

**AGENDA ITEM NO. 4
STAFF REPORT
TO
THE FRESNO COUNTY PLANNING COMMISSION
Unclassified Conditional Use Permit Application No. 2765
August 12, 1999**

Applicant: Calaveras Materials Inc.

Request: Allow a sand and gravel extraction and processing operation.

Location: The project site is bounded by Goodfellow Avenue on the north, the Cameron Slough on the east, the Kings River on the south, and the extension of Riverbend Avenue on the west.

Present Zoning: AL-20 (Limited Agriculture, 20-acre minimum parcel size) District, "O" (Open Conservation) District, RC-40 (Resource Conservation, 40-acre minimum parcel size) District

A. AREA, EXISTING LAND USE, SURROUNDING ZONING, AND PUBLIC NOTICING

1. **Approximate Area:** 455 acres
2. **Use of Subject Property:** Field crops, single-family residence
3. **Use of Surrounding Area:** Orchards, single-family residences, horse stables (See Existing Land Use map, Exhibit 1)
4. **Surrounding Zoning:** AL-20, RC-40, "O", and AC (See Existing Zone Map, Exhibit 2)
5. **City Limits:** The City of Sanger is located approximately one and one-half miles to the northwest.
6. **Noticing:** Notices were sent to 22 property owners within one-quarter mile of the subject property, 240 interested parties, and 18 special interest groups.

B. BACKGROUND

Approval of the proposed use will require certification of the Environmental Impact Report prepared for the project, adoption of the four Conditional Use Permit findings required by Zoning Ordinance Section 873, and adoption of a finding that the Mining and Reclamation Plan has been reviewed for compliance with Zoning Ordinance Section 858 and meets the applicable requirements. Zoning Ordinance Section 858 (Regulations for Surface Mining and Reclamation in All Districts) sets forth Fresno County regulations for conducting surface mining and reclamation in a manner consistent with the California Surface Mining and Reclamation Act of 1975 (SMARA), Public Resources Code Section 2207, and State Mining and Geology Board Regulations for surface mining and reclamation practice.

Zoning Ordinance Section 858 was adopted by the Board of Supervisors on May 18, 1999. Per SMARA, this Ordinance must be certified by the State Mining and Geology Board prior to final action on the proposed project. Certification by the Mining and Geology Board is pending as of the date of the Staff Report. If the Ordinance has not been certified by the date of Planning Commission hearing, then the Commission should take testimony on the proposed project and then continue the hearing for final action until after the Ordinance is certified by the Mining and Geology Board.

Zoning Ordinance Section 858, as required by SMARA, stipulates that prior to approval of a mining and reclamation plan, the County shall submit the mining and reclamation plan, information prepared pursuant to CEQA, and any other pertinent information to the State Department of Conservation for review and comment along with certification from the County that the plan is in compliance with the applicable requirements of subsections 858-D and -H. After receiving the required information and certification, the DOC responded with a letter addressing a number of topics. The County, as required by Section 858, is preparing a response.

C. MINING AND RECLAMATION PLAN

The applicant's Mining and Reclamation Plan found in Volume 3, Appendix B of the EIR and incorporated by reference includes figures showing the following major features:

1. The 455-acre project site bounded by the Goodfellow Avenue on the north, Cameron Slough on the east, the Kings River on south, and the Riverbend Avenue alignment on the west (Figure 5).
2. A single-family residence at the northeast corner of the property and field crops on the balance of the site (Figure 5).
3. Nine separate excavation phases ranging in size from seven acres to 50 acres and indicating the excavation methods and process, areas not to be mined, silt placement sites, topsoil stockpile areas, & plant site (Figures 6 & 7).

4. The detailed layout of the proposed plant site including a processing plant, ready-mix concrete plant, office, maintenance building, truck scale, spray and wash area, concrete recycling system, stockpile areas, and parking areas (Figure 17).
5. The proposed reclamation features including two lakes approximately 115 acres and 170 acres in size, farm land and nature reserve areas, and riparian habitat areas (Figures 18 & 26).
6. Cross-sections of the excavation and reclamation showing an estimated maximum depth of excavation of 100 feet, the excavation limits, the setbacks, finished slopes of 2:1 above the water surface and 1-1/2:1 below the water surface, the existing land surface grade, and the average seasonal water level of the lakes (Figures 19-25 & 30-32).

D. ENVIRONMENTAL ANALYSIS

An Environmental Impact Report (EIR) was prepared for this project. The EIR was prepared by a consultant in conformance with California Environmental Quality Act (CEQA) Guidelines and County-adopted policies and procedures.

The EIR is appended to this staff report by reference. Copies of the Final EIR, including the revised Draft EIR, Responses to Comments and Appendices, were provided to the Commission as Advance Agenda Material on July 1, 1999. An errata sheet is attached as Exhibit 3.

A summary of the project and associated impacts addressed by the EIR is attached as Exhibit 4. Environmental impacts in the following areas were found to be potentially significant: groundwater, surface hydrology and water quality, biological resources, agricultural resources, traffic, air quality, noise, public health and safety, public services, aesthetics, and cultural resources. Although the EIR determined that the implementation of recommended mitigation measures could reduce a number of potential impacts to a level of insignificance, other impacts could not be mitigated to such a level. Exhibit 4 identifies those impacts that were identified as Significant Unavoidable Impacts and summarizes the evaluation of seven alternatives to the project. The Mitigation Monitoring and Reporting Program is attached as Exhibit 5 and includes both the mitigation measures set out in the FEIR and the applicant-proposed mitigation that resulted in a "less-than-significant" finding.

Certification of the EIR will require adoption of findings and for those impacts that cannot be mitigated to a level of insignificance, a statement of overriding considerations pursuant to Section 15093 of the CEQA Guidelines.

E. STAFF ANALYSIS/RECOMMENDED FINDINGS OF FACT

Conditional Use Permit Findings

A Conditional Use Permit Application may be approved only if four findings specified in Zoning Ordinance Section 873-F are made by the Planning Commission. The following analysis addresses each of the required findings:

Finding 1: *That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the Zoning Ordinance, to adjust said use with land and uses in the neighborhood.*

The site for the proposed sand and gravel mining and processing operations is a 455-acre property located on the south side of Goodfellow Avenue east of the Riverbend Avenue alignment. According to the Mining and Reclamation Plan submitted by the applicant, approximately 315 acres are proposed to be mined and used for processing operations. The remaining 140 acres, which will be excluded from mining and processing, will include setbacks, farmland within the designated Floodway, and all existing riparian and woodland habitat areas adjacent to the Cameron Slough and the Kings River. A homesite located on east side of the Cameron Slough in the northeast corner of the property will also remain.

Zoning Ordinance Section 858 precludes any extraction of material or overburden within 25 feet of any property line and within 50 feet of a road right-of-way. Also, no stockpiled soil or material is permitted closer than 25 feet from a property boundary. According to the Mining and Reclamation Plan, the applicant is proposing that the excavation of material or overburden be set back a minimum of 100 feet from any property line, Goodfellow Avenue, the top of the banks of the Cameron Slough, and the Kings River. Also, the applicant proposes setbacks from mature riparian trees, which will be the greater of 100 feet or one-and-a-half times the width of the dripline as measured from the trunks of the trees. In addition, a minimum 50-foot setback will be maintained from the Flood Zone (FEMA Zone A) as delineated at the time of site plan review. As indicated on Figure 6 (General Phasing & Setbacks) of the Mining and Reclamation Plan, the subject property provides sufficient area to maintain the proposed setbacks and will be adequate in size and shape for the proposed excavation and processing operations. Additionally, Figure 6 and Figure 17 (Plant Site) show that there is sufficient area available for the access road and circulation of trucks within the processing plant area.

Finding 2: *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*

Access to the project site will be from Goodfellow Avenue via a single driveway approach near the midpoint of the road frontage. Goodfellow Avenue, which becomes Central Avenue west of Newmark Avenue, is classified as an Arterial by the Transportation Element of the Fresno County General Plan and is a two-lane

undivided roadway varying in width between 24 and 32 feet. A Traffic Impact Study (TIS) prepared by Traffic Engineering Services as a part of the EIR for this project indicated that average daily traffic (ADT) volumes for Goodfellow Avenue west of the project site are 3,454 vehicles. ADT on Central Avenue range from 1,680 vehicles west of Bethel Avenue to 8,000 vehicles east of Highway 99.

The Surface Mining and Reclamation Plan indicates that project traffic will fluctuate with seasonal demand for the material being mined and processed. At full production during the peak season, the applicant estimates that the total number of truck trips per-day will be 838. Approximately 30% of the truck trips will be generated by trucks operated by the applicant. The remaining 70% will be generated by independent trucking contractors. In addition to the truck trips, the project will generate 34 automobile trips per-day.

According to the TIS and subsequent Traffic Impact Analyses prepared by Valley Planning and Research Associates, Central/Goodfellow Avenues from Cedar Avenue to the project site will be the primary access route that will be traveled by project traffic. The TIS indicates that the intersections and roadway segments along this access route are currently functioning at a level of service considered adequate by the Design Division of the Fresno County Department of Public Works and the California Department of Transportation (Caltrans); and that when the project commences operations, the roads will be adequate to accommodate the additional traffic. The applicant has proposed to construct acceleration/deceleration lanes to Goodfellow Avenue at the project access driveway that will eliminate the potential for adverse impacts on traffic flow related to traffic entering the project site from the west and exiting to the east.

Over the 30-year life of the project, the traffic generated by the proposed use, along with traffic generated by other future uses, will have a significant cumulative impact on a number of intersections and roadway segments along Central and Goodfellow Avenues. A number of mitigation measures have been recommended to address these impacts. These measures include intersection and roadway segment improvements (traffic signal installation, four-way stop controls, road and bridge widening, and turn lane additions) for various road segments and intersections along Central and Goodfellow Avenues between Riverbend Avenue and Highway 99, and the provision of structural improvements for Central Avenue east of Temperance Avenue. Because the proposed project is not the only source of the future traffic congestion on these roadways, the Design Division and Caltrans have determined that the project applicant must pay their pro-rata share of the necessary improvements to mitigate future cumulative impacts.

Based on the fact that the current level of service for Central and Goodfellow Avenues from Cedar Avenue to the project site is adequate to accommodate the proposed use, that the applicant will construct acceleration/deceleration lanes to Goodfellow Avenue at the access driveway, and that the applicant will contribute their pro rata share for future road improvements, staff believes that Finding 2 can be made.

Finding 3: *That the proposed use will have no adverse impact on the abutting property and surrounding neighborhood or permitted use thereof.*

The 455-acre project site is bounded by Goodfellow Avenue on the north, Cameron Slough on the east, the Kings River on the south, and the Riverbend Avenue alignment on the west. The subject property is currently cultivated with field and row crops and irrigated pasture. There is also a single-family residence in the northeast corner of the subject property on the east side of the Cameron Slough. Surrounding parcels range in size from two acres to 204 acres. Most of the parcels are farm sites that are planted with vines or orchards. There are also a number of rural residential homesites in the vicinity of the project site. On the north side of Goodfellow Avenue across from the project site are five residences and a horse stable and training facility. Other nearby residences include one house immediately adjacent the property boundary on the west, and two homes approximately one-quarter mile to the south on the opposite side of the Kings River.

The applicant's proposal is to excavate sand and gravel from approximately 315 acres of the 455-acre project site. According to the Surface Mining and Reclamation Plan submitted by the applicant, no mining will occur within the channel of the Kings River or within the Designated Floodway or Flood Zone (FEMA Zone A). Excluded from mining will be approximately 140 acres, including setbacks, farmland within the Designated Floodway or Flood Zone adjacent to the Kings River, and all existing riparian and woodland wildlife habitat adjacent to the Cameron Slough and the Kings River. The applicant is also proposing to process the excavated sand and gravel on-site. The processing operation will include a temporary, portable aggregate plant, the main permanent aggregate processing plant, and a ready-mix concrete plant.

The applicant's proposal is to conduct excavation activities on weekdays from 7:00 a.m. to 5:00 p.m. The aggregate processing plant is proposed to operate from 7:00 a.m. to 5:00 p.m. on weekdays with loading and trucking activities occurring on weekdays from 6:00 a.m. to 9:00 p.m. The ready-mix concrete plant will operate from 4:00 a.m. to 6:00 p.m. on weekdays, May through October, and from 5:30 a.m. to 6:00 p.m. on weekdays, November through April. The ready-mix plant will also operate on Saturdays from 7:00 a.m. to 2:00 p.m. Although these hours represent the typical hours of operation, the applicant is also requesting that some activities be allowed on a continuous 24-hour a day basis during periods of public emergency and/or major public road projects affecting the health and safety of the community. The major public road projects, according to the applicant, may require loading operations beyond the hours and days of operation indicated, including night hours and weekends to avoid traffic conflicts. In addition, the applicant indicates that maintenance activities will extend beyond the normal hours of operation.

According to the applicant, based on the anticipated level of production, the mining and processing operations are expected to extend for 30 years. Over the estimated 30-year period of operation for the project, the applicant is proposing that the mining be conducted in nine phases. The amount of material mined in any one year will vary depending on the market demand. Therefore, actual excavation may occur sooner or later than the estimated schedule depending on the actual volume of material available in each phase and market conditions at the time.

The mining process will involve three stages of excavation with reclamation as the fourth stage. The first stage of excavation is the removal and storage of topsoil for later use as the final cover for reclamation. The second stage is the removal of overburden, which runs from five to twenty feet in depth, to expose the resource. According to the mining plan, as overburden is removed, it will be transported to previously excavated areas to shape the edge of the reclamation lakes. The third stage is the excavation of the aggregate itself. The primary method used to mine the aggregate deposit will be use of a floating bucket ladder dredge. This method will be used for Phases 2 through 8. A dragline and/or excavator will be used for excavation of Phase 1, at the beginning of the project, and for Phase 9, at the end of the project. Phase 2 will also initially be excavated by dragline and/or excavator until groundwater is encountered at a depth of 15 to 25 feet below ground level and the lake that is formed reaches a sufficient size and depth to place the floating bucket dredge on the lake. The floating dredge will be able to mine to a depth of 80 feet below the water surface (up to 100 feet below the ground surface).

According to the mining plan, the raw material will be brought to the surface in ladder buckets and then drained by on-board screens. The aggregate material will then be transferred to a series of floating and overland conveyors, totaling up to 5,250 linear feet, which will transport the material up to the processing plant. Water and clay collected with excavated material will be discharged back into the lake.

An aggregate processing plant and a ready-mix concrete plant will be located on approximately 40 acres toward the center of the project site. A portable aggregate processing plant will be used in Phase 1 to provide material to grade and slope the main plant site, create a seven- to eight-acre settling pond, produce aggregate for a newly constructed asphalt plant owned by the applicant at Cedar and Central Avenues, and produce aggregate base for on-site roads. Once the main plant is operational, the portable plant will be removed. A portable plant will be used again to complete mining of the plant site in Phase 9 after the main plant is removed. The permanent aggregate processing plant will be used to process material from Phases 2 through 8. Processing volume is projected to reach up to two million tons per-year by the year 2006. The maximum process rate for the plant is expected to be 1,000 tons per-hour.

The ready-mix concrete plant will use sand and gravel from the processing plant and cement that is imported to the plant site by truck. The plant will have a maximum production capacity of 1,000 cubic yards per-day with average production estimated to be 150 cubic yards per-day.

The Surface Mining and Reclamation Act of 1975 (SMARA) and the State Mining and Geology Board regulation for surface mining and reclamation practice require that a reclamation plan be submitted to and approved by the lead agency (Fresno County) before commencing new mining operations. Section 858 of the Fresno County Zoning Ordinance, "Regulations for Surface Mining and Reclamation in All Districts", outlines the primary components of what constitutes an adequate reclamation plan for a surface mining site. Section 858 states that the plan should include a description of the planned reclamation indicating the methods used to accomplish the reclamation, a schedule showing the timing and phasing of the reclamation activities, a soil salvage plan, the disposition of any equipment or

structures used for the excavation or processing operation, and how the reclamation of the site may affect future on-site mining and the mining of the surrounding area. The reclamation plan should include a site plan of the reclamation showing the new contouring and any water features that will result and should describe the methods to prevent stagnation for any water features. The site plan should also show any proposed vegetative planting that will occur and should indicate access to the site and the treatment of that access.

The reclamation plan submitted by the applicant indicates the majority of the project site will be reclaimed as two exposed groundwater lakes with riparian habitat. The lakes will be approximately 115 acres and 170 acres in size. The upland areas away from the lakes will be reclaimed as upland habitat similar to what historically occurred on Kings River flatlands away from the riparian corridor. Wildlife habitat that existed in the agricultural areas that will be mined will be replaced by this wetland, riparian or upland habitat. Overburden from the mining will be used to slope the banks and to create an undulating shoreline. The final location, elevations, and shape of the lakes will vary according to actual depth of excavated material, amount of overburden available on the site, groundwater table, and other unknown conditions found on site during mining. Creation of riparian and upland habitat will occur through the re-colonization of native vegetation and by supplemental manual revegetation with native species.

The Zoning Ordinance requires reclamation work in any phase to proceed such that no excavated area within that phase be allowed to remain in a non-reclaimed state for more than three years and reclamation of any phase be completed within one year of commencing operation in a subsequent phase. The proposed reclamation schedule is not consistent with these requirements. The applicant has requested that an exception be granted to allow reclamation of any excavated portion of a phase to take longer than three years, but not longer than one year after commencing operation in any subsequent phase. According to the applicant's request, the timing of actual final reclamation per phase, or section thereof, will depend on the volume and availability of overburden and silts. Where there is an interim use of a mined area prior to its final reclaimed use (e.g. a settling pond, silt placement site, etc.), reclamation will be completed within one year after the interim use is terminated. In support of their request, the applicant has provided the following justification:

1. Due to the depth of mining in some areas, it may take longer than three years to complete reclamation of a portion of a phase.
2. In order to minimize the removal of overburden more than one year in advance of excavation, it may take longer than three years to complete reclamation in a portion of a phase.
3. Final reclamation of silt placement areas cannot be completed until placement of the silts is finalized.
4. The granting of the exception will not result in a hazardous condition and will not adversely affect property or persons in the area. The cost of strictly complying with the Ordinance provision would be unreasonable in view of all

the circumstances. The proposed exception is consistent with the planned or actual subsequent use or uses of the mining site and will be no less stringent than the initial condition.

In reviewing the applicant's proposed reclamation schedule, staff concurs that the depth of the proposed mining and the method of mining being employed may make it difficult to comply with Ordinance standards if it takes longer than three years to complete excavation of a portion of a phase. Also, the proposed request would not change the length of time required to complete final reclamation of each phase. Final reclamation of a phase would still be required to be completed within one year of commencing mining in a subsequent phase. The request would only extend the time required for ongoing reclamation within a phase while that phase was still being mined.

The processing plant will be removed as the final phase of the mining operation. Once the mining and reclamation operations are completed, all structures and equipment associated with the project will be removed.

The Zoning Ordinance also requires that excavation not create a slope steeper than 2:1 within 50 feet of a property boundary nor steeper than 1-1/2:1 elsewhere on the property, except that steeper slopes may be created in the conduct of extraction for limited periods of time prior to grading the slope to its reclamation configuration, and slopes of 1:1 may be maintained five feet below the lowest water table experienced in the preceding three years on the property.

The proposed reclamation plan indicates that slopes will not exceed the maximum allowable slopes and that final slopes may actually be flatter than those shown. No slopes will be steeper than 2:1 and slopes of 1-1/2:1 will be maintained five feet below the lowest water table as experienced in the preceding three years. Overburden from the mining phase or adjacent phases will be used to slope the banks and create an undulating shoreline. The elevation of the bottom of these areas will have a natural undulation due to the variation in the depth of the resource being mined in any phase.

The proposed reclamation plan includes a soil salvage plan, which describes the removal, storage, and use of topsoil and overburden. The applicant indicates that overburden will be retained during the mining operation to complete the planned reclamation. Overburden along with other non-marketable resource materials, such as clay or rocks too big to crush, will be used to accomplish reclamation.

Among the mining and reclamation standards cited in Section 858 of the Zoning Ordinance is a requirement that the reclamation of mined lands be implemented in conformance with applicable performance standards as set forth in the State Regulations Sections 3703 et seq. One of these performance standards requires that topsoil and vegetation removal not precede surface mining operations by more than one year, unless a longer period is approved by the lead agency, in this case the County of Fresno. The applicant has submitted two exception requests pertaining to this requirement. The first request is to allow the removal of overburden from Phase 2 more than one year before the excavation of Phase 2. The applicant indicates that the overburden is needed to construct a berm along the

Goodfellow Avenue frontage which must be completed prior to Phase 2 to provide a noise and visual buffer during Phase 2 for residents on the north side of Goodfellow Avenue. The second exception request is to allow overburden to be removed more than one year in advance of mining from a portion of a phase to complete the reclamation of an excavated phase. The applicant indicates that due to the depth of mining in some areas it may take longer than three years to complete excavation of a portion of a phase. In addition, the volume of overburden needed to complete the slopes of a phase to be reclaimed requires the removal of more overburden than covers the amount of area excavated in a year.

Staff believes these are reasonable requests. The berm is necessary for both noise attenuation and to provide adequate screening of the site for nearby residences and passing motorists on Goodfellow Avenue. In order to be effective, the berm should be in place before excavation of Phase 2 begins. Also, given the volume of material needed to construct a berm twelve feet high with a base 60 feet wide extending approximately 2,000 feet, obtaining this material offsite could be cost prohibitive and impractical. Allowing overburden to be removed more than one year in advance of mining for use elsewhere for reclamation also seems to be justified. It will not create a hazardous condition and should not adversely affect neighboring properties. Again, the cost of strict compliance could be considerable.

The mining as proposed by the applicant would remove all the resource that is currently economically feasible to mine. Deeper mining could possibly take place in the future if economical methods are found to mine deeper. Reclamation of the excavated areas to lakes, riparian and upland habitat would allow for future mining if economic and environmental conditions warrant recovery.

To help accomplish the proposed reclamation of the project site, the applicant is proposing a revegetation plan, which is designed to supplement the existing riparian vegetation and to enhance the natural colonization of native vegetation and habitat that rapidly occurs after the completion of mining. According to the mining and reclamation plan, the revegetation plan is designed to reflect the historical as well as present-day vegetation patterns. The revegetation plan incorporates the findings in the Biological Assessment Study prepared for the EIR. Specifically, riparian pond banks will be manually planted with liner stock of native species at an average density of two trees per 150 feet and three shrubs per 200 feet of pond edge. Although these average densities will be maintained, the trees and shrubs will be planted in clusters to increase wildlife and aesthetic values. The riparian tree and shrub species will be obtained from local sources and/or from seed and cuttings gathered in the immediate vicinity. On the upland banks where natural revegetation has not occurred, manual seeding will be done with species of native grasses and forbs that have the ability to rapidly colonize in bare, loose soils and also to provide an excellent wildlife food source. A 100-foot riparian habitat setback is also planned for the area along the Kings River which will be vegetated with riparian trees and shrubs as recommended by the Biological Assessment Study. The revegetation plan includes guidelines for when planting should take place, irrigation, weed management, vegetation protection measures, and the replacement and coverage of plants. In addition, there will be a revegetation monitoring plan so that necessary modifications to the revegetation plan can be identified and incorporated to achieve the stated goals. If these revegetation measures are incorporated into the proposed reclamation plan, then a diverse habitat should be provided.

Section 858 of the Zoning Ordinance contains provisions which require the applicant to post security to ensure that reclamation of the site will proceed in accordance with the approved mining and reclamation plan; and in the event that work is not completed within the stated time period, authorizes the County to use the security to perform the necessary work. The applicant has indicated that financial assurances for reclamation will be provided prior to approval of the site plan review and such assurances will be adjusted annually to account for new lands disturbed by the mining operation, inflation, and reclamation of lands accomplished in accordance with the approved mining and reclamation plan. There are also provisions of the Zoning Ordinance which subject the proposed mining operation to annual inspections by the County to determine compliance with the approved conditional use permit and mining and reclamation plan, approved financial assurances, and State regulations.

Provided that reclamation of the project site is conducted in accordance with the reclamation plan, including the site plans and cross-sections, the mitigation measures, the conditions of approval, and all applicable mandatory regulations, the proposed method of reclamation will not adversely impact the environment and will comply with the provisions of SMARA and the County's Zoning Ordinance Section 858, "Regulations for Surface Mining and Reclamation in All Districts".

Among the concerns often associated with material extraction and processing operations are impacts related to noise, dust, air, aesthetics, traffic, and water quantity and quality. The Environmental Impact Report prepared for the project identified a number of issues related to these impacts.

In response to noise concerns, long-term noise monitoring was conducted in the project area by Giroux & Associates and by Brown-Buntin Associates. Using the data collected from the field monitoring, a noise study was prepared by Giroux & Associates, which evaluated the noise impacts associated with the mining and processing operations at residential locations in the project area. In addition, noise impacts associated with project-related trucking were evaluated using a Federal Highway Administration Traffic Noise Prediction Model. Based on the information provided by these analyses, it was determined that project operations could cause noise levels at nearby residences to exceed Fresno County Noise Ordinance criteria and Noise Element standards and substantially exceed ambient noise levels. It was also concluded that the noise from increased truck traffic could impact residents along the Central/Goodfellow Avenues haul route and in the project area. To address these impacts, the applicant has proposed a number of "noise suppression measures" that will be employed for the project. These include rubber or polyurethane screening material; rubber lining of rock chutes or other methods of minimizing rock on metal contact; conveyors to transport excavated material for seven of the nine phases; strobe lights instead of audible back-up alarms during non-daylight hours; noise suppression mufflers on all mobile equipment; a dredge that is electrically driven and employs new, quieter, ladder technology; a 12-foot high berm along Goodfellow Avenue; acoustical barriers, such as sound-absorbing quilt blankets and screens made by hanging conveyor belting around certain crushers and transfer points; and stockpiles maintained at a minimum crown height of 20 feet and arranged to block noise.

In addition to the measures proposed by the applicant, the EIR recommends mitigation measures which will reduce the potential noise impacts from project operations and from increased truck traffic along the Central/Goodfellow Avenues haul route. These include implementing one of four noise-reducing measures at the residence located on the parcel to the west of the project site and conducting noise monitoring at the nearest residences north, west, and south of the project site to ensure that noise from the project operations complies with the standards of the Fresno County Noise Ordinance. If it is determined that noise from the project is exceeding the Noise Ordinance standards, the applicant will be required to implement additional noise reduction measures such as modification of equipment or placement of temporary barriers to reduce noise to acceptable levels. According to the EIR, although the above mitigation measures will reduce noise impacts from trucks operating during normal daytime hours, these measures may not be sufficient during nighttime hours. However, traffic noise impacts during certain nighttime hours could be mitigated if trucking operations are prohibited during this time. Therefore, it is recommended that conditions be imposed that require the project to comply with Fresno County Noise Ordinance; and that the hours of operation be limited so that trucking operations do not extend beyond 6:00 p.m. unless an emergency has been declared by the Governor of California or the Fresno County Board of Supervisors that requires later nighttime operations.

The EIR indicates that if the projected project noise level is more than 5dB above existing ambient noise levels the increase is considered significant. Under startup and operational conditions, the proposed project is predicted to result in increases greater than 5 dB at residential locations to the north, west, and south. The noise mitigation measures listed above would reduce the adversity of this impact; however, it is not practical that ambient noise could be reduced in all cases by the additional amount required to reduce project-related noise increases to 5 dB or less. Therefore, this impact is considered to be significant and unavoidable. Although the EIR identifies changes in the ambient noise level as significant and unavoidable, Staff believes that based on the project's ability to comply with the standards of the Noise Ordinance and Noise Element, Finding 3 can be made with respect to the noise.

The EIR indicates that the proposed project will increase the air emissions in the project area and the San Joaquin Valley Air Basin and contribute to the overall decline in air quality in the region. The primary source of air pollutants will be from operational emissions including onsite mobile equipment, overburden removal and placement, and the portable and permanent processing plants. Emissions of reactive organic gases (ROG) and oxides of nitrogen (Nox) from these activities would exceed the threshold levels of ten tons per year established by the San Joaquin Valley Unified Air Pollution Control District. The fugitive particulate matter (PM-10) emissions will also contribute to existing PM-10 pollution. In an effort to minimize dust and other emissions, the applicant is proposing a number of operating practices. These include equipping the concrete plant with dust collectors in the form of baghouses, complying with the District's Regulation VIII regarding fugitive dust, and implementing a Fugitive Emissions Control Plan, which will include such measures as equipping stockpile conveyors with water spray nozzles at appropriate transfer points to minimize dust, paving the main access drives and gate entrance, applying water and dust palliatives to plants roads as needed to keep

down dust, irrigating or spraying an area prior to removal of overburden, wetting down truck loads of dry materials and removing loose material before leaving the site, and washing off dirt accumulated on the asphalt roads. In addition to these measures, the applicant has agreed to mitigation measures which incorporate dust-reducing measures to reduce PM-10 emissions and measures to reduce ozone precursor emissions (ROG and NO_x).

According to the EIR, project-related truck traffic has the potential to generate airborne roadside dust along Central/Goodfellow Avenues, which can settle on roadside agricultural crops and indirectly damage plants during their growing and harvesting season. To address this impact, a mitigation measure has been recommended requiring that dust-reducing measures be implemented to control dust along road shoulders. Other emission sources from site grading, the assembly of the portable processing plant, and from the use of hazardous substances are considered less than significant because they would cause temporary short-term emissions, result in minimal emissions, and are regulated.

Because Fresno County is a nonattainment area, the increase in emissions from this project, and other future development, would cumulatively reduce the air quality in the San Joaquin Valley and make it more difficult for the County to meet mandated emissions reductions and air quality standards.

With regards to potential aesthetic impacts, the project site is visible to traffic using Goodfellow Avenue, to nearby residences on the north side of Goodfellow Avenue, to one residence located immediately west of the project site, and to two residences located across the Kings River to the southwest. The potential aesthetic impacts are a particular concern because the property is within the Kings River Regional Plan area, which seeks to preserve and enhance the character of the natural river environment and maintain the aesthetic qualities of the area. The proposed project will include structures associated with the processing plants and stockpiles of processed material and overburden that will have considerable bulk along with heights in excess of 20 feet. The EIR prepared for the proposed project identified impacts related to changes to the views from the nearby residences and from Goodfellow Avenue and increased light and glare.

In order to reduce the visual impacts of mining operations on surrounding properties, Section 858 of the Zoning Ordinance requires that screening consisting of evergreen trees planted in two staggered rows with 20 feet between the rows and between the trees in each row be provided along all property lines adjacent to a public road right-of-way. In areas where it is found that the planting of trees or shrubs will not achieve the desired screening effect due to soil conditions, the Director may approve an alternate method of screening consisting of meandering dirt berms of sufficient height to screen the site. In this case, the applicant is requesting that an exception be granted to this Zoning Ordinance standard to allow overburden from Phase 2 to be used to construct a 12-foot high straight line earthen berm along the Goodfellow Avenue frontage to minimize the adverse visual impacts of the mining and processing operation. The applicant has also proposed to landscape the berm with citrus or evergreen trees planted in at least two staggered rows with 20 feet between rows and between the trees. Although the proposed landscaped berm will not meander as required by the Ordinance, the texture and

shape of the trees will create variation and enhance the appearance of the berm thus reducing the visual affect of a straight berm. Therefore, staff is not opposed to this exception request.

A landscaped screen of riparian trees, which will supplement existing riparian vegetation, will be planted in the southwestern area of the project site along the Kings River to further reduce adverse visual impacts of the operation from residences across the Kings River to the south. With regards to the residence to the west of the project site, as stated above, four options for noise mitigation have been proposed. However, implementation of these options could create an adverse visual impact. Because a noise mitigation option has not been selected for the residence, appropriate mitigation to reduce visual impacts is difficult to determine. Any noise mitigation option involving a sound barrier would require extensive vegetative screening as recommended in the EIR.

To minimize the effects of increased light and glare, the applicant has indicated that night lighting will be arranged and controlled so as not to illuminate public rights-of-way, adjacent properties, or wildlife habitat. In addition, mitigation measures are recommended that would require the use of no-glare light fixtures and non-reflective surfaces and restrict spillover light.

As indicated above, the majority of the project site will be reclaimed as two exposed groundwater lakes with riparian habitat. This open space use is consistent with the objective of the Kings River Regional Plan that seeks to preserve and enhance the natural river environment as an open space resource and maintain the aesthetic qualities of the area.

During the review of this project, concerns related to roadway safety were identified as potential impacts associated with the proposed use. The County's Design Division initially raised concerns over the potential impact of trucks entering and exiting the project site from Goodfellow Avenue. As a result of this concern, the project was redesigned to move the access driveway to the middle of the project site. In addition, the applicant has proposed acceleration/deceleration lanes to Goodfellow Avenue at the project entrance. The inclusion of the acceleration/deceleration lanes eliminates the potential for adverse impacts on traffic flow related to entering the project from the west and exiting to the east. Although truck traffic will cross eastbound traffic on Goodfellow Avenue when exiting the project site, the Design Division and the traffic study prepared for this project determined that no unusual roadway conditions or sight-distance deficiencies exist near the proposed access driveway and exiting traffic would therefore have no adverse impacts on traffic safety or operation.

Safety hazards associated with the width and weight capabilities of the Kings River bridge on Goodfellow Avenue were also identified as a concern. According to the EIR, the bridge is structurally adequate for all legal-weight vehicles, including those that will be hauling aggregate from the project site. Although, the bridge has adequate width for legal vehicles, including trucks, to safely pass in both directions, the bridge width is less than the recommended minimum width for the existing traffic volume and there is a sight-distance limitation caused by the vertical curvature along the bridge. These conditions apply to many roads and structures countywide and are adequately addressed operationally through delineation and signing.

The proposed project would increase truck traffic on Goodfellow/Central Avenues by up to 84 heavy trucks during the a.m. peak hour. In evaluating the project traffic, the Design Division and the TIS determined that no unusual roadway conditions or sight-distance deficiencies exist along the haul route that would cause an adverse traffic hazard even with the increase in truck traffic.

The proposed project has the potential to increase hazards to pedestrian and bicycle traffic along Central/ Goodfellow Avenues. However, during preparation of the TIS, it was observed that there is very little pedestrian or bicycle use along this corridor. Although any increase in traffic could increase the potential for accidents, given the low use of the corridor by pedestrians or bicyclists and the availability of an unpaved shoulder area for these uses, the increase in truck traffic associated with the proposed project should not significantly increase the potential safety hazards for pedestrians or bicyclists.

The applicant indicates that the proposed mining and processing operation, at full production, will use a total of 375,000 gallons of water per-day (gpd). This will include 270,000 gpd for aggregate processing and 96,000 gpd for dust control, both of which would be pumped from the lakes created by the mining; and 8,000 gpd for the ready-mix concrete plant and 1,000 gpd for domestic use, both of which would be pumped from an on-site well. According to the applicant, there will be no dewatering or removal of exposed groundwater from excavation phases to assist in the mining process. The EIR indicates that the proposed project could have a potentially significant impact on nearby groundwater wells through groundwater pumping and reclamation lake evaporation, and due to a net increase in groundwater consumption and loss of recharge from the conversion of agricultural land to reclamation lakes and riparian and upland habitat. Mitigation measures have been recommended which would reduce the impact to a less-than-significant level. These measures include monitoring the water levels of onsite and neighboring wells and if monitoring results indicate that the project may be responsible for the reduction in yield of a neighboring well, then requiring that the applicant pay for a study to determine if that is the case and to pay for deepening, rehabilitation, or replacement of the affected well. A second mitigation measure would require the applicant to pursue the use of surface water rights associated with the project site to divert surface water to the reclamation lakes for the purpose of groundwater recharge. If successful, this would minimize offsite impacts on groundwater levels.

Other potentially significant hydrological impacts identified in the EIR included increased flooding potential due to mining activities, degradation of surface water and groundwater quality during mining or after reclamation, and degradation of groundwater quality from construction of septic systems. Because mining activities have the potential to affect the current flood zone, a mitigation measure has been recommended requiring that the applicant have a registered surveyor or engineer survey the portion of the project site within the FEMA 100-year flood zone, define and stake the boundaries for the zone and determine the current elevations to ensure that no mining, material storage, or grading activity will occur within the flood zone as currently established or as may be revised by FEMA. The applicant has also included in the Surface Mining and Reclamation Plan a number of measures to prevent pollution of surface water and groundwater. Although implementation of

these measures will minimize potential contamination, an accidental discharge into the reclamation lakes is possible. Therefore, a mitigation measure has been recommended requiring that a water quality monitoring program be established and if water quality problems related to the proposed project are discovered either onsite or offsite during monitoring, then the applicant will be required to pay for a study to determine the cause of water quality problem and for any remediation required to correct the problem. In addition, mitigation measures have been recommended to ensure that any septic systems constructed on the project site do not impact the groundwater quality. These measures include water quality monitoring, design and construction of septic systems that satisfy Fresno County's standards, and replacement of any malfunctioning septic system.

The EIR also identified potential impacts to biological resources which could result from mining and processing operations on the project site, including potential disturbance of riparian habitat and wildlife, increased artificial light along the riparian corridor, potential loss of agricultural habitat and wildlife, and the potential loss of or disturbance to the valley elderberry longhorn beetle. To address these potential impacts, the project proponent has retained 142 acres to be used as buffer areas to preserve riparian vegetation. Also, the proposed mining and reclamation plan will require that excavation of material and overburden be set back the greater of 100 feet from any property line, Goodfellow Avenue, or the top of the banks of Cameron Slough and the Kings River, or 1.5 times the width of the dripline of nearby mature riparian trees. A number of other mitigation measures have also been recommended and agreed to by the applicant. These measures include provisions to minimize light and glare impacts resulting from mining and processing operations and provisions that will specifically protect the elderberry shrubs from construction and operation related impacts. Although there are a number of potential adverse impacts to biological resources that could result from the proposed project, there will also be a beneficial impact on wildlife from the implementation of the proposed reclamation plan. The EIR indicates that the proposed reclamation would substantially increase the value of wildlife habitat in the project area compared to existing conditions by creating new habitats including two lakes, freshwater marshes, and grasslands, and by enhancing existing riparian wildlife habitats. Creating and enhancing wildlife habitat at the project site would be considered a substantial beneficial impact on wildlife.

The proposed mining and processing activities have the potential to damage currently unknown cultural resources on the project site. Although the only evidence of archaeological resources discovered by a field survey of the project site was five obsidian flakes (byproducts of stone tool production), there may be other cultural resources buried under the ground that would not be evident by surface inspection alone. The EIR has recommended mitigation measures which address this concern. These measures require that certain steps be taken if cultural resources are uncovered during project activities.

In addition to the impacts discussed above, the EIR also identified potential impacts relating to geology and soils, public health and safety, and public services and utilities. Implementation of mitigation measures recommended in the EIR, standards incorporated in the applicant's Surface Mining and Reclamation Plan, and applicable laws and regulations should reduce these potential impacts to a level of insignificance.

As indicated above, the mining and processing operations are expected to extend for 30 years depending on varying market conditions. Historically, County records indicate that most surface mining permits have been approved with time limits of 20 years with a few permits approved with limits longer than 20 years. In one case, a surface mining permit was approved that granted a life of 40 years. Staff believes 30 years is a reasonable period of time for the life of this conditional use permit. If the applicant desires to extend the life past this 30-year period, a new conditional use permit application would be required. This would allow the County to evaluate the operation with respect to land use relationships and standards in effect at that time and to consider additional conditions, which may be appropriate to impose on the project.

In addressing the impacts identified in the EIR in the context of Finding 3, a number of other factors should also be considered. First is the fact that both State and local land use policies identify the area as containing significant known or potential mineral resources that should be recovered. The Mineral Resources Section of the Fresno County General Plan indicates these resources are valuable community assets, which must be safeguarded against preemption by competing or conflicting land uses. Also, another factor that needs to be considered is the attempt to minimize the project impacts identified in the EIR. Mitigation measures have been recommended which will reduce most of the potential impacts to a level of insignificance. Finally, it is not unreasonable to assume that if the proposed project is not approved that recovery of the existing resources may be even more difficult or may never be realized because of possible additional residential development in the surrounding area.

Given the information provided above, staff believes there is a sufficient basis to make Finding 3.

Finding 4: *That the proposed development is consistent with the General Plan.*

The subject property lies adjacent to the Kings River in the Kings River Regional Plan area. The Plan recognizes that the area adjacent to the river is unique in the valley floor of the County as the only remaining appreciable area of natural woodland and riparian vegetation. It is also rich in natural resources with excellent soils; valuable rock, sand, and gravel resources; and abundant water. In addition, the area is attractive in its natural state and for development to agricultural, urban, and other intensive uses. These characteristics subject the area to diverse and often competing land use interests. The Kings River Plan acknowledges this fact in a number of its stated objectives. One objective of the Plan is to "maintain the Kings River Regional area as a predominately agricultural region by preserving the maximum feasible amount of productive and potentially productive agricultural land" while another objective is to "provide for the conservation, utilization, and development of mineral resources in the Kings River area while minimizing the impact of mineral extraction activities on the natural environment." Other objectives seek to "preserve and enhance the character of, and values inherent in, the natural river environment as an open space resource" and "maintain the environmental and aesthetic qualities of the area".

The Kings River Regional Plan designates the project site as Agriculture and Open Space. Mining is a permitted use in these designations subject to approval of a conditional use permit. The Open Space Element of the Regional Plan indicates that the recovery of mineral resources should occur under appropriate locational and operational standards pursuant to the provisions of the Mineral Resources Section of the Open Space/Conservation Element of the General Plan.

The Mineral Resources Section encourages the development of mineral resources when conflicts with surrounding land uses and the natural environment can be minimized. The subject property lies within one of three areas in the County identified as principal locations for commercially suitable sand and gravel. The project site has been designated as a Mineral Resource Zone 2 (MRZ-2) by the California Division of Mines and Geology (Exhibit 6). Areas with this classification have been identified as having significant mineral resources. In addition, the State Mining and Geology Board has designated most of the Kings River area, including the project site, as being of regional and statewide significance, which requires that the decision makers consider the importance of the mineral resource to the region or the state as a whole and not just to the lead agency's jurisdiction. As discussed in Finding 3, conflicts with surrounding land uses and the natural environment will be minimized if the use is operated as proposed and in accordance with the conditions of approval and the mitigation measures.

Based on the above considerations, the proposed use can be considered to be consistent with the Fresno County General Plan.

The project site is classified as productive agricultural land as defined by the Fresno County General Plan and is currently under three Agricultural Land Conservation (Williamson Act) Contracts (Exhibit 7). As a point of information, the applicant has filed a Notice of Non-renewal to terminate two of the contracts and a partial Notice of Non-renewal to terminate a portion of the third contract. Based on these notices, the contracts will expire on December 31, 2008.

Although the proposed mining operation can be considered consistent with the County's General Plan, is a permitted use in the AL-20 and "O" Zone Districts, and is proposed for land classified as MRZ-2 for the specific purpose of mineral resource extraction, the State CEQA Guidelines cite the conversion of prime agricultural land as a significant environmental impact. In this case, it is not feasible to reclaim the land for agricultural use because of the amount of material to be extracted. According to the EIR, reclaiming the land as wetland and upland habitat is considered a practical, feasible, and biologically beneficial method of reclamation. Nonetheless, the loss of this land for agriculture will contribute to the ongoing loss of farmland in Fresno County. A mitigation measure is recommended requiring that farming operations be maintained as long as possible and that the topsoil be salvaged. According to the EIR, implementation of this measure would reduce the adversity of the short-term impact related to the loss of prime farmland, however, the impact would still be considered significant and unavoidable.

Mining and Reclamation Plan Finding

Section 858 of the Zoning Ordinance requires a finding that:

The Mining and Reclamation Plan has been reviewed for compliance with the Regulations for Surface Mining and Reclamation in All Districts, Section 858, and meets the applicable requirements therein.

Staff has reviewed the proposed Mining and Reclamation Plan for compliance with Section 858, "Regulations for Surface Mining and Reclamation in All Districts" and believes that all the applicable requirements have been met.

F. STAFF RECOMMENDATION

Conditional Use Permit Findings

Staff believes the required findings can be made and therefore recommends approval of Unclassified Conditional Use Permit Application No. 2765 and the requested exceptions to Section 858, subject to the conditions listed on Attachment "A".

Zoning Ordinance Section 858 Finding

Staff recommends that the Planning Commission adopt a finding that the proposed Mining and Reclamation Plan complies with all applicable requirements of Section 858, "Regulations for Surface Mining and Reclamation in All Districts".

CEQA Requirements

Prior to approving the Conditional Use Permit, the Commission must specify the basis for certifying the EIR pursuant to CEQA Section 15090, and must articulate the factors that should be incorporated in the findings and statement of overriding considerations required pursuant to CEQA Sections 15091 and 15093. The specific matters to be addressed by the Commission are outlined below. At the conclusion of its discussion, the Commission should continue the hearing to a subsequent hearing date to allow County Counsel to prepare a draft resolution for adoption by the Commission prior to final action on the Conditional Use Permit.

Required CEQA Actions

- a. Certify pursuant to Section 15090 of the California Environmental Quality Act (CEQA) Guidelines, that the EIR was completed in compliance with CEQA; that the Commission has reviewed and considered the EIR, and that the EIR represents the independent judgement of the County and sets forth an adequate range of alternatives to this project.
- b. Adopt findings, pursuant to Section 15091 of the CEQA Guidelines, for the identified significant environmental effects, and state that the administrative record includes evidence and logical steps used in making these findings:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects; and/or
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; and/or
 - (3) Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives.
- c. Make a statement of overriding considerations pursuant to Section 15093 that the benefits of the project outweigh the unavoidable adverse environmental effects, based on substantial evidence in the administrative record and fully explained in the record of project approval.
- d. Approve the Mitigation Monitoring and Reporting Program.

CEQA requires that the decision-making body identify which of the above findings listed under "b", above, applies to each significant environmental impact. In general, Finding 1 or 2 applies to significant impacts that are avoidable with the imposition of mitigation measures or specific proposed operational procedures. In Table ES-1, Summary of Project-Related Impacts and Mitigation Measures, included in Exhibit "4", the significant impacts are identified by an "s" or "su" in Column 2. Finding 2 will apply when an agency other than Fresno County is responsible for monitoring compliance with the mitigation measure.

Finding 3 applies to those impacts that remain significant and unavoidable after the imposition of any feasible mitigation measure. These impacts are categorized as "s" or "su" in Column 4 of Exhibit "4". Staff recommends that the Commission articulate factors that should be incorporated in the findings and then direct County Counsel to prepare specific draft findings for each of the significant impacts.

CEQA also requires that the decision-making body adopt a statement of overriding considerations with respect to those impacts that are significant and unavoidable. There are three such impacts associated with this project. These impacts are listed on page ES-4 and in Table ES-1 of Exhibit "4" of this Staff Report. Staff recommends that the Commission articulate those social, economic and/or other factors that would justify approving the project despite these significant unavoidable impacts and direct County Counsel to prepare a draft statement of overriding considerations. At the continued hearing, the Commission will take the four actions identified above relative to CEQA.

ATTACHMENT "A"

RECOMMENDED CONDITIONS OF APPROVAL FOR UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 2765

1. Development and operation shall be in accordance with the approved Surface Mining and Reclamation Plan except as modified by the following conditions.
2. Unclassified Conditional Use Permit No. 2765 shall expire 30 years from the effective date of approval.
3. A site plan review application shall be submitted for approval to the Director of the Planning & Resource Management Department in accordance with Section 874 of the Fresno County Zoning Ordinance.
4. All EIR mitigation measures listed in the Mitigation Monitoring and Reporting Program (Exhibit 5 of the Staff Report) shall be complied with.
5. Prior to any mining, the applicant shall enter into an agreement with Fresno County for the purpose of reimbursing the County for all costs incurred by the County in complying with the Mitigation and Monitoring requirements of CEQA (Public Resources Code Section 21081.6). These costs shall include, but are not limited to, staff and consultant services.
6. Provisions for financial assurances shall be met by the applicant prior to commencement of operations.
7. Screening along the Goodfellow Avenue frontage shall consist of a landscaped earthen berm 12 feet high and 60 feet wide at its base and located within a setback area 100 feet deep from the edge of the right-of-way. Slopes shall be minimum of 3:1 on the north side and 2:1 on the south side. The berm shall be planted with citrus or evergreen trees in at least two staggered rows, with up to 20 feet between each row and tree.
8. Removal of topsoil and vegetation shall not precede surface mining operations by more than one year, except that overburden from Phase 2 may be used to construct the landscaped berm along the Goodfellow Avenue frontage more than one year prior to the beginning of excavation of Phase 2; and overburden may be removed more than one year in advance of mining from a portion of a phase to complete the reclamation of an excavated phase.
9. Reclamation of any excavated portion of a phase may take longer than three years, but shall remain in an unreclaimed state for no longer than one year after commencing operation in any subsequent phase. Where there is an interim use of a mined area prior to its final reclaimed use (e.g. a settling pond, silt placement site), reclamation shall be completed within one year after the interim use is terminated.

10. All activities associated with the proposed project shall comply with the Fresno County Noise Ordinance.
11. Trucking operations shall not extend beyond 6:00 p.m. unless an emergency has been declared by the Governor of California or the Fresno County Board of Supervisors that requires later nighttime operations.

NOTES:

The following notes reference various mandatory requirements of Fresno County or other agencies and are provided as information to the project applicant.

1. The use is subject to the mandatory standards and conditions of Section 858 H and J of the Zoning Ordinance as specified in Attachment "B". The applicant has requested exceptions from Standard No. 5 and 26 h of Section H as discussed in Finding 3 above and as modified by recommended Condition of Approval No's. 7 and 8. Condition No. 3 of Section J has been modified as recommended by Condition of Approval No. 9.
2. The proposed project will be subject to the adopted rules of the San Joaquin Valley Unified Air Pollution Control District.
3. A Stormwater pollution prevention plan will be required by the U.S. Environmental Protection Agency and administered by the California State Regional Water Quality Control Board.
4. Because the proposed project includes land disturbances of more than five acres, the applicant will be required to obtain a National Pollution Discharge Elimination System (NPDES) General Construction Storm Water Permit from the Regional Water Quality Control Board if any stormwater runoff from the proposed project is designed to flow to Hanke Ditch, the Kings River, or Cameron Slough.
5. The applicant may be required to submit a Report of Waste Discharge and obtain a Waste Discharge Requirement (WDR) from the Regional Water Quality Control Board before commencing operations.
6. Prior to commencing operations, the applicant will be required to complete and submit a Hazardous Materials Business Plan or a Business Plan Exemption form to the Fresno County Department of Health, Environmental Health System.

ATTACHMENT "B"

SECTION 858

REGULATIONS FOR SURFACE MINING AND RECLAMATION IN ALL DISTRICTS

H. MINING AND RECLAMATION STANDARDS

The standards for surface mining operations and reclamation shall be as follows:

1. No extraction of material or overburden shall be permitted within twenty-five (25) feet of any property boundary nor within fifty (50) feet of a boundary contiguous with a public road right-of-way or recorded residential subdivision.
2. No stockpiled soil or material shall be placed closer than twenty-five (25) feet from a property boundary.
3. No production from an open pit shall create a slope steeper than 2:1 within fifty (50) feet of a property boundary nor steeper than 1½:1 elsewhere on the property, except steeper slopes may be created in the conduct of extraction for limited periods of time prior to grading the slope to its reclamation configuration, and slopes of 1:1 may be maintained five (5) feet below the lowest water table on the property, experienced in the preceding three (3) years.
4. Security fencing four (4) feet in height consisting of not less than three (3) strands of barbed wire, or an approved equivalent, shall be placed along any property line abutting a public right-of-way and around any extraction area where slopes steeper than two (2) feet horizontal to one (1) foot vertical are maintained. Such interior fencing will not be required where exterior fencing surrounds the property.
5. Screening of the site shall be achieved by planting trees of a variety approved by the Director along all property lines adjacent to a public road right-of-way or a recorded residential subdivision. Adequate screening can generally be achieved with evergreen trees planted in two (2) staggered rows, with twenty (20) feet between the rows and between the trees in each row. As an alternative, oleanders or shrubs of a similar size and density may be planted in the same pattern at ten (10) foot intervals. The plant species and planting plan and timetable shall be designated in the Mining and Reclamation Plan. All required plants shall be maintained in a good horticultural manner. In areas where it is found that the planting of trees or shrubs will not achieve the desired screening effect due to soil conditions, the Director may approve an alternate method of screening consisting of meandering dirt berms of sufficient height to screen the site.

6. The first one hundred (100) feet of access road(s) intersecting with a County maintained road shall be surfaced in a manner approved by the Board and shall not exceed a two (2) percent grade and shall have a width of not less than twenty-four (24) feet.
7. Where an access road intersects a County Maintained road, it shall be improved with a driveway approach constructed to Fresno County Standards.
8. All interior roads within the site shall be maintained so as to control the creation of dust.
9. Traffic control and warning signs shall be installed as required by the Commission at the intersection of all private roads with public roads. The placement, size, and wording of these signs shall be approved by the Director.
10. When the 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 mine operators who do not salvage soil during the 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 Mining and 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.
11. The species selected for revegetation shall be those with good survival characteristics for the topography, resoiling characteristics, and climate of the mined area. The operator shall provide a schedule and methodology for monitoring vegetation and replacing vegetation should the Department determine that replacement is necessary.
12. Additional vegetative planting may be required in the interest of erosion control.
13. 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.
14. Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.
15. Erosion control facilities such as settling basins, ditches, streambank stabilization, and dikes shall be constructed and maintained where necessary to control erosion.
16. Extraction operations adjacent to any flowing stream shall be separated from the stream by closed dikes. No extractions within the stream will be permitted.

17. All water utilized in the plant operation shall be disposed of behind a closed dike so that it will not cause impairment of water in any stream.
18. Operations shall be conducted to substantially prevent siltation of groundwater recharge areas.
19. 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.
20. Good operating practices shall at all times be utilized to minimize noise, vibration, dust and unsightliness. In reviewing a proposal the Planning Commission shall consider:
 - a. The location of the processing plant.
 - b. The location where unused equipment will be stored.
 - c. Proposals for the removal of all structures, metallic equipment, debris, or objects upon conclusion of the extraction operations.
21. Operating hours may be limited to designated periods except during periods of public emergency affecting the health and welfare of the community requiring continuous operation.
22. Any night lighting established on the property shall be arranged and controlled so as not to illuminate public rights-of-way or adjacent properties.
23. Processing and storage yards shall be centrally located on the site whenever possible.
24. All surface mining operations and reclamation activities shall be conducted consistent with all policies of the Noise Element of the Fresno County General Plan.
25. The Department shall consider the potentially adverse environmental effects of surface mining operations and will generally require that:
 - a. Disturbances of vegetation and overburden in advance of mining activities be minimized.
 - b. Sufficient topsoil be saved to perform site reclamation in accordance with the Mining and Reclamation Plan.
 - c. All reasonable and practical measures be taken to protect the habitat of fish and wildlife.
 - d. Temporary stream or watershed diversion be restored.
 - e. Permanent piles or dumps of mine waste rock and overburden be stabilized and not restrict the natural drainage without suitable provisions for diversion and toxic materials be removed or confined to control leaching.
26. Reclamation of mined lands shall be implemented in conformance with applicable performance standards as set forth in the State Regulations Sections 3703 et seq. pertaining to the subjects listed below:

- a. Wildlife habitat.
- b. Backfilling, regrading, slope stability, and recontouring.
- c. Revegetation.
- d. Drainage, diversion structures, waterways, and erosion control.
- e. Prime and other agricultural land reclamation.
- f. Building, structure, and equipment removal.
- g. Stream protection including surface and groundwater.
- h. Topsoil salvage, maintenance, and redistribution.
- i. Tailing and mine waste management.
- j. Closure of surface openings.

(Note: The performance standards are detailed in the Department's application materials for Mining and Reclamation Plans.)

(Amended by Ord. T-061-332 adopted May 18, 1999)

J. SPECIAL CONDITIONS

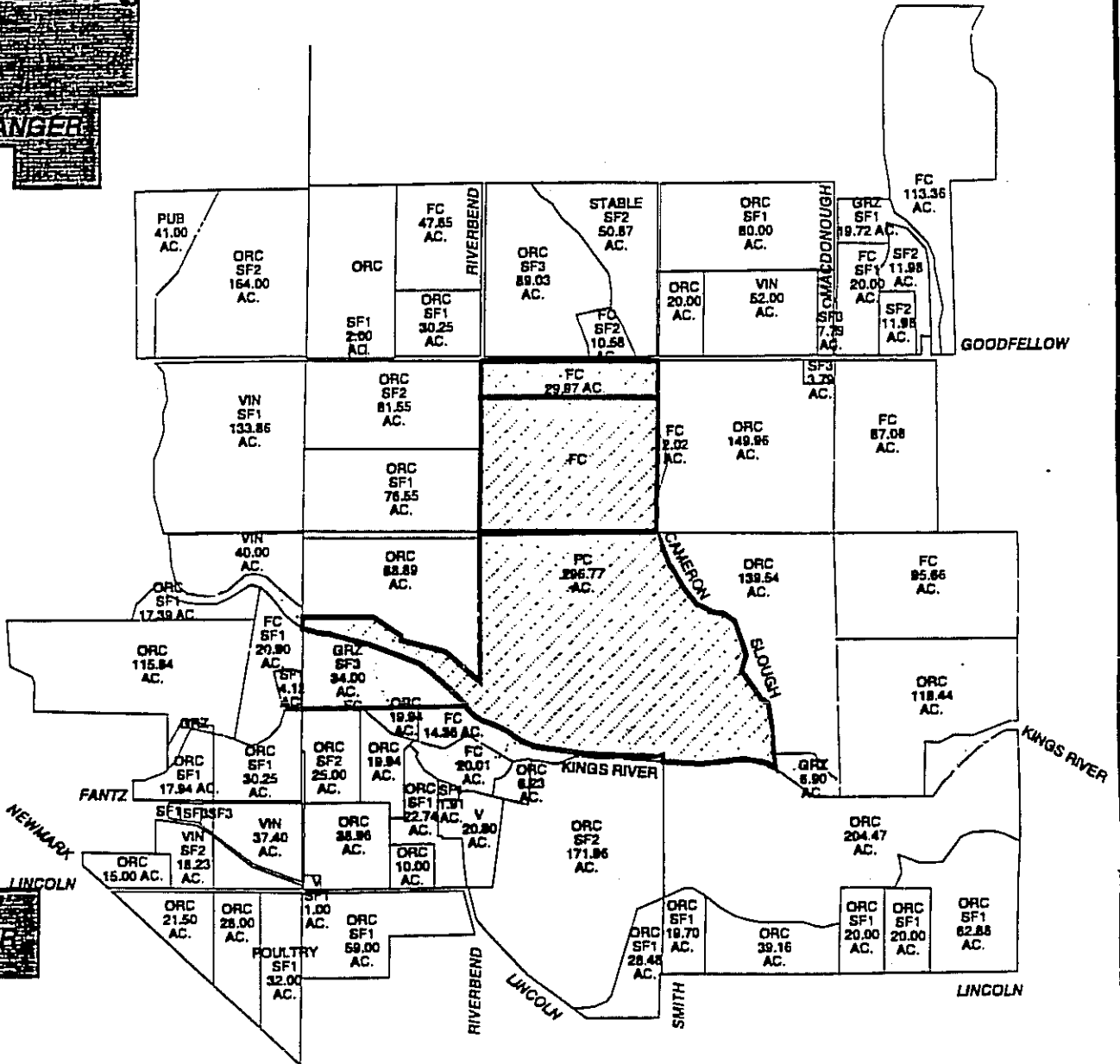
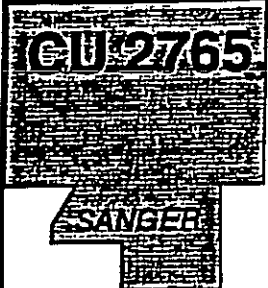
1. Where the reclamation work on any phase is not completed within the time period set forth in the approved Mining and Reclamation Plan or as extended by the Director, the County or its contractor may enter upon the operator's premises to perform said work and use the financial assurance security funds to pay for the cost thereof. In the event the operator fails to complete reclamation work as required herein and the security as specified herein is not sufficient for the cost of reclamation work, the operator shall then be liable to the County for the cost of any work required to be performed by the County in accordance with the Mining and Reclamation Plan. Where the County is authorized to enter upon property to cause work to be done, the CUP may be revoked by the Board of Supervisors upon thirty (30) days written notice first being given to the operator.
2. Prior to the excavation of any material, the operator shall execute a recordable agreement, binding upon his successors, heirs or assigns, covenanting to perform all reclamation in the manner prescribed by the approved CUP and Mining and Reclamation Plan. Said person shall agree to pay all court costs, attorney fees and interest at the legal rate from the date in which such costs have been incurred and further shall waive any and all defenses, legal or equitable, if an action at law is instituted to enforce the provisions of said agreement. The owner(s) shall execute a recordable agreement, binding upon his successors, heirs or assigns, which shall permit the County to enter upon the property to enforce completion of the Mining and Reclamation Plan.
3. Reclamation work in any phase shall proceed in such a manner that no excavated area within that phase is allowed to remain in an unreclaimed state for more than three years. Reclamation of any phase shall be completed within one year of commencing operation in any subsequent phase.
(Amended by Ord. T-061-332 adopted May 18, 1999)

EXHIBIT "1"

EXISTING LAND USE MAP



CU 2765 EA 4285



Legend	
CH	- COMMERCIAL
FC	- FIELD CROP
GRZ	- GRAZING
ORC	- ORCHARD
PUB	- PUBLICLY OWNED
SF#	- SINGLE FAMILY RESIDENT
V	- VACANT
VIN	- VINEYARD

Subject Property

1000 0 1000 Feet

