA, or any general permit condition or limitation implementing any such section in a general permit issued under Section 402. Any person who violates any general permit condition of this general permit is subject to a civil penalty not to exceed \$25,000 per day of such violation, as well as any other appropriate sanction provided by Section 309 of the CWA.
- b. The Porter-Cologne Water Quality Control Act also provides for civil and criminal penalties, in some cases greater than those under the CWA.

16. Availability

A copy of this general permit shall be maintained at the discharge facility and be available at all times to operating personnel.

17. Transfers

This general permit is not transferable to any person. A new owner or operator of an existing facility must submit a NOI in accordance with the requirements of this general permit to be authorized to discharge under this general permit.

18. Continuation of Expired General Permit

This general permit continues in force and effect until a new general permit is issued or the State Water Board rescinds the general permit. Only those dischargers authorized to discharge under the expiring general permit are covered by the continued general permit.



19. Penalties for Falsification of Reports

Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this general permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both.

FACILITIES COVERED BY THIS GENERAL PERMIT

Industrial facilities include Federal, State, municipally owned, and private facilities from the following categories:

1. **FACILITIES SUBJECT TO STORM WATER EFFLUENT LIMITATIONS GUIDELINES, NEW SOURCE PERFORMANCE STANDARDS, OR TOXIC POLLUTANT EFFLUENT STANDARDS (40 CFR SUBCHAPTER N).**  
Currently, categories of facilities subject to storm water effluent limitations guidelines are Cement Manufacturing (40 CFR Part 411), Feedlots (40 CFR Part 412), Fertilizer Manufacturing (40 CFR Part 418), Petroleum Refining (40 CFR Part 419), Phosphate Manufacturing (40 CFR Part 422), Steam Electric (40 CFR Part 423), Coal Mining (40 CFR Part 434), Mineral Mining and Processing (40 CFR Part 436), Ore Mining and Dressing (40 CFR Part 440), and Asphalt Emulsion (40 CFR Part 443).
2. **MANUFACTURING FACILITIES:** Standard Industrial Classifications (SICs) 24 (except 2411 and 2434), 26 (except 265 and 267), 28 (except 283 and 285) 29, 311, 32 (except 323), 33, 3441, and 373.
3. **OIL AND GAS/MINING FACILITIES:** SICs 10 through 14 including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1) because of performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act (SMCRA) authority has been released, or except for area of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with any overburden, raw material, intermediate products, finished products, by-products, or waste products located on the site of such operations. Inactive mining operations are mined sites that are not being actively mined, but which have an identifiable owner/operator. Inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined material, or sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.
4. **HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES:** Includes those operating under interim status or a general permit under Subtitle C of the federal Resource Conservation and Recovery Act (RCRA).

5. LANDFILLS, LAND APPLICATION SITES, AND OPEN DUMPS: Sites that receive or have received industrial waste from any of the facilities covered by this general permit, sites subject to regulation under Subtitle D of RCRA, and sites that have accepted wastes from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance of five acres or more).
6. RECYCLING FACILITIES: SICs 5015 and 5093. These codes include metal scrapyards, battery reclaimers, salvage yards, motor vehicle dismantlers and wreckers, and recycling facilities that are engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste material such as bottles, wastepaper, textile wastes, oil waste, etc.
7. STEAM ELECTRIC POWER GENERATING FACILITIES: Includes any facility that generates steam for electric power through the combustion of coal, oil, wood, etc.
8. TRANSPORTATION FACILITIES: SICs 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or other operations identified herein that are associated with industrial activity.
9. SEWAGE OR WASTEWATER TREATMENT WORKS: Facilities used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of one million gallons per day or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the CWA.
11. MANUFACTURING FACILITIES WHERE MATERIALS ARE EXPOSED TO STORM WATER: SICs 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-4225.

Note: Category 10, Construction activity, is covered by a separate general permit.

# Storm Water Contacts for the State and Regional Boards

**STATE WATER RESOURCES CONTROL BOARD**  
Division of Water Quality Regional Water  
Attention: Storm Water Permit Unit  
P.O. Box 1977  
Sacramento, CA 95812-1977  
(916) 657-0919 FAX: (916) 657-2388  
Contact: Bruce Fujimoto

**1) NORTH COAST REGION**  
Mr. Benjamin D. Kor, Executive Officer  
5550 Skyline Boulevard, Suite A  
Santa Rosa, CA 94503  
(707) 576-2220 FAX: (707) 523-0135  
Contact: Nathan Quisles

**2) SAN FRANCISCO BAY REGION**  
Mr. Steven R. Ritchie, Executive Officer  
2101 Webster Street, Suite 500  
Oakland, CA 94612  
(510) 286-1255 FAX: (510) 286-1380  
Contact: Tom Mumley

**3) CENTRAL COAST REGION**  
Mr. Roger W. Briggs, Executive Officer  
81 Higuera Street, Suite 200  
San Luis Obispo, CA 93401-5427  
(805) 549-3147 FAX: (805) 543-0397  
Contact: Adam White

**4) LOS ANGELES REGION**  
Mr. Robert P. Ghirelli, Executive Officer  
101 Centre Plaza Drive  
Monterey Park, CA 91754-2156  
(213) 266-7596 FAX: (213) 266-7600  
Contact: Mark Purnford

**5R) CENTRAL VALLEY REGION**  
Redding Branch Office  
Mr. James C. Pedri, Supervising Engineer  
415 Knollcrest Drive, Redding, CA 96002  
(916) 224-4849 FAX: (916) 224-4857  
Contact: Carole Crowe

**5S) CENTRAL VALLEY REGION**  
Sacramento Office  
Mr. William H. Crooks, Executive Officer  
3443 Router Road  
Sacramento, CA 95827-3098  
(916) 255-3000 FAX: (916) 255-3015  
Contact: Pamela Barksdale

**5F) CENTRAL VALLEY REGION**  
Fresno Branch Office  
Mr. Loren J. Harlow, Principal Engineer  
3614 East Ashlan Avenue  
Fresno, CA 93726  
(209) 445-5116 FAX: (209) 445-5910  
Contact: Darrel Evensen

**6SLT) LAHONTAN REGION**  
South Lake Tahoe Office  
Mr. Harold J. Singer, Executive Officer  
2092 Lake Tahoe Boulevard, Suite 2  
South Lake Tahoe, CA 96150  
(916) 542-5400 FAX: (916) 544-2271  
Contact: John Short

**6V) LAHONTAN REGION**  
Vicoille Office  
Mr. Hiam Bagal, Supervising Engineer  
15428 Civic Drive, Suite 100  
Vicoille, CA 92392  
(619) 241-6583 FAX: (619) 241-7308  
Contact: Tom Rheiner

**7) COLORADO RIVER BASIN REGION**  
Mr. Philip Gruenberg, Executive Officer  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260  
(619) 346-7491 FAX: (619) 341-6820  
Contact: Orlando Gonzalez

**8) SANTA ANA REGION**  
Mr. Gerard J. Thibault, Executive Officer  
2010 Iowa Avenue, Suite 100  
Riverside, CA 92507-2409  
(909) 782-4130 FAX: (909) 781-6288  
Contact: Pavlova Vitale

**9) SAN DIEGO REGION**  
Mr. Arthur L. Coe, Executive Officer  
9771 Claremont Mesa Boulevard, Suite B  
San Diego, CA 92124  
(619) 467-2952 FAX: (619) 571-6972  
Contact: Deborah Jayne



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STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

NOTICE OF INTENT (NOI) TO COMPLY WITH THE TERMS  
OF THE GENERAL PERMIT TO DISCHARGE STORM WATER ASSOCIATED  
WITH INDUSTRIAL ACTIVITIES EXCLUDING  
CONSTRUCTION ACTIVITIES

GENERAL INSTRUCTIONS

Updated October 15, 1992

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Who Must Submit

Facilities which have been defined by the USEPA regulations as having "storm water discharges associated with industrial activity" must obtain coverage under an NPDES permit for their storm water discharges. Facilities requiring coverage are defined in 40 CFR Section 122.26(b)(14). All facilities in California except those listed below, may seek coverage under the State Water Board's NPDES general permit.

Facilities Not Covered By This General Permit

Storm water discharges from the following facilities may not obtain coverage by this general permit:

- a. Facilities in Santa Clara County which drain to San Francisco Bay must seek coverage under a separate general permit issued by the San Francisco Bay Regional Water Board.
- b. Facilities with an existing NPDES permit that specifically limits and regulates storm water discharges.
- c. Construction activities greater than five acres must obtain coverage under the NPDES construction activity storm water general permit.
- d. Facilities on Indian lands will be regulated by the USEPA.
- e. Logging Activities.

Where to Apply

The NOI should be mailed to the State Water Resources Control Board at the following address:

State Water Resources Control Board  
Division of Water Quality  
P.O. Box 1977  
Sacramento, CA 95812-1977  
Attn: Storm Water Permitting Unit

### When to Apply

Owners/operators of existing facilities must file a NOI, along with the appropriate annual fee, prior to March 30, 1992. Owners/operators of new facilities (those beginning operations after March 30, 1992) must file a NOI at least 30 days prior to the beginning of operations. Facilities that miss the appropriate deadlines for filing their NOIs may file their NOIs late but will be in violation for the period they were late.

### Fees

The annual fee is \$250.00 for each facility which discharges into a municipal separate storm sewer system regulated by an areawide urban storm water general permit and \$500.00 for all other facilities.

Facilities that have either a NPDES permit or waste discharge requirements (WDRs) and already pay an annual fee are not subject to an additional fee for the storm water general permit. Feedlots subject to this general permit will pay a one-time only fee of \$2,000. Feedlots that already have a NPDES general permit or WDRs and have paid the \$2,000 fee do not have to pay an additional fee for the storm water general permit.

### Completing the NOI

Completion and submittal of the attached NOI (Form NOI-1) is required to gain coverage under the general permit. It must be completely and accurately filled out. A facility will be considered to be covered by the general permit upon filing a complete and accurate NOI and submitting the appropriate annual fee. Each discharger will be given a distinct identification number. Upon receipt of the NOI and fee, each discharger will be sent a letter containing the discharger's identification number.

### Questions?

If you have any questions completing the NOI after reading the following line-by-line instructions, please call the appropriate Regional Water Board or the State Water Board at (916) 657-0919.

### NOI--LINE-BY LINE INSTRUCTIONS

The NOI consists of two parts--a NOI Form (Form NOI-1) and a site map. Please type or letter when completing the NOI Form and site map.

Mark one of the three boxes at the top portion of the NOI. Check box 1 if the NOI is being completed for an existing facility, box 2 if the facility is new (has not started operations), and box 3

if the NOI is being submitted to report changes to a facility already covered by the general permit. An example of a change that warrants a resubmittal of the NOI would be a change of owner/operator of a facility. Complete only those portions of the NOI that apply to the changes (the NOI must always be signed). If box 3 is checked, the WDID number must be included.

#### **SECTION I--OWNER/OPERATOR**

Enter the name of the person, company, firm, public organization, or any other entity which owns the facility (or operates the facility when the owner does not operate the facility) and check the box corresponding to the appropriate ownership status of the facility. The owner/operator information may or may not be the same as the facility information requested in Section II.

#### **SECTION II--FACILITY/SITE INFORMATION**

Enter the facility's official or legal name and provide the address, county, and contact person information for the facility. Facilities that do not have a street address must attach to the NOI a legal description of the facility site. The contact person should be the plant or site manager completely familiar with the facility and charged with compliance and oversight of the general permit.

#### **SECTION III--BILLING ADDRESS**

To continue coverage under the general permit, the annual fee must be paid. Use this section to indicate whether the annual fee invoices should be sent to the owner/operator, facility, or other party (include address).

#### **SECTION IV--RECEIVING WATER INFORMATION**

In Part A of this section, the owner/operator is required to indicate whether the facility's storm water runoff discharges to a separate storm sewer system, directly to waters of the United States, or indirectly to waters of the United States.

Discharges to separate storm sewer systems are those that discharge to a collection system operated by municipalities, flood control districts, utilities, or similar entities. Storm water discharges directly to waters of the United States will typically have an outfall structure directly from the facility to a river, creek, lake, ocean, etc. Indirect discharges are those that may flow over adjacent properties or right-of-ways prior to discharging to waters of the United States.

Regardless of point of discharge, the applicant must determine the closest receiving water for its storm water discharge. If



discharge is to a separate storm sewer system, the owner of that system should know the receiving water. The name of the receiving water of a direct discharge should be easily available while the receiving water of an indirect discharge may require some effort to identify.

#### **SECTION V--INDUSTRIAL INFORMATION**

Part A of this section requests the owner/operator to provide the standard industrial classification (SIC) codes(s) which best describes the industrial activity taking place at your facility. Briefly describe the nature of business in Part B. In Part C, check the general industrial activities that take place at the facility.

#### **SECTION VI--MATERIAL HANDLING/MANAGEMENT PRACTICES**

Part A of this section requires identification of the type(s) of materials stored and handled outdoors. If other types of materials other than those listed are maintained on site, please check "other" and describe the type of material.

Part B of this section requests information on any existing management practices employed at the facility. Check the appropriate categories or list other control measures you use at your facility. If none are used, leave this part blank.

#### **SECTION VII--FACILITY INFORMATION**

List the size, in acres or square feet, of the facility and the percentage of the site that is impervious.

#### **SECTION VIII--REGULATORY STATUS**

Check the appropriate box(es) and indicate the identification number of any permits currently in effect at the facility.

#### **SECTION IX--CERTIFICATION**

This section should be read by the owner/operator. The certification provides for assurances that the NOI and site map were completed in an accurate and complete fashion and with the knowledge that penalties exist for providing false information. It also requires the owner/operator to certify that the provisions in the general permit will be complied with.

The NOI must be signed by:

For a Corporation: a responsible corporate officer (or authorized individual).

For a Partnership or Sole Proprietorship: a general partner or the proprietor, respectively.

For a Municipality, State, or other non-federal Public Agency: either a principal executive officer or ranking elected official.

For a Federal Agency: either the chief or senior executive officer of the agency.

#### **SITE MAP**

Provide a "to scale" drawing of the site and its immediate surroundings. Include as much detail about the site as possible. At a minimum, show buildings, material handling areas, roadways, storm water collection and discharge points, a north arrow, and the names of adjacent streets. The attached form may be used, if convenient. Thomas Guide maps, local street maps, or USGS quadrangle maps may be used to indicate the location of the facility if appropriate (e.g., very large facilities). The source of map and map number, or other identifiers should be shown in the lower left hand corner of the site map.

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State of California  
State Water Resources Control Board



## NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF THE  
GENERAL PERMIT TO DISCHARGE STORM WATER  
ASSOCIATED WITH INDUSTRIAL ACTIVITY (WQ ORDER Nos. (91-13 DWQ & 92-12-DWQ)  
(Excluding Construction Activities)

MARK ONLY ONE ITEM	1. <input type="checkbox"/> Existing Facility	3. <input type="checkbox"/> Change of Information WDID #
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### OWNER / OPERATOR

Name		A. Owner/Operator Type (Check one)	
Mailing Address		1. <input type="checkbox"/> City 2. <input type="checkbox"/> County 3. <input type="checkbox"/> State 4. <input type="checkbox"/> Federal	
		5. <input type="checkbox"/> Special District 6. <input type="checkbox"/> Gov. Combo 7. <input type="checkbox"/> Private	
City	State	Zip	Phone
Contact Person	B. 1. <input type="checkbox"/> Owner 2. <input type="checkbox"/> Operator 3. <input type="checkbox"/> Owner/Operator		

### FACILITY / SITE INFORMATION

Facility Name	County		
Street Address	Contact Person		
City	State CIA	Zip	Phone

### BILLING ADDRESS

Send to: <input type="checkbox"/> OWNER / OPERATOR <input type="checkbox"/> FACILITY <input type="checkbox"/> OTHER (Enter information at right)	Name	
	Mailing Address	
	City	State

### RECEIVING WATER INFORMATION

A. Does your site's storm water discharge to (Check one):	
1. <input type="checkbox"/> Storm drain system - Enter owners name	
2. <input type="checkbox"/> Directly to waters of U.S. (e.g., river, lake, creek, ocean)	
3. <input type="checkbox"/> Indirectly to waters of U.S.	
Name of closest receiving water	

### STATE USE ONLY

WDID:	Regional Board Office	Date Permit Issued:	
DES Permit Number:	Order Number:	Fee Amount Received:	Date NOI Received:

**V. INDUSTRIAL INFORMATION**

A. SIC Code(s) 1. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> 2. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		B. Type of Business <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
C. Industrial activities at facility (Check all that apply)			
1. <input type="checkbox"/> Manufacturing	2. <input type="checkbox"/> Vehicle Maintenance	3. <input type="checkbox"/> Hazardous Waste Treatment, Storage, or Disposal Facility (RCRA Subtitle C)	
4. <input type="checkbox"/> Material Storage	5. <input type="checkbox"/> Vehicle Storage	6. <input type="checkbox"/> Material Handling	7. <input type="checkbox"/> Wastewater Treatment
8. <input type="checkbox"/> Power Generation	9. <input type="checkbox"/> Recycling	10. <input type="checkbox"/> Landfill	99. <input type="checkbox"/> Other: <input type="text"/>

**VI. MATERIAL HANDLING / MANAGEMENT PRACTICES**

A. Types of materials handled and/or stored outdoors (Check all that apply)			
1. <input type="checkbox"/> Solvents	2. <input type="checkbox"/> Scrap Metal	3. <input type="checkbox"/> Petroleum Products	4. <input type="checkbox"/> Plating Products
5. <input type="checkbox"/> Pesticides	6. <input type="checkbox"/> Hazardous Wastes	7. <input type="checkbox"/> Paints	8. <input type="checkbox"/> Wood Treating Products
99. <input type="checkbox"/> Other (Please list) <input type="text"/>			
B. Identify existing management practices employed to reduce pollutants in industrial storm water discharges (Check all that apply)			
1. <input type="checkbox"/> Oil/Water Separator	2. <input type="checkbox"/> Containment	3. <input type="checkbox"/> Berms	4. <input type="checkbox"/> Leachate Collection
5. <input type="checkbox"/> Overhead Coverage	6. <input type="checkbox"/> Recycling	7. <input type="checkbox"/> Retention Facilities	8. <input type="checkbox"/> Chemical Treatment
99. <input type="checkbox"/> Other (Please list) <input type="text"/>			

**VII. FACILITY INFORMATION**

A. Total size of site (Check one) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Acres <input type="checkbox"/> Sq. Ft.	B. Percent of site impervious (including rooftops) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> %
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**VIII. REGULATORY STATUS** (Check all that apply)

A. <input type="checkbox"/> Regulated by Storm Water Effluent Guidelines (40 CFR Subchapter N)	B. <input type="checkbox"/> Waste Discharge Requirements (Order Number) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	C. <input type="checkbox"/> NPDES Permit CA <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
D. <input type="checkbox"/> RCRA Permit Number <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	E. <input type="checkbox"/> Regulated by California Code of Regulations Article 6, Chapter 15 (Feedlots).	

**IX. CERTIFICATIONS**

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." In addition, I certify that the provisions of the permit, including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan, will be complied with.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**DEFINITIONS**

1. "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
2. Clean Water Act (CWA) means the Federal Water Pollution Control Act enacted by Public Law 92-500 as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; 33 USC. 1251 et seq.
3. "Facility" is a collection of industrial processes discharging storm water associated with industrial activity within the property boundary of operational unit.
4. "Non-Storm Water Discharge" means any discharge to storm sewer systems that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities. (See fact sheet, page 8, for clarification on non-storm water dischargers unrelated to industrial activity).
5. "Significant Materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); any chemical the facility is required to report pursuant to Section 313 of Title III of Superfund Amendments and Reauthorization Act (SARA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.
6. "Significant Quantities" is the volume, concentrations, or mass of a pollutant in storm water discharge that can cause or threaten to cause pollution, contamination, or nuisance; adversely impact human health or the environment; and cause or contribute to a violation of any applicable water quality standards for the receiving water.
7. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage. It excludes infiltration and runoff from agricultural land.

8. "Storm Water Associated with Industrial Activity" means "the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. The term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. The term also includes storm water discharges from all areas listed in the previous sentence (except access roads) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. Material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in this paragraph) include those facilities designated under 40 CFR 122.26(a)(1)(v).