Attachment No. 3
Planning Commission Resolution 7961 and Board Resolution 2002-0833

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF SURFACE MINING PERMIT AND RECLAMATION PLAN APPLICATION NO. PMR 98-003	))	RESOLUTION NO. 7961

Resolution of the Planning Commission of the County of Tulare approving a Final Environmental Impact Report (FEIR), Surface Mining Permit and Reclamation Plan as requested by RMC Pacific Materials, Inc., 6601 Koll Center Parkway, Suite 300, P.O. Box 5252, Pleasanton, CA 94566.

WHEREAS, the requested Surface Mining Permit and Reclamation Plan would allow the excavation of rock, sand, and gravel on 137 acres of a 496-acre site (Stillwell Ranch) with reclamation to a lake and grazing land; and

WHEREAS the project site is generally located on the north side of State Route 216 between State Route 198 and Dry Creek Drive, approximately one mile north of Lemon Cove (APNs: portions of Section 35, Township 17 South, Range 27 East, and Section 2, Township 18 South, Range 27 East, MDB&M), as shown on the Site Plan Map attached hereto as **Exhibit A**; and

WHEREAS, an application has been filed pursuant to the regulations contained in Section 7-25-1100, et seq., of the Ordinance Code of Tulare County; and

WHEREAS, a Draft Environmental Impact Report has been prepared and circulated and public testimony thereon was received and recorded at a regular meetings of the Planning Commission on September 12, 2001, December 5, 2001, January 30, 2002, January 16, 2002, March 27, 2002, June 26, 2002, July 24, 2002 and August 14, 2002; and

WHEREAS, the Planning Commission has given notice of its intention to consider the EIR and the request for approval of a Surface Mining Permit and Reclamation Plan as provided in Public Resources Code sections 21000 et seq., section 7-25-1110, et seq., of the Ordinance Code of Tulare County, and as provided in Public Resources Code section 2710 et seq.; and

WHEREAS, Staff has performed necessary investigations, prepared written reports, recommended findings, recommended conditions of approval, a recommended Mitigation Monitoring and Reporting Plan, and a recommended Groundwater Monitoring Plan.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. The Planning Commission hereby certifies that, prior to taking action on the project, it has independently reviewed and considered the information contained in the Final Environmental Impact Report (including July, 2002 documents entitled Errata and Addendum to the Final Environmental Impact Report) as prepared by the applicant's consultant, Resource Design Technology, Inc., together with the Conditions of Approval attached hereto as **Exhibit B**, Mitigation, Monitoring and Reporting Program attached hereto as **Exhibit C**, the Groundwater

EXHIBIT B

Mitigation, Monitoring and Reporting Program attached hereto as **Exhibit C**, the Groundwater Monitoring Program attached hereto as **Exhibit D**, and based on that independent review and consideration of said information, together with evidence produced in public hearings, the Commission hereby further certifies that the Final EIR prepared for this project is adequate and has been prepared, circulated and completed in compliance with the California Environmental Quality Act and all State and County Guidelines implementing the Act.

B. The Planning Commission hereby adopts the following findings of fact in support of approval of the proposed project:

1. An application for a Surface Mining Permit and Reclamation Plan (PMR 98-003) has been submitted to excavate rock, sand, and gravel on 137 acres of a 496-acre site with reclamation to a lake and surrounding pasture. The application consists of the surface mining permit and accompanying reclamation plan which are described and set out in Chapter 3 of the June 2002 Final Environmental Impact Report considered under Section A of this resolution set out above. Excavation of the 137 acre mining site will occur to an approximate maximum depth of 40 over a period of 10 to 20 years. The proposed maximum annual production of the surface mine will be approximately 1,000,000 cubic yards, with a maximum production of 9.6 million cubic yards (marketed) over the life of the project. Reclamation of the site will occur incrementally as mining progresses, in accordance with the site reclamation plan. Under the site reclamation plan, approximately 89 acres of the 137-acre site will be reclaimed to a lake, with 48 acres being reclaimed to pasture.

2. The requirement for a surface mining permit and reclamation plan is established under the authority of Chapter 25 (Surface Mining and Reclamation) of Part VII of the Ordinance Code of Tulare County.

3. In compliance with the 1974 Urban Boundaries Element of the Tulare County General Plan, the project was reviewed and not identified to be within any urban boundary. Therefore, the project is not in conflict with any of the policies of this element.

4. The 1988 Noise Element of the Tulare County General Plan indicates that the mining site does not adjoin any noise-sensitive zoned properties as defined by the Noise Element, and is surrounded by agricultural and rural residential zoning. Accordingly, the mining operations may not exceed noise levels of 70 dBA (L_{max}) at the property line of the closest receptor.

5. The 1972 Environmental Resources Management Element (ERME) of the Tulare County General Plan recommends that mining permits include plans for future use of the land and that said plans be guaranteed by reasonable bonds to ensure their completion. The ERME also

recommends that existing and proposed surface mining operations conform to noise, water, air, and visual pollution standards. The future use of the land is assured through reclamation of the site to a lake with riparian habitat and grazing land. Sufficient financial assurances have been proposed to guarantee reclamation of the site, and conditions of approval have been drafted to assure compliance with federal, state, and local requirements for surface mining projects.

The 1972 Open Space Plan of the Environmental Resources Management Element (ERME) designates the site as Intensive Agriculture. Surface mining and its associated uses are considered to be consistent with agricultural land use designations, as permitted in the Ordinance Code of Tulare County, No. 3133, as amended. Upon completion of mining, the site will be reclaimed to an agricultural use (a lake with riparian vegetation and grazing land). The proposed end use of the site is not found to be in conflict with policies of the ERME.

6. The Rural Valley Lands Plan (RVLP) designates the site for Agricultural use. The goals and objectives of the RVLP are to sustain the viability of Tulare County agriculture by restraining division and use of land that is harmful to continued agricultural use of non-replaceable land resources and discouraging the conversion or division of agricultural lands to non-agricultural uses and parcel sizes. The subject proposal includes mining of the site to remove rock, sand, and gravel while retaining the topsoil, which will improve the productivity of the land, and reclamation of the site to an agricultural use (a lake with riparian vegetation and grazing land). The project thus complies with policies and objectives of the RVLP.

7. Based on findings 3 through 6 above, the proposed project is considered to be consistent with all applicable elements of the Tulare County General Plan.

8. The proposed mining site is zoned AE-40 (Exclusive Agriculture – 40 acre minimum parcel size), AE-20 40 (Exclusive Agriculture – 20 acre minimum parcel size), and PD-F-M (Planned Development-Foothill-Mobilhome). Mining of natural resources is allowed in the AE-20, AE-40, and PD-F-M zones, subject to the approval and granting of a surface mining permit and reclamation plan in accordance with Section 7700 et sq. of the Ordinance Code of Tulare County.

   A preliminary site plan for the project was approved by the Tulare County Site Plan Review Committee (SPRC) on April 21, 1999. The SPRC authorized the project applicant to file a final site plan for review.

9. The project as proposed is subject to the requirements of the Surface Mining and Reclamation Act, PRC Sec. 2710 et seq. The project is

therefore also subject to PRC Sec. 2207, annual reporting requirement, and CCR, Title 14, Sec. 2500 et seq. As documented in the record, the Department of Conservation, Office of Mine Reclamation, has been consulted in regard to determining compliance of the project with the various requirements of State law regarding surface mining.

10. Appropriate Federal, State, and local agencies were contacted regarding the proposal. Several objected to the project on the grounds that it would result in excessive evaporative losses from the reclamation lakes, adversely impact local water wells by dewatering of the mining pits, adversely impact local wildlife, and adversely affect traffic and circulation in the area. These issues were addressed in the project Environmental Impact Report (EIR) and either found to be a less than significant impact, or mitigation measures were developed to reduce the impact to less than significant levels.

11. Twenty-four (24) potentially significant adverse environmental impacts that could result in from the project were identified through the project Initial Study / Environmental Assessment (see Part C, Appendix A of the FEIR). Even though the Final Environmental Impact Report (FEIR) identifies certain significant effects of the proposed project, the Planning Commission finds that the Surface Mining Permit and Reclamation Plan should be approved as changes or alterations have been required in, or incorporated into, the project which mitigate or avoid all of the significant environmental effects thereof as identified in the EIR as follows:

    A. Incompatibility with existing and planned land uses in the vicinity during mining operations: Mitigation for traffic impacts include the construction of acceleration lanes, deceleration lanes, and left turn pockets to control traffic flow into and out of the site and existing Lemon Cove Plant; for noise and vibration impacts, the construction of earth berms along the eastern boundary of the site, mining Phases III and VI in a southeasterly direction from the proposed haul road, conducting short term noise exposure testing during the mining of Phases III and IV, establishing equipment setbacks during mining of Phase IV, conducting ground vibration testing during mining of Phases III and IV; for PM_{10} impacts, watering or chemically treating haul roads and processing areas to control dust, wetting or covering loaded transport trucks, limiting speed on the project site, and ceasing operations when wind speeds can create excessive amounts of dust.

    B. Generation of fugitive dust emissions which would contribute to PM_{10} nonattainment for the San Joaquin Valley Air Basin: Mitigations include watering or chemically treating haul roads and processing areas to control dust, wetting or covering loaded

transport trucks, limiting speed on the project site, and ceasing operations when wind speeds can create excessive amounts of dust.

C. The generation of additional truck traffic on the segment of SR 216 between the Stillwell site and the entrance to the existing Lemon Cove plant: Mitigations include construction of a modified left turn lane from SR 216 into the existing Lemon Cove facility, construction of acceleration lanes onto SR 216 from the existing Lemon Cove plant and from the Stillwell site onto westbound SR 216, and a deceleration lane/left turn lane from eastbound SR 216 to the Stillwell site.

D. Impacts to the Valley elderberry longhorn beetle (VELB), a federal-listed endangered species: Mitigations include establishment of a fifty-foot setback from the dripline of any elderberry plant in Phases II through IV plus backfilling any mined areas within the standard 100 foot setback (usually required by FWS) with topsoil to promote natural regeneration of the riparian community. Mitigation also includes elimination of Phase I of the project.

E. Impacts to loss of nesting habitat for other special status species, particularly the Western pond turtle: Mitigation measures include building barriers to prevent nesting of the Western pond turtle on the project site, and conducting wildlife surveys prior to excavation of each phase of the project to determine if foraging and nesting patterns of special bird/bat species would be affected by the mining operations.

F. Noise generated by excavation equipment, etc. that is above existing ambient conditions during mining of Phases III and IV: Mitigation measures include the construction of a temporary earthen berm along the eastern boundary of the project in Phases III and IV to shield local residences from onsite noise, conduct mining in Phases III and VI in a southeasterly direction from the proposed haul road to maintain the maximum depth of equipment below the ground surface, further shielding local residences from onsite noise, and conducting short term noise exposure testing during the mining of Phases III and IV to determine if any additional noise mitigation is warranted.

G. Noise above ambient conditions that is generated by the portable crushing and screening of aggregates and loading haul trucks during mining in Phases IV of the project: Mitigation measures include establishing a 450 foot setback between mining equipment and residences (R3 through R8) along the southeastern boundary

of the site in Phase IV, and conducting ground vibration and short-term noise testing during mining in Phase III and IV to ensure that processing and loading noise are not exceeding the project standards of significance.

H. The cumulative effect of noise above ambient conditions due to the total surface mining project: Mitigation includes those measures listed in F and G above.

I. Impede access to Southern California Edison's power transmission structures: Mitigation includes providing replacement rights to Southern California Edison (SCE) for any access roads which may need to be relocated due to mining, at no cost to SCE, constructing a utility access road crossing to ensure access to SCE vehicles and equipment onto tower access roads, and install commercial-type driveways, 16-feet wide, with curb depressions capable of supporting 40 tons on a three axle vehicle.

J. Failure to observe minimum height clearances from overhead conductors, resulting in damage to utility towers: Mitigation will consist of maintaining a 17 foot clearance from all overhead conductors and more than a 25 foot clearance from all Edison structures by equipment working in the Edison right-of-way.

K. Possible damage to Edison power insulators due to dust from the mining operations: Mitigation will consist of applying measures described under B above, which includes watering all haul roads and processing areas to reduce dust.

L. Possible erosion of soil surrounding Edison's utility towers by wave action on the 89-acre lake: Mitigation includes careful monitoring of the shoreline in the vicinity of the utility towers for evidence of excessive wave erosion, and the protection of any area of the shoreline which retreats more than 10 feet in horizontal distance with wave dispersing armor rock (rip-rap).

M. Temporary and permanent alteration of the visual character of the project site and surroundings: Mitigation includes placement of a temporary visual screening berm along the eastern boundary of the project site to obscure near views of the site and establishment of a landscape buffer of native trees along the southern boundary of the site to block oven views by travelers on State Route 216.

12. During the Planning Commission hearings, numerous comments were received from the local agencies and the interested parties concerning the project and adequacy of the project EIR. Where appropriate, these

concerns were addressed through changes or modifications to the project, or as conditions of approval in the surface mining permit. The primary environmental issues and concerns raised by the local agencies and the interested parties were as follows: (1) traffic impacts, (2) undermining of the SR 216 bridge and overflow of the reclamation lakes due to lake elevation differences, (3) impacts to local water wells and groundwater levels due to mine dewatering, (4) evaporative losses from the reclamation lake, (5) effectiveness of the proposed "V" ditches for groundwater recharge, (6) destruction and loss of farmland, (7) stagnation of the proposed reclamation lake, (8) shoreline erosion due to wave generation on the reclamation lake, (9) flooding and flood control issues, (10) alternatives analysis for the project, (11) cumulative impacts due to the project, and (12) mosquito vectors. Verbal and written comments from the public, along with responses prepared by Tulare County are found in Part A, Response to Comments, for the Final Environmental Impact Report for the Stillwell Project.

13. Section 7-25-1110(c) of the Ordinance Code of Tulare County states that::

> The permit and/or reclamation plan "will be approved only if they fully comply with the requirements of the (Surface Mining and Reclamation) Act, the regulations of this Chapter, and if the establishment, maintenance, and operation of the mining operation will not be detrimental to the public health, safety, and general welfare. Any approval may be granted subject to any condition which the Planning Commission may deem necessary to effectuate the purposes of the Act, the regulations, and this Chapter."

The site's rural location, the need for viable aggregate sources within the County, mitigation measures developed in the Environmental Impact Report to reduce potential environmental impacts with the project to less-than-significant levels, conditions of approval in the Surface Mining Permit and Reclamation Plan, and the proposed reclamation to a intensive agricultural use support the viability of the project so that positive findings for approval can be made.

14. The total amount of financial assurances proposed to ensure reclamation of Phase II through Phase IV of the project is $38,530.00. This calculation is based on a maximum disturbance of 45 acres land during any one time in any phase. The total amount of financial assurance will be carried over into each new phase of mining to cover reclamation of that phase as the previous phase is reclaimed.

15. The amount of financial assurances will be reviewed and re-evaluated on an annual basis. Said assurances will be provided in the form of a Surety Bond, which has been determined to be an acceptable form of surety,

Section 2773 of the Surface Mining and Reclamation Act (SMARA).

16. The Environmental Assessment Officer has reviewed and approved a Environmental Impact Report for PMR 98-003.

C. This Planning Commission, after considering all of the evidence presented, finds that the Surface Mining Permit and Reclamation Plan applied for in Case No. PMR 98-003, as conditioned on the mitigation measures and conditions of approval set forth herein, complies with the requirements of SMARA and the regulation of Chapter 25 of Part VII of the Ordinance Code of Tulare County and will not be detrimental to the public health, safety, and general welfare of persons residing or working in the area or to the general welfare of the County.

D. The Planning Commission hereby finds said Surface Mining Permit and Reclamation Plan will not have a significant effect on the environment and certifies that an Environmental Impact Report has been completed in compliance with the California Environmental Quality Act and the State and local guidelines for the implementation of the Act.

E. The Planning Commission hereby approves Surface Mining Permit and Reclamation Plan Application No. PMR 98-003, including financial assurances, subject to the conditions set forth in **Exhibit B**, the Mitigation, Monitoring and Reporting Plan set forth in **Exhibit C** and the Groundwater Monitoring Plan set forth in **Exhibit D.**

The foregoing resolution was adopted upon motion of Commissioner Whitlatch, seconded by Commissioner Millwee, at a regular meeting of the Planning Commission on the 14th day of August, 2002, by the following role call vote:

AYES: Whitlatch, Millwee, Wheeler

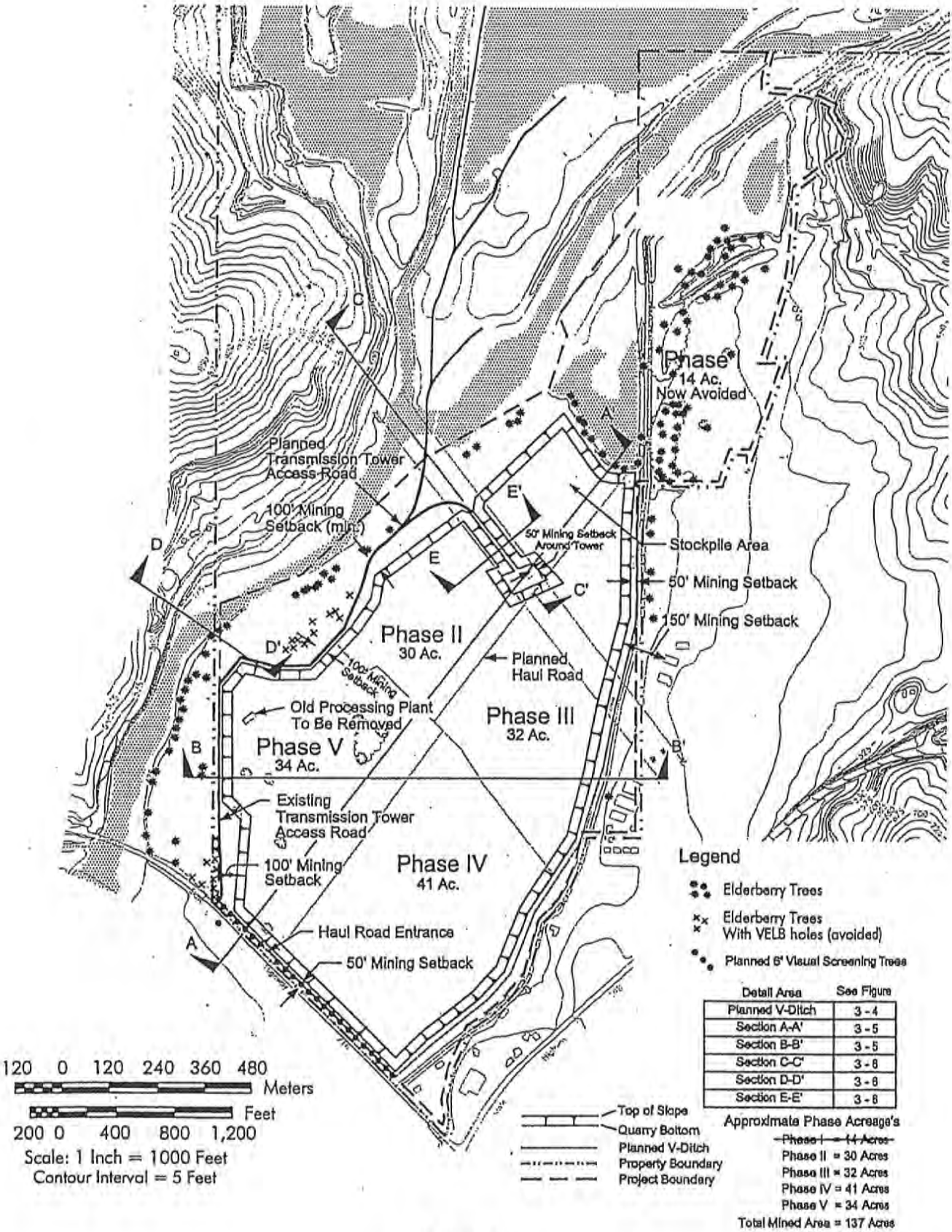
NOES: Dias, Fernandes

ABSTAIN: Kirkpatrick

ABSENT: Kapheim

TULARE COUNTY PLANNING COMMISSION

George E. Finney, Secretary



Detail Area	See Figure
Planned V-Ditch	3 - 4
Section A-A'	3 - 5
Section B-B'	3 - 5
Section C-C'	3 - 6
Section D-D'	3 - 6
Section E-E'	3 - 6

Figure 6
Mine Plan
Stillwell Project
Tulare County, California

RESOURCE DESIGN
TECHNOLOGY, INC.

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SITE PLAN MAP
PMR 98-003
P C Exhibit "A"

CONDITIONS OF APPROVAL
SURFACE MINING RECLAMATION PLAN
TULARE COUNTY CASE NO. PMR 98-003

(All references herein to "the RMA" shall mean the Tulare County Resource Management Agency Director or his or her designee)

Operational Conditions:

1. Surface mining operations shall be limited to between the hours of 6:00 a.m. to 6:00 p.m., Monday through Friday. Extended hours (from 5:00 a.m. to 10:00 p.m.) are also permitted, but shall not exceed 20 days per year. The applicant must notify the County RMA when operating on extended hours.

2. No on-site processing of rock products may occur on the site, other than initial crushing and screening of rock using a portable screening plant. All other materials processing will occur at the main RMC Pacific Materials Lemoncove Plant located at 24325 Lomitas Drive, Woodlake, California.

3. Surface mining shall occur in the phases as shown on the project Mining Plan (note: Phase I of the Plan has been eliminated) provided that no more than 45 acres shall be mined at any one time, in any phase. Mining shall be conducted in order of the phasing plan (minor overlap is permitted), and each phase shall be reclaimed in accordance with the Reclamation Plan as mining progresses.

4. All mining slopes on project site shall not exceed a gradient of 1½ : 1 (horizontal to vertical), except that mining slopes surrounding the SCE transmission towers shall not exceed an angle of 2:1.

5. No surface mining shall be permitted within the channel of the Kaweah River.

MM 4.5-1(a-b) 6. Fugitive dust control measures shall be initiated and emissions minimized throughout the proposed facility. All haul roads, parking areas, and processing areas, shall be surfaced with gravel and watered regularly to control vehicular dust. Dust control shall also be initiated in all non-active mining areas by watering, applying soil stabilizers, or using vegetative covers.

7. Routine maintenance of any on-site vehicles shall be conducted in a designated shop area, if applicable, with an impermeable surface. Surface and subsurface discharges of wastes related to the shop shall not be allowed.

8. The applicant shall provide a minimum of two five-gallon pack type fire extinguishers and two long handle round point shovels. The

EXHIBIT C

extinguishers and shovels shall be maintained at all times when employees are on the site and shall be used only for fire control purposes by employees.

9. The applicant proposes to store petroleum fuels (gasoline and diesel) on site in above ground storage tanks exceeding either a single tank capacity of 660 gallons or cumulative tank capacity of 1,320 gallons. The applicant is subject to State above ground petroleum tank regulations and must file a Storage Statement with the State Water Resources Control Board (SWRCB), pay a facility fee, and prepare a federal Spill Prevention Control and Countermeasure Plan prior to the onset of mining activities on the site. The applicant must also verify with the RMA that they have met the requirements of the SWRCB concerning fuel storage on the site.

10. Above ground fuel storage tanks shall not be located closer than fifty feet (50') to any building or any property line. The tank(s) shall be properly placarded and equipped with an automatic shut-off nozzle. All weeds and grass shall be cleared around the tank(s) for a minimum distance of thirty feet (30'). Above ground storage of flammable liquids in containers having an aggregate capacity of in excess of 2,000 gallons requires a Special Use Permit under the Zoning Ordinance in addition to the surface mining permit and reclamation plan.

11. All parking areas for the public and employees shall be located within the boundaries of the property under control of the operator and shall be provided as follows: One space for each employee per work shift, plus one space for each company vehicle.

12. If, during construction or grading activities on the site, any resources of an historic or prehistoric nature are discovered, all construction or grading shall temporarily cease and the RMA shall immediately be notified of the discovery. Further development shall not continue until the RMA certifies that appropriate mitigation or recovery measures, if deemed necessary, have been completed.

13. Any onsite lighting shall be arranged and controlled so as to not illuminate public rights-of-way or adjacent properties.

14. The applicant shall construct and maintain thirty foot (30') wide perimeter fire break around the work area. The fire break shall be to mineral soil.

15. All on site equipment shall comply with the requirements of Public Resources Code Section 4442 with regard to spark arresters.

MM 4.5-1(c) 16. Trucks and trailers leaving the site shall have their loads fully covered or wet down in a method approved by the Tulare County Health Department to minimize dust generation during transport.

MM 4.5-1(d) 17. Trucks and mobile equipment on the site shall limit speed on interior haul roads to a maximum of 25 miles per hour to minimize dust.

MM 4.5-1(e) 18. The mine operator shall cease dust generating activities when wind speeds create excessive amounts of blowing and suspended dust.

19. The applicant shall comply with the requirements of the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD), District Regulation VIII – Fugitive Dust Rules as it pertains to the reduction of PM-10 emissions generated by human activity due to construction, road building, etc. The applicant shall file for an Authority to Construct (ATC) with, and obtain required permits to operate from the SJVAPCD (unless previously obtained) prior to commencing mining activities on the project site.

20. The applicant shall establish any Waste Discharge Requirements and update their Spill Prevention Control and Countermeasure Plan to the satisfaction of the Regional Water Quality Control Board.

21. An Erosion Control Plan shall be prepared by a Registered Civil Engineer and submitted to the RMA for approval prior to commencement of grading, mining, or issuance of a building permit. The plan shall indicate stabilization and erosion control for all cuts, fills, and other excavation or grading by planting, riprapping, installation of sediment basins, and traps or other effective means of reducing erosion.

Traffic:

22. All on-site haul roads, processing areas, truck loading areas, and employee parking areas shall be surfaced and maintained so that dust and mud do not create conditions detrimental to the surrounding area and roadways.

23. Dirt and mud shall not be allowed to accumulate on paved roadways (State Highway 216) as a result of traffic entering or leaving the RMC mining sites. Any such accumulations shall be immediately cleaned off to avoid visual and safety hazards to motorists traveling the highway.

24. Haul trucks shall not be allowed to wait on State Route 216. All queuing activity shall be done on-site and haul trucks shall not be allowed to park

on State Route 216 at any time.

25. Trucks accessing the project site may do so only from State Route 216 along the designated site access road.

26. Trucks hauling materials from the site to the existing RMC Pacific Lemon Cove Plant shall not exceed 600 round trips per day.

27. The applicant shall pay the Department of Transportation (Caltrans) a pro-rata share of the cost of signalization of the State Route 198 / State Route 216 intersection if and when it becomes necessary to do so, and will provide Caltrans current trip generation and distribution data on which to compute the pro-rata share.

MM 4.6-1(a-d) 28. The applicant is responsible for, and shall construct modified left-turn pockets/deceleration lanes approaching the driveway to the site and the existing Lemon Cove Plant driveway off of State Route 216 in accordance with State specifications. Construction of the left-turn pockets shall be completed prior to commencing operations on the site. The applicant shall also construct acceleration lanes onto State Route 216 from the existing Lemon Cove Plant and the site, as per Caltrans specifications.

29. If lane closures are anticipated to work on State highways, the applicant must request and receive lane closure charts from the Caltrans District 6, Office of Traffic Operations prior to conducting any such work.

30. An encroachment permit shall be applied for and obtained from Caltrans (after access is approved by Caltrans Traffic Operations) for any work within the State right-of-way. Engineering drawings of all work within the Caltrans right-of-way are to be submitted with the encroachment permit application and may be prepared in metric or dual units (English / Metric). If using dual units, the preferred method is English first with Metric in parenthesis. Work planned within the State right-of-way will be performed to State standards, specifications, and special provisions at no cost to the State. Plans for said work need to be reviewed and approved by the Permit Department and Environmental Planning Branch before a permit can be issued. Permits will be issued in accordance with Caltrans Streets and Highways Code (S&HC), Section 671.5, "Time Limitations". The plans shall be stamped and signed by licensed professionals.

31. Any driveways (existing or proposed) accessing State Route 216 from the project site or existing Lemoncove Plant must meet current State driveway standards. Driveway locations shall be determined during the Encroachment Permit application process.

Health

32. Any out of service wells on the property must be properly destroyed in accordance with the Tulare County Well Ordinance.

33. Drinking water for on-site employees shall be provided by bottled water or from an approved source.

34. Any future permanent on-site well, other than monitoring wells, proposed for the site shall meet county requirements as a Public Water System. The applicant shall contact the Health and Human Services Agency, Environmental Health Services Division, to apply for a permit prior to drilling. Plans for the water system, including well specifications, shall accompany the application.

35. The applicant shall provide an adequate number of portable toilets to accommodate all on-site employees. The toilets shall be serviced at regularly scheduled intervals by a licensed waste hauler. The toilets shall not be allowed to create a nuisance, excessive odors, nor insect vector problems.

36. The mechanical conditions of front-end loaders and road trucks (haul and transport trucks) shall be regularly maintained to prevent engine and/or transmission oil leakage onto bare ground.

37. The project shall not create a nuisance as determined by the Environmental Health Division with respect to surface and groundwater contamination, surface water runoff, or breeding of insect vectors.

38. The applicant should contact the Environmental Health Services Division to update their Hazardous Materials Business Plan and Inventory Program, if applicable.

39. The applicant shall prepare and provide a Vegetation Management Plan as a preventative measure aimed at controlling insect vectors on the site. The plan shall be prepared by a qualified professional and made available to the RMA prior to commencing mining operations on the project site.

Noise:

40. All equipment necessary to conduct the uses permitted shall be constructed, maintained and operated in such a manner, as far as reasonably practicable so as to eliminate noise or vibration that is injurious or annoying to persons living in the vicinity. Internal combustion engines shall be equipped at all times with exhaust mufflers in good working condition to control excessive or unusual noise. All operations

shall comply with noise level regulations as established by the state of California, Department of Industrial Relations, General Industrial Safety orders contained in Title 8, group 6.1, Article 55 ("Standards for Noise Control").

41. Operational noise levels shall not exceed 70 dBA (L_{max}) measured at the property lines of the nearest receptor.

MM 4.8-1(a) 42. The applicant shall construct a temporary earthen berm along the entire eastern boundary of the site (Phases III and IV) designed to reduce the impacts of noise and visibility from the mining operations on neighboring residences. The earthen berm shall be constructed and maintained at a height of 12 to 15 feet, relative to existing ground level. The earthen berm shall be maintained and landscaped so as to not be visually offensive to local residents. However, segments of the earthen berm may be lowered or removed by the mine operator if noise levels conform to the levels required in Condition No. 41 and if residents along the east boundary of the site opposite to the segment to be lowered or removed agree in writing.

MM 4.8-1(b) 43. As an additional measure to reduce the effects of noise on neighboring residences, mining in Phases III and IV shall start near the proposed haul road and progress in a southeasterly direction toward the existing residences, using the pit walls as an additional noise barrier.

MM 4.8-1(c) 44. The applicant shall conduct periodic, short-term noise level measurements at the nearest residences during mining of Phases III and IV to confirm the effectiveness of Conditions No. 42 and 43 above. Noise measurements shall be conducted both during daytime and nighttime conditions using appropriately-calibrated, portable sound monitoring equipment. The results of any noise monitoring event shall be provided to the RMA for review. Should it be determined that mining noise from the operations has exceeded the threshold level of 70 dBA (Lmax) at the property lines of the nearest receptor, then operations shall temporarily cease at that location until additional noise attenuation measures may be applied to reduce the noise.

MM 4.8-2(a-b) 45. The mine operator shall setback portable mine crushing and screening equipment a distance of 450 feet from the southeast property line during mining in Phase IV of the project to minimize noise and ground vibration affecting nearby residences. This distance may be adjusted, if necessary, based on field noise monitoring results.

Hydrology:

46. Prior to commencement of mining, the applicant shall prepare and implement the June, 2002 Groundwater Monitoring Plan adopted for this project. The purpose of the monitoring plan shall be to assess the effectiveness of the V-ditch design in maintaining groundwater levels in wells along the east and southeast boundary of the site and in monitoring the quality of water supplying recharging the local aquifer. All groundwater monitoring and reporting shall be done in accordance with the approved plan. Any property owner with a water well (or water wells) located within a ½ mile radius of the project boundaries may participate in the groundwater monitoring program. The project applicant shall notify all owners with wells within ½ mile of the property boundaries of the opportunity to participate in the groundwater monitoring program. Participation in the program requires that the wells be accessible and in a condition which allows them to be tested on a regular basis.

47. The groundwater monitoring plan shall continue to be implemented after reclamation. However, after three (3) years the applicant may request the RMA to discontinue the groundwater monitoring plan. The monitoring plan may be discontinued if the RMA determines there are no outstanding complaints with valid documentation still to be resolved and that monitoring is no longer needed to meet the objectives of the monitoring plan.

48. In addition to the Annual Groundwater Monitoring Report required by the Groundwater Monitoring Plan, the applicant shall make available to the RMA on a monthly basis, data concerning (1) the locations and amounts of mine dewatering, (2) the locations and amounts of water delivered to the recharge trench, and (3) the locations and amounts of dewatering delivered elsewhere. This data shall be tabulated and provided in a form acceptable to the RMA.

49. The project shall not affect the water level, yield, or quality of any well*, both during the mining operations and subsequently as a reclaimed site. Upon receipt of a written complaint from any owner of a pre-existing well which details an alleged impact to the well's water level, yield, or water quality, the RMA shall request a report from a licensed hydrogeologist explaining the problem. If a significant problem can be professionally demonstrated by a licensed hydrogeologist to be caused by mining activities, then immediate action must be taken to correct the condition, which may include (but is not limited to) modifying the recharge ditches to provide more recharge capacity, reducing the amount of pit dewatering, or if necessary, ceasing mining operations. (* As used herein, an impact to a well shall not be deemed to have occurred if the well water level, well yield, and quality are within ranges of existing conditions specified in the EIR).

50. Prior to commencing mining the applicant shall, at his own expense, retain a qualified soil scientist to prepare a detailed map of the boundaries of the Tujunga sand, Exeter loam, and San Joaquin loam soils along the entire east boundary of the surface mining site. All mining activities shall be set back a minimum distance of 100 feet from the mapped boundary of the westerly extent of the Exeter loam and San Joaquin loam soils, or a distance of 70 feet from the edge of the Foothill Ditch, whichever is greater. The site plan map for the mining project shall be adjusted to show the set backs and submitted to the RMA for approval prior to commencement of mining. A copy of the soils map prepared by the soil scientist shall also be provided to the RMA for review. The set back boundary shall be staked for easy field identification using metal poles driven into the ground and painted red or white. Poles shall be placed at distances of 100 to 200 feet apart, or as necessary to clearly identify the location of the set back boundary.

MM 4.4-4 51. The applicant shall enhance bank vegetation with tree and shrub planting on the land separating the Kaweah River and the active mining site. Planting shall be done in accordance with the site Landscaping Plan approved by the Tulare County RMA.

MM 4.4-5 52. The operator shall construct a north-south trending berm across the eastern third of the reclamation lake in accordance with Figure 3-10 of the project EIR using overburden. Construction of the berm shall be in accordance with plans and specifications prepared by a registered civil engineer and approved by the RMA. Construction of the berm shall also be supervised in the field by a registered civil engineer to ensure compliance with approved plans and specifications. The structural integrity of the berm shall be maintained by the applicant until such time as reclamation of the site is certified complete by the RMA. The berm shall be maintained at all times to conform with original plans and specifications as approved by the RMA. The RMA may inspect the berm at any time, and require repairs and/or improvements as necessary to ensure its maintenance in accordance with the original plans and specifications. In addition, a recharge trench will be constructed along the southeast corner of the project area. Through a series of weirs, water will flow from the east lake to the west lake to maintain current groundwater elevations along the properties to the northeast of the project area.

53. The applicant shall contact the State of California Division of Safety of Dams prior to constructing the north-south trending berm separating the reclamation lakes to determine if construction of the berm requires Division approval. The applicant shall be required to provide any maps, drawings, schematics, or specifications the Division deems necessary in making it's determination.

54. Upon completion of reclamation, the property owner (or future property owner should the site be sold or otherwise transferred) shall be responsible for maintaining the condition of the berm separating the reclamation lakes and weirs providing water flow from the east lake to the west lake in accordance with Condition No. 52 above.

55. The proposed "V" ditch along the east side of the project site shall contain a sufficient amount of water in order to establish a groundwater mound (groundwater barrier) to maintain water levels in neighboring wells. The trench shall be constructed to a depth sufficient to intersect the layer (substrata) of cobbles, or comparable pervious material, that occurs locally beneath the site (a depth of approximately 6 to 8 feet). The sides and bottom of the "V" ditch shall be designed and maintained to maximize the amount infiltration necessary in establishing the groundwater mound. Water produced from dewatering the mine site shall not be pumped directly into the "V" ditch, but shall initially be pumped into a holding basin(s) to allow fines in the water to settle out and flocculation and precipitation of dissolved iron minerals to occur.

Utilities:

MM 4.9-1(b) 56. The applicant shall provide replacement rights to Southern California Edison (SCE) for any access roads which may need to be relocated due to mining, at no cost to SCE.

MM 4.9-1(a) 57. Construction of the utility access road crossing shall be adequately sloped to ensure access to SCE vehicles and equipment onto tower access roads. Any earth disturbed within the right of way and/or backfill shall be compacted to a minimum of 90% relative compaction. Road conditions shall not be allowed to deteriorate so as to prevent access to SCE vehicles.

MM 4.9-1(c) 58. The applicant shall install commercial-type driveways, 16-feet wide, with curb depressions capable of supporting 40 tons on a three axle vehicle when and where access points dictate.

MM 4.9-1(d) 59. The mine operator shall establish and observe a fifty (50) foot setback around existing SCE utility towers, with an additional 50-foot setback added northwesterly of the towers to provide SCE adequate access for reconstruction of the towers, if necessary. Setbacks shall be staked and marked for easy identification by onsite personnel and SCE employees.

MM 4.9-2, 3 60. In accordance with Public Utilities Commission, General Order 95, Standards of Overhead Line Construction, equipment operators shall maintain a minimum clearance of 17 feet from any SCE overhead and 25 feet from any SCE structure when working in the SCE right-of-way. Haul roads shall be watered as necessary to minimize damage-causing dust to SCE insulators.

MM 4.9-4 61. During mining, and for two (2) years after completion of mining, the mine operator shall conduct periodic inspections of the reclamation lake shoreline surrounding the SCE utility towers to ensure that wave generation on the reclamation lake is not causing undue erosion of the shoreline, threatening the structural integrity of the towers. Existing site conditions shall be established as a basis on which to judge the amount of shoreline erosion, if any. If it is determined that any area of the shoreline has retreated more than 10 feet horizontally, the mine operator shall protect the impacted area by excavating a bench at least three feet below water line, installing a 16-ounce geotextile filter fabric, and backfilling the area with 12-inch or larger diameter stones.

Biological:

MM 4.7-2(a-b) 62. The applicant shall maintain a minimum fifty (50) foot buffer between mining operations (excavations) and the dripline of any elderberry bush on the mine site. The 50-foot setback shall be designated using bright-orange colored fencing, firmly attached to metal staking. Upon completion of mining in the vicinity of any elderberry bush, the mine operator shall backfill the excavated area to within 100 feet of the bush or bushes, and place a minimum of two feet of topsoil over the backfill area to allow subsequent, passive natural regeneration of the riparian community. No areas within 100 feet of an elderberry bush shall be reclaimed to open water. The operator shall also not mine Phase I of the project to avoid potential impacts to the Valley elderberry longhorn beetle and their associated habitat.

MM 4.7-5 63. In order to protect the Western pond turtle and their nesting sites, the mine operator shall construct barriers between nesting sites and the active mining operations. In addition, wildlife surveys conducted by a qualified wildlife biologist, shall be performed prior to mining in any phase of the project to determine if the mining operations at that location would result in the disturbance of foraging and/or nesting habits of the bird and bat species. The wildlife biologist shall prepare a written report detailing the findings of each survey, and make two (2) copies of the report available to the RMA. If the survey results are positive, the mine operator shall (temporarily) forego mining at that location and consult with Federal or State agencies responsible for wildlife resources concerning a plan of action to protect these species and their foraging / nesting

habitats. Failure to conduct a wildlife survey prior to mining in any phase of the project, or to contact the appropriate agencies if survey results are positive, will constitute a violation of this condition.

Visual:

MM 4.11-1(a) 64. The applicant shall establish a dense landscape buffer along the southern project boundary to block views of the proposed mining site from travelers on State Route 216. The buffer will consist of trees native to the area, such as the sycamore, selected based on viability in that particular location, screening potential, and compatibility with other local vegetation. The size and number of tree plantings shall be made such that adequate screening capability will be achieved in 2 to 5 years of normal growth. All trees would remain after reclamation of the site. The applicant shall provide a Landscaping Buffer Plan to the RMA detailing the planting and maintenance of the landscape trees.

MM 4.11-1(b) 65. The operator shall place temporary stockpiles and/or berms around initial processing equipment and dragline operations to block line-of-sight views between processing facilities and the closest residence along State Route 198 at the southeastern portion of the site.

Site Reclamation

66. Reclamation of the site shall be accomplished in accordance with the approved Reclamation Plan for the RMC Pacific Materials, Stillwell Project (July 2001), and Conditions of Approval No. 67 through 82 below.

67. All topsoil shall be retained on site and stockpiled near the northwest corner of the site, as shown on the project Mine Plan. All topsoil stockpiles shall be identified with signs, temporary fencing, or another suitable form of identification. If possible, topsoil should be removed and stockpiled by soil horizon.

68. Topsoil that is stored for a period of longer than 18 months shall be seeded shall be temporarily planted with rye grass or other suitable vegetative cover to minimize surface erosion and discourage weed growth as appropriate. The slope of topsoil stockpiles shall be maintained at a shallow gradient (no greater than 2:1 horizontal to vertical) to minimize surface erosion, and shall not exceed fifteen (15) feet in height.

69. No imported topsoil may be used for site reclamation.

70. Topsoil shall be replaced, if possible, to its original thickness and soil horizon in areas of the site to be reclaimed to pasture land.

71. Before topsoil is reapplied to areas being reclaimed to pasture, the area should be graded and leveled. Topsoil shall be scarified prior to planting grasses to promote good root penetration and facilitate aeration.

72. Areas of the site being reclaimed to pasture shall be planted with a mixture of annual and perennial grasses suitable for the end use and consistent with the surrounding areas, as described in the Reclamation Plan. Grasses will be planted at a rate of 20 pounds per acre using mechanical broadcasting methods. The success of revegetation shall be based on establishing a vegetative cover capable of supporting active cattle grazing for a minimum period of two years.

MM 4.3-3

73. All final reclamation slopes (banks of the reclamation lake) shall be established at a gradient of 3:1 (horizontal to vertical). Sand filtered from the rock screening process and waste aggregate shall be used in backfilling and constructing the lake banks to the final slope.

74. Temporary methods of reducing soil erosion, such as straw bales and silt screens, shall be used on site where needed, until the required vegetative cover is established.

75. All reclaimed areas shall be protected against noxious weeds. The County Agricultural Commissioner's Office should be contacted in regard to appropriate weed abatement measures.

76. The entire project site shall remain fenced by barbed wire to protect newly reclaimed areas. Fencing shall be maintained in good condition throughout the life of the project.

77. If, at any time, mining operations are curtailed for a period of one (1) year or more by more than ninety percent (90%) of the previous maximum annual production, said operations shall be deemed idle. Within ninety (90) days of the surface mine becoming idle, the operator shall either file an Interim Management Plan, or shall commence reclamation in accordance with the approved reclamation plan.

78. A statement signed by the applicant shall be submitted to the RMA accepting responsibility for reclaiming the mined lands in accordance with the approved reclamation plan. Said statement shall be recorded as a separate sheet to accompany the resolution.

79. Reclamation of any disturbed areas not already reclaimed shall be completed not more than twenty (20) years from the date of approval of this surface mining permit and reclamation plan by the Planning Commission, unless an amendment to the plan is granted extending said termination date.

80. Any and all buildings, structures, and equipment shall be dismantled and/or removed prior to the completion of reclamation, except for such structures and equipment as are required for the future use of the site.

81. The applicant has identified initial reclamation costs for the project in the amount of $38,530. This amount shall be posted as a Surety Bond by a licensed surety agent and made payable to the County of Tulare and the California Department of Conservation. Financial assurances shall be reviewed on an annual basis, and may be increased or decreased in accordance with the amount of land disturbed for mining purposes. Should an increase in financial assurances be warranted, failure of the applicant to provide the additional coverage will constitute a violation of conditions of approval of the surface mining permit.

82. The sides of the reclamation ponds shall be lined with sufficiently permeable materials (rock, sand, and gravel) to insure unrestricted movement (flow) of groundwater between the reclamation lakes and surrounding areas.

General Conditions:

83. Any building permits for new construction, new roadways, and/or new driveways shall comply with the County Fire Safe Regulations pertaining to driveways, gate entrances, defensible space, addresses identifying buildings, and fire safe standards for new buildings. Any building permit applications shall be reviewed and approved by the Tulare County Fire Warden's Office prior to the issuance of building permits. All required improvements shall be completed prior to occupancy of the structure and prior to the issuance of occupancy permits.

84. Unless otherwise indicated herein, development shall be in accordance with the plans as submitted by the applicant and/or as modified by the Board of Supervisors.

85. Regardless of Condition No. 84 above, the RMA is authorized to approve minor modifications of the approved plans upon a request by the applicant or his successors as long as said modifications do not materially affect the determination of the Planning Commission. Such modifications shall be noted on the approved plans and shall be initialed by the RMA.

86. The Site Improvement and Rehabilitation Standards as set forth in Board of Supervisors Resolution No. 71-91 shall apply to this permit, except for those conditions listed under Section XVIII, as described in the attached Standards, or as amended herein. In the event of any conflict between Resolution No. 71-91 and these conditions , these conditions shall

prevail.

87. In accordance with Section 7-29-1070 (a) of the Tulare County Ordinance Code, the attached Right to Farm Notice shall be signed by the applicant and recorded as a separate sheet to accompany the resolution.

88. All general conditions and all special conditions granting approval of the surface mining permit and reclamation plan must be complied with at all times in order to continue the uses allowed. Compliance with such conditions is subject to review at any time. An initial review of compliance shall be conducted by RMA one year after the granting of the project followed by annual review and inspection each year thereafter in accordance with Section 2774(b) of SMARA. Additional reviews will be undertaken at the discretion of the RMA and/or Board of Supervisors.

89. This surface mining reclamation plan will not be effective until the applicant, at their own expense, has executed and filed with the County Recorder, certified copies of the resolution of the Board of Supervisors granting said permit with a duly authorized acceptance, in the form approved by the County Counsel, endorsed thereon.

90. This surface mining permit and reclamation plan will not be effective until the applicant has submitted proof of financial assurances to the RMA in a form and amount approved by the Board of Supervisors.

91. The proposed facility shall be maintained and operated in accordance with all State and County health regulations.

92. Compliance with the mitigation measures set forth in the above conditions is subject to review at any time. An initial mitigation monitoring review will be conducted by the Planning Commission six (6) months after the approval of the surface mining permit/reclamation plan . Additional reviews may be undertaken at the discretion of the Planning Commission.

93. The property owner shall enter into an agreement approved by County Counsel to indemnify and hold the County of Tulare harmless from any cost or liability with respect to alleged non-compliance with the California Environmental Quality Act (CEQA).

Project Name: RMC Pacific Stillwell Project
Case No: PMR 98-003 APN:
Approval by: Date: 11-1-02

COUNTY OF TULARE
RESOURCE MANAGEMENT AGENCY
MITIGATION MONITORING AND REPORTING PROGRAM

Permit Cond. No.	Mitigation Measure Number	Condition of Approval	Schedule/ Time frame (prior to/ continuous)	Responsible Person or Agency for Inspection/Monitoring/Review
GEOLOGY				
73	4.3-3	All final reclamation slopes (banks of the reclamation lake) shall be established at an angle of 3:1 (horizontal to vertical). Sand filtered from the rock screening process and waste aggregate shall be used in backfilling and constructing the lake banks to the final slope.	Prior to final reclamation	Tulare County RMA - Long Range Planning Division. Tulare County RMA – Engineering Division Department of Conservation
HYDROLOGY AND WATER QUALITY				
51	4.4-4	The applicant shall enhance bank vegetation with tree and shrub planting on the land separating the Kaweah River and the active mining site. Planting shall be done in accordance with the approved site Landscaping Plan.	Prior to active mining	Tulare County RMA - Long Range Planning Division
52	4.4-5	The operator shall construct a north-south trending berm across the eastern third of the reclamation lake in accordance with Figure 3-10 of the project EIR using overburden. Construction of the berm shall be in accordance with plans and specifications prepared by a registered civil engineer and approved by the RMA. Construction of the berm shall also be supervised in the field by a registered civil engineer to ensure compliance with approved plans and specifications. The structural integrity of the berm shall be maintained by the applicant until such time as reclamation of the site is certified complete by the RMA. The berm shall be maintained at all times to conform with original plans and specifications as approved by the RMA. The RMA may inspect the berm at any time, and require repairs and/or improvements as necessary to ensure its maintenance in accordance with the original plans	Prior to final reclamation	Tulare County RMA - Long Range Planning Division Tulare County RMA – Engineering Division Tulare County RMA – Flood Control Division

EXHIBIT D

Permit Cond. No.	Mitigation Measure Number	Condition of Approval	Schedule/ Time frame (prior to/ continuous)	Responsible Person or Agency for Inspection/Monitoring/Review
		and specifications. In addition, a rcharge trench will be constructed along the southeast corner of the project area. Through a series of weirs, water will flow from the east lake to the west lake to maintain current groundwater elevations along the properties to the northeast of the project area.		
AIR QUALITY				
6	4.5-1(a-b)	Fugitive dust control measures should be initiated and emissions minimized throughout the proposed facility. All haul roads, parking areas, and processing areas, shall be surfaced with gravel and watered regularly to control vehicular dust. Dust control shall also be initiated in all non-active mining areas by watering, applying soil stabilizers, or using vegetative covers.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division
17	4.5-1(d)	Trucks and mobile equipment on the site shall limit speed on interior haul roads to a maximum of 25 miles per hour to minimize dust.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division
18	4.5-1(e)	The mine operator shall cease dust-generating activities when wind speeds create excessive amounts of blowing and suspended dust.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division
16	4.5-1(c)	Trucks and trailers leaving the site shall have their loads fully covered or wet down in a method approved by the Tulare County Health Department to minimize dust generation during transport.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Tulare County Health Department

TRANSPORTATION/CIRCULATION				
28	4.6-1(a-d)	The applicant is responsible for, and shall construct modified left-turn pockets/deceleration lanes approaching the Stillwell driveway and existing Lemon Cove Plant driveway off of State Route 216 in accordance with State specifications. Construction of the left-tun pockets shall be completed prior to commencing operations on the Stillwell site. The applicant shall also construct acceleration lanes onto State Route 216 from the existing Lemoncove Plant and Stillwell site, as per Caltrans specifications.	Prior to active mining	Tulare County RMA Long Range Planning Division Tulare County RMA - Traffic Division Department of Transportation (Caltrans)
BIOLOGICAL RESOURCES				
62	4.7-2(a-b)	The applicant shall maintain a minimum fifty (50) foot buffer between mining operations (excavations) and the dripline of any elderberry bush on the mine site. The 50-foot setback shall be designated using bright-orange colored fencing, firmly attached to metal staking. Upon completion of mining in the vicinity of any elderberry bush, the mine operator shall backfill the excavated area to within 100 feet of the bush or bushes, and place a minimum of two feet of topsoil over the backfill area to allow subsequent, passive natural regeneration of the riparian community. No areas within 100 feet of an elderberry bush shall be reclaimed to open water The Operator shall also not mine Phase I of the project in order to avoid potential impacts to the Valley elderberry longhorn beetle and their associated habitat.	Prior to and continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division California Department of Fish and Game US Fish and Wildlife Service
63	4.7-5	In order to protect the Western pond turtle and their nesting sites, the mine operator shall construct barriers between nesting sites and the active mining operations. In	Prior to and continuous during active	Tulare County RMA - Long Range Planning Division

		addition, wildlife surveys conducted by a qualified wildlife biologist, shall be performed prior to mining in any phase of the project to determine if the mining operations at that location would result in the disturbance of foraging and/or nesting habits of the bird and bat species. The wildlife biologist shall prepare a written report detailing the findings of each survey, and make a two (2) copies of the report available to the RMA. If the survey results are positive, the mine operator shall (temporally) forego mining at that location and consult with Federal or State responsible for wildlife resources concerning a plan of action to protect these species and their foraging / nesting habitats. Failure to conduct a wildlife survey prior to mining in any phase of the project, or to contact the appropriate agencies if survey results are positive, will constitute a violation of this condition.	mining	California Department of Fish and Game US Fish and Wildlife Service
NOISE				
42	4.8-1(a)	The applicant shall construct a temporary earthen berm along the entire eastern boundary of the site (Phases III and IV) designed to reduce the impacts of noise and visibility from the mining operations on neighboring residences. The earthen berm shall be constructed and maintained at a height of 12 to 15 feet, relative to existing ground level. The earthen berm should be maintained so as to not be visually offensive to local residents. However, segments of the earthen berm may be lowered or removed by the mine operator if noise levels conform to the levels required in Condition No. 41 and if residents along the east boundary of the site opposite to the segment to be lowered or removed agree in writing.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Tulare County RMA – Engineering Division

43	4.8-1(b)	As and additional measure to reduce the effects of noise on neighboring residences, mining in Phases III and IV shall start near the proposed haul road and progress in a southeasterly direction toward the existing residences, using the pit walls as an additional noise barrier.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division
44	4.8-1(c)	The applicant shall conduct periodic, short-term noise level measurements at the nearest residences during mining of Phases III and IV to confirm the effectiveness of Conditions No. 40 and 41 above. Noise measurements should be conducted both during daytime and nighttime conditions using appropriately calibrated, portable sound monitoring equipment. The results of any noise-monitoring event should be provided to the RMA for review. Should it be determined that mining noise from the operations has exceeded the threshold level of 70 dBA (Lmax) at the property lines, then operations should temporarily cease at that location until additional noise attenuation measures may be applied to reduce the noise.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Tulare County Environmental Health Department
45	4.8-2(a-b)	The mine operator shall setback portable mine crushing and screening equipment a distance of 450 feet from the southeast property line during mining in Phase IV of the project to minimize noise and ground vibration affecting nearby residences. This distance may be adjusted, if necessary, based on field noise monitoring results.	Continuous during active mining and reclamation	Tulare County RMA Long Range Planning Division
UTILITIES				
57	4.9-1(a)	Construction of the utility access road crossing shall be adequately sloped to ensure access to Southern California Edison (SCE) vehicles and equipment onto tower access roads. Any earth disturbed within the right of way and/or backfill shall be compacted to a minimum of 90% relative compaction. Road conditions shall not be allowed to deteriorate so as to prevent access to SCE vehicles.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Southern California Edison (SCE)

56	4.9-1(b)	The applicant shall provide replacement rights to SCE for any access roads which may need to be relocated due to mining, at no cost to SCE.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Southern California Edison
58	4.9-1(c)	The applicant shall install commercial-type driveways, 16-feet wide, with curb depressions capable of supporting 40 tons on a three-axle vehicle when and where access points dictate.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Southern California Edison
59	4.9-1(d)	The mine operator shall establish and observe a fifty (50) foot setback around existing SCE utility towers, with an additional 50-foot setback added northwesterly of the towers to provide SCE adequate access for reconstruction of the towers, if necessary. Setbacks should be staked and marked for easy identification by onsite personnel and SCE employees.	Prior to and continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Southern California Edison
60	4.9-2 4.9-3	In accordance with Public Utilities Commission, General Order 95, Standards of Overhead Line Construction, equipment operators shall maintain a minimum clearance of 17 feet from any SCE overhead and 25 feet from any SCE structure when working in the SCE right-of-way. Haul roads shall be watered as necessary to minimize damage-causing dust to SCE insulators.	Continuous during active mining and reclamation	Tulare County RMA - Long Range Planning Division Southern California Edison
61	4.9-4	During mining, and for two (2) years after completion of mining, the mine operator shall conduct periodic inspections of the reclamation lake shoreline surrounding the SCE utility towers to ensure that wave generation on the reclamation lake is not causing undue erosion of the shoreline, threatening the structural integrity of the towers. Existing site conditions shall be established as a basis on which to judge the amount of shoreline erosion, if any. If it is determined that any area of the shoreline has retreated more than 10 feet horizontally, the mine operator shall protect the impacted area by excavating a	Prior to final reclamation	Tulare County RMA - Long Range Planning Division Tulare County RMA – Engineering Division Southern California Edison

		bench at least three feet below water line, installing a 16-ounce geotextile filter fabric, and backfilling the area with 12-inch or larger diameter stones.		
AESTHETICS				
64	4.11-1(a)	The applicant shall establish a dense landscape buffer along the southern project boundary to block views of the proposed mining site from travelers on State Route 216. The buffer will consist of trees native to the area, such as the sycamore, selected based on viability in that particular location, screening potential, and compatibility with other local vegetation. The size and number of tree plantings shall be made such that adequate screening capability will be achieved in 2 to 5 years of normal growth. All trees would remain after reclamation of the site. The applicant shall provide a Landscaping Buffer Plan to the RMA detailing the planting and maintenance of the landscape trees.	Prior to active mining	Tulare County RMA - Long Range Planning Division
65	4.11-1(b)	The operator shall place temporary stockpiles and/or berms around initial processing equipment and dragline operations to block line-of-sight views between processing facilities and the closest residence along State Route 198 at the southeastern portion of the site.	Prior to active mining	Tulare County RMA - Long Range Planning Division

RMC PACIFIC MATERIALS
STILLWELL PROJECT
GROUNDWATER MONITORING PROGRAM

Lead Agency
County of Tulare
Resource Management Agency
5961 South Mooney Boulevard
Visalia, California, 93277

Applicant / Operator
RMC Pacific Materials
P.O. Box 5252
6601 Koll Center Parkway
Pleasanton, CA 94566

Prepared By
EMKO Environmental Inc.
551 Lakecrest Dr.
El Dorado Hills, CA 95762

June 2002

004-06
053102.Andy's Groundwater Monitoring Program

EXHIBIT E

Stillwell Groundwater Monitoring Program

Introduction

During the active mining phase of the proposed project, a recharge trench will be installed along the east side of the property as shown on Figure 1, Mine Plan. Water that has been pumped from the active mining pit for dewatering will be partially diverted to the recharge trench to maintain the water levels and groundwater gradient to the east and southeast (upgradient) of the project. After the project is completed, a north-south trending berm will be placed across the eastern third of the reclamation lake. In addition, the recharge trench will be maintained along the east-southeast side of the project area. Through a series of weirs, water will flow from the east lake to the west lake and maintain the current groundwater elevations along the properties upgradient of the project area. The discussion below presents the groundwater monitoring program that will be implemented to monitor these mitigation measures.

Active Mining Phase Monitoring

During the active phase, monitoring will consist of routine water level measurements and focused water-quality monitoring. There are currently two wells on the east side of the project area, designated MW-2 and MW-3 on Figure 2, Pump and Well Installations. Two additional wells will also be installed along the east side of the project area. One well will be installed approximately 750 feet to the north of MW-2 and the second well will be installed approximately 750 feet south of MW-2, approximately mid-way between MW-2 and MW-3. All four wells (MW-2, MW-3, and the two new wells) will be located on the east, upgradient side of the recharge trench. In addition, any of the wells owned by upgradient neighbors that are willing to participate in the program and allow RMC access for monitoring will be included in the program. At least one of the offsite wells (DW-17 on Figure 2) is located on property owned by Stillwell and will be included in the program. The other wells to be included will be based upon the response from the community.

Water Level Monitoring

Water levels will be measured approximately every month in all of the designated wells. This program will be similar to the Lemoncove quarry monitoring program which monitors private wells located north of RMC's Lemoncove Plant and George Claussen's property. In addition to measuring the depth to water, well pumping data will also be noted (i.e. if the well is currently pumping, or has been recently pumped, and if other nearby wells are pumping at the time of the measurements). The water-level data will be plotted on a map and a series of hydrographs to identify any potential changes in the gradient and the depth to the water table and evaluate the potential cause of the change (e.g. pumping of other nearby wells, de-watering, climatic conditions, etc.).

Water-level measurements will be made by persons familiar with measuring and recording water-level data in the field, and with the general hydrologic conditions at the site.

Water Quality Monitoring

Water quality samples will be collected prior to mining and approximately once per year at selected locations. These locations include the active mining pit, the recharge trench, MW-2, MW-3, the two new wells to be installed (as described above), and approximately four of the upgradient neighbor's wells. The exact locations will be selected once it is determined which of the neighbors will be participating in the program. It is anticipated, however, that a total of 10 to 12 locations will be sampled for water quality annually. Water quality sampling will be conducted in accordance with all applicable quality assurance/quality control (QA/QC) standards and requirements, under the direction of a State-certified hydrogeologist or other qualified professional.

The water samples will be analyzed for pH and general mineral content (as below) to verify that the recharge of water from the quarry pit does not significantly impact constituent levels upgradient of the recharge trench. All sample analysis shall be performed at a State-certified analytical laboratory and be accompanied by strict chain-of-custody documentation.

The analytical parameters will include:

- pH;
- total dissolved solids;
- total alkalinity;
- sodium;
- potassium;
- calcium;
- magnesium;
- total iron;
- ferrous iron;
- chloride;
- sulfate;
- bicarbonate;
- carbonate; and
- nitrate.

Post-Project (Reclamation) Monitoring

After the project is completed and the reclamation lake has been completed as shown of Figure 3, Reclamation Plan. The water-level monitoring will be conducted monthly for the first year after the project has been completed. In subsequent years, water levels will be measured quarterly. The monitoring locations will include the east lake, the west lake, the various segments between weirs within the recharge trench, and each of the wells

included in the active-phase monitoring program. The data will be plotted and evaluated in the same manner as described above.

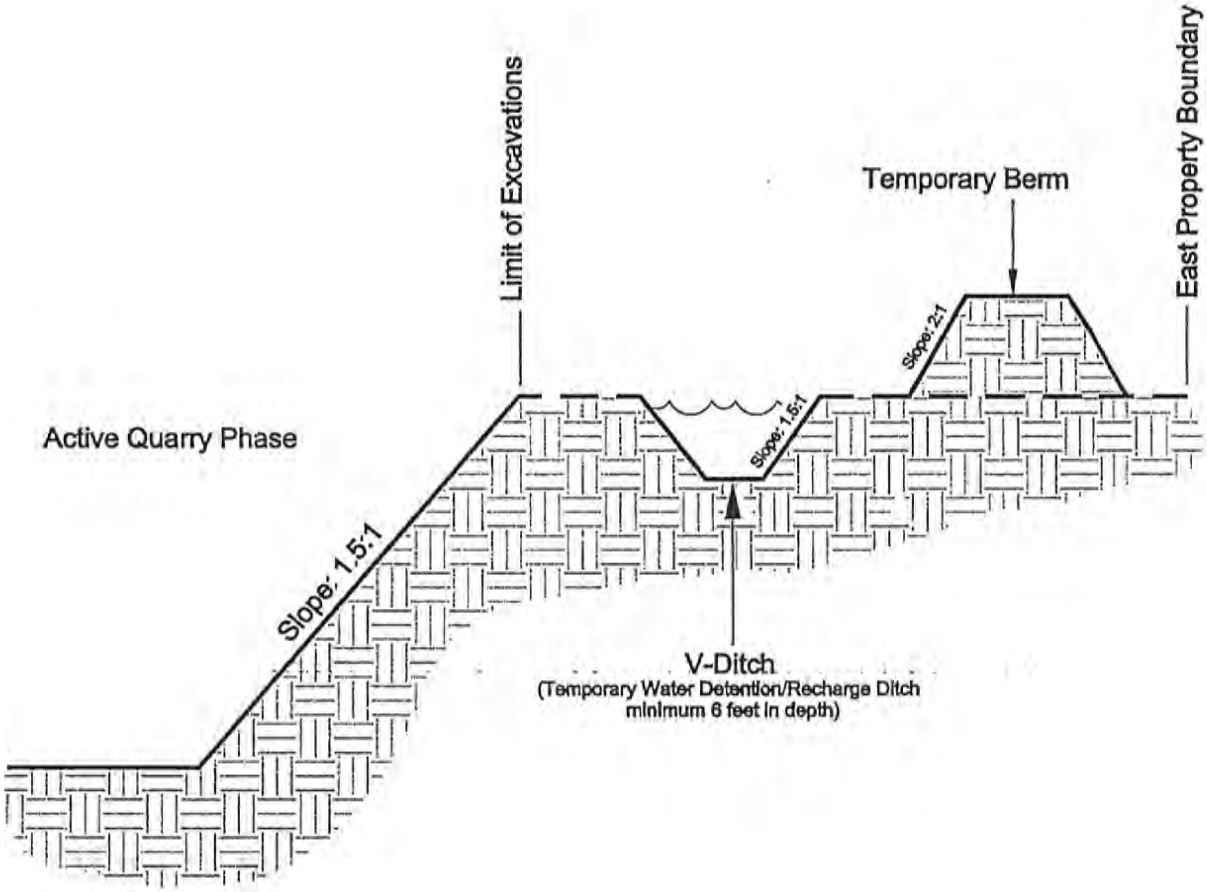
During the active mining phase of the project, de-watering was occurring and water was actively pumped to the recharge trench, resulting in the anthropogenic re-distribution of groundwater. After reclamation is completed, the water levels in the reclamation lakes and the recharge trench will be maintained by the natural groundwater gradient. Water will not be re-distributed by pumping. The water in the east lake, that will feed the recharge trench, will come from the natural groundwater flow from the upgradient properties. Therefore, water-quality sampling will not be necessary since there will be no activities in the project area that will affect the re-distribution of water.

Groundwater Monitoring Result Reporting

In order to fully interpret the results of the groundwater-monitoring program, the Operator shall report monthly to the County the following:

- The locations and amounts of mine dewatering,
- The locations and amounts of water sent to the recharge trench,
- The location and amounts of dewatering water sent elsewhere.

The mining operator shall provide the County with quarterly groundwater monitoring reports, prepared and signed by a State-certified hydrogeologist or other qualified professional. The monitoring reports will include at minimum, a description of the sampling activities, a detailed discussion of the monitoring results, and tabular and graphical presentation of the monitoring data. The reports will also include groundwater contour maps showing the location of each monitoring well and the current direction of groundwater flow and hydraulic gradient calculated for each monitoring event (i.e. monthly during active mining and first year of reclamation, and quarterly thereafter).



Legend
- Existing Surfaces
- Cut Slopes
- Detention Water

Figure not to Scale
Source: RMC Pacific Materials, 9/98

Figure 1
V-Ditch Schematic
(Mine Water Detention/Recharge Ditch)
Stillwell Project Groundwater Monitoring Program
Tulare County, California

RESOURCE DESIGN
TECHNOLOGY, INC.

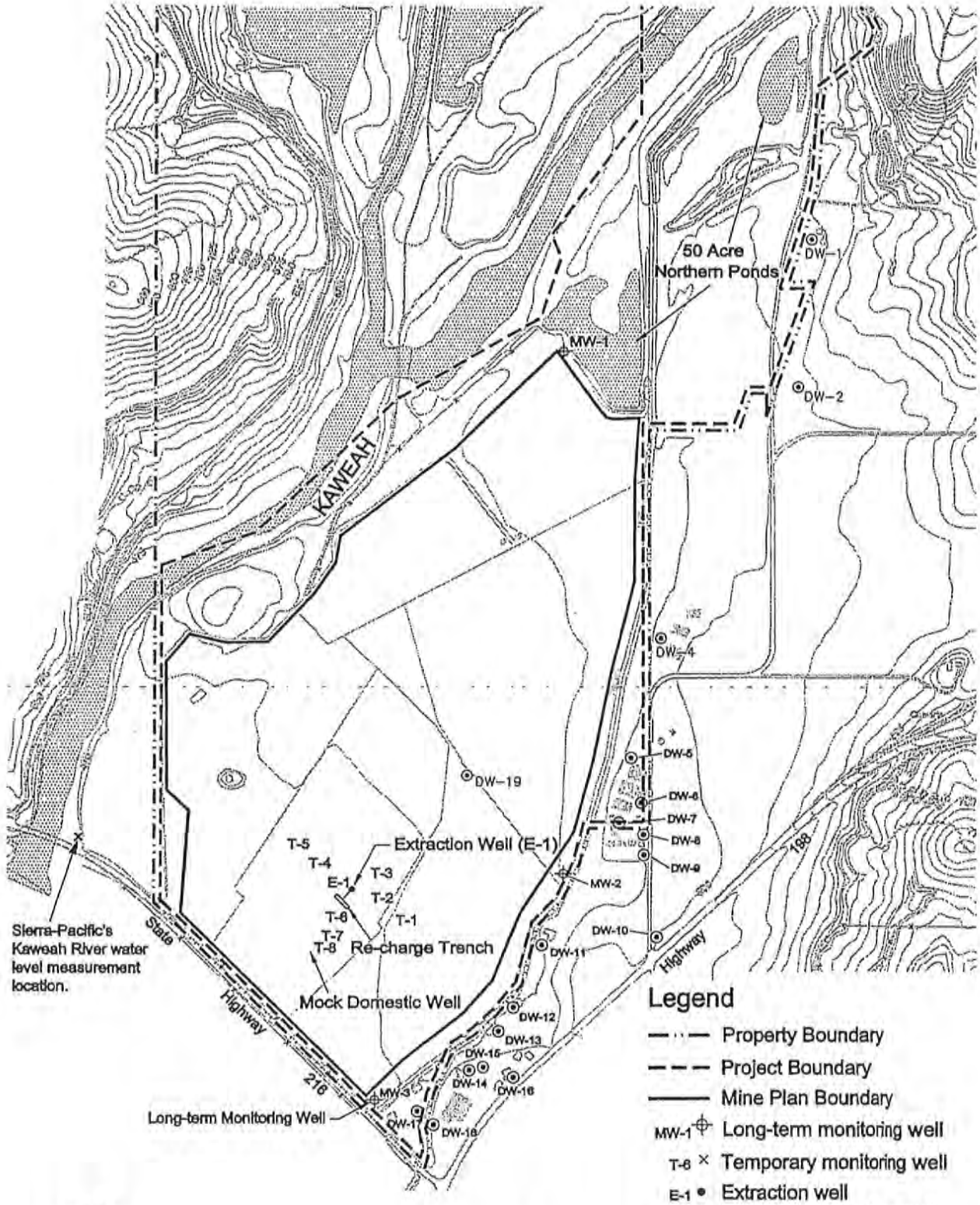


Figure 2
Pump and Well Installations
Stillwell Project Groundwater Monitoring Program
Tulare County, California

RESOURCE DESIGN
TECHNOLOGY, INC.

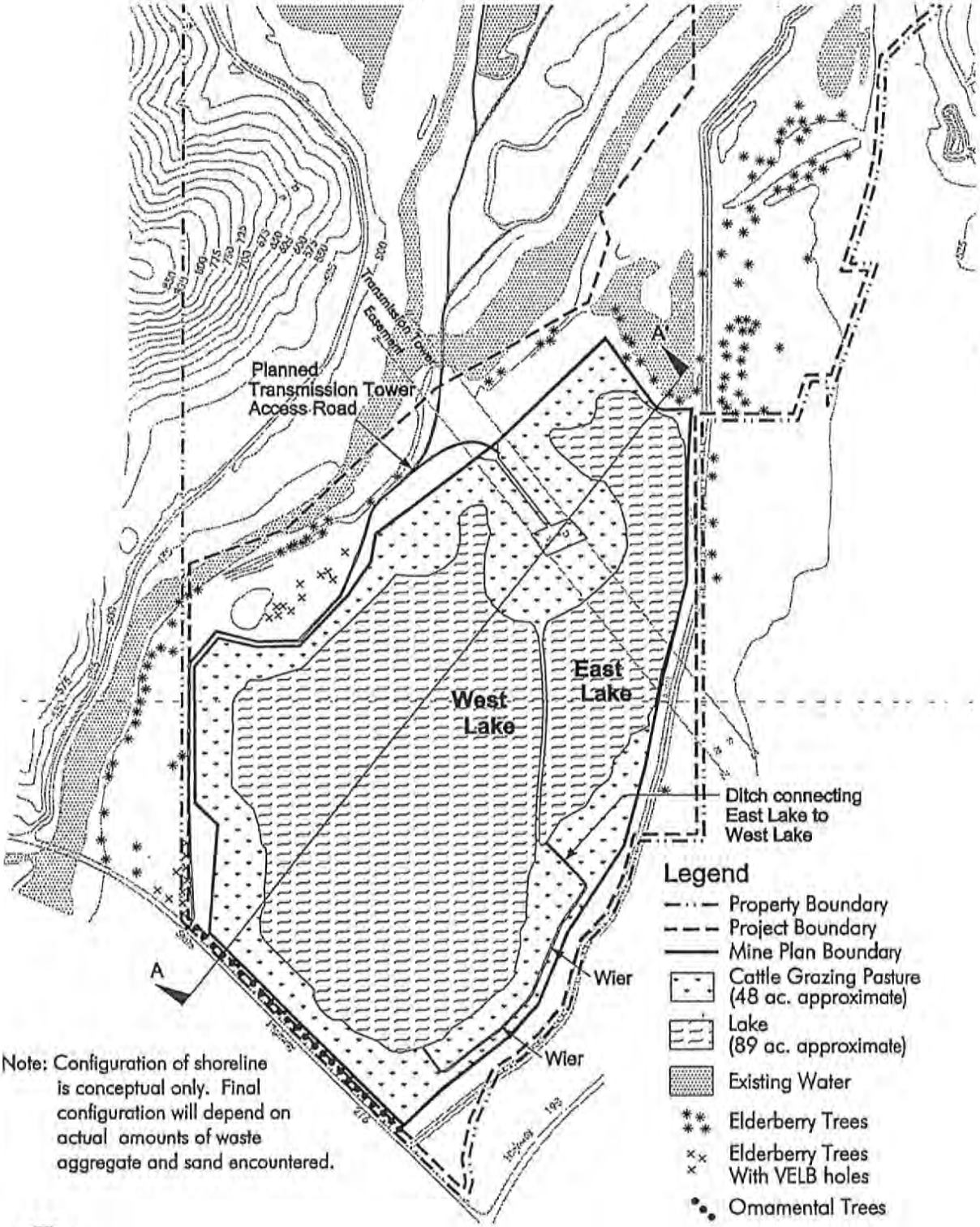


Figure 3
Reclamation Plan
Stillwell Project Groundwater Monitoring Program
Tulare County, California

RESOURCE DESIGN
TECHNOLOGY, INC.

MD 2

BEFORE THE BOARD OF SUPERVISORS

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF THREE APPEALS OF THE PLANNING COMMISSION'S APPROVAL OF RMC PACIFIC MATERIALS APPLICATION NO. PMR 98-003 FOR A SURFACE MINING PERMIT AND RECLAMATION PLAN	RESOLUTION NO. 2002-0833 Indemnification Agreement No. 21388

WHEREAS, on August 14, 2002, at the conclusion of a series of duly noticed public hearings, the Tulare County Planning Commission adopted Resolution No. 7961 approving a Final Environmental Impact Report and application No. PMR 98-003 for a Surface Mining Permit and Reclamation Plan, in favor of RMC Pacific Materials, Inc., subject to conditions; and

WHEREAS, timely appeals of said Planning Commission action were filed with this Board by Rob and Louise Morton, the Kaweah & St. Johns Rivers Association, and the Kaweah Delta water Conservation District; and

WHEREAS, said appeals were consolidated and set for hearing before this board on October 1, 2002; and

WHEREAS, on October 1 and 2, 2002, this Board conducted a public hearing at which it received and considered documentary evidence and testimony from members of the public, and at which it considered Planning Commission Resolution No. 7961, the grounds for appeal set forth in each of the consolidated appeals, the October 1, 2002 staff memorandum of responses to issues raised in each of the consolidated appeals, and the Final Environmental Impact Report and appendices thereto; and

WHEREAS, on October 2, this Board closed the public comment portion of the hearing, voted unanimously to tentatively deny the appeals and approve the EIR and the project, continued the matter to November 5, 2002, and directed staff to prepare a resolution containing appropriate findings, additional conditions of approval, certification of the Final EIR, and conditional approval of the surface mining permit and reclamation plan; and

WHEREAS, this Board has considered staff's written responses to comments made at the October appeals hearing as set forth in Exhibit A, attached hereto.

NOW, THEREFORE, BE IT RESOLVED as follows:

(1) With respect to the issues raised at the October appeals hearing, this Board here approves and adopts the responses to comments contained in Exhibit A, attached hereto.

(2) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, and after consideration of the information contained in the final EIR, and based on this Board's independent judgment and analysis, this Board hereby certifies that the Final Environmental Impact Report for this project is adequate and was prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County's local procedures implementing CEQA.

(3) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, this Board hereby approves and adopts as the findings of this Board, findings B.1. through B.10., as set forth in Resolution No. 7961, attached hereto as Exhibit B.

(4) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, this Board hereby adopts the following findings in lieu of finding B.11. as set forth in Resolution No. 7961, attached hereto as Exhibit B:

(a) Twenty-four (24) potentially significant adverse environmental impacts that could result from the project were identified through the project Initial Study/Environmental Assessment (see Part C, Appendix A of the FEIR). Even though the Final Environmental Impact Report (FEIR) identifies certain significant effects of the proposed project, the Board finds that the Surface Mining Permit and Reclamation Plan should be approved as changes or alternatives have been required in, or incorporated into, the project which mitigate or avoid all of the significant environmental effects thereof as identified in the EIR as follows:

(i) <u>Incompatibility with existing and planned land uses in the vicinity during mining operations</u>: Mitigation for traffic impacts include the construction of acceleration lanes, deceleration lanes, and left turn pockets to control traffic flow into and out of the site and existing Lemon Cove Plant; for noise and vibration impacts, the construction of earth berms along the eastern boundary

of the site, mining Phases III and VI in a southeasterly direction from the proposed haul road, conducting short term noise exposure testing during the mining of Phases III and IV, establishing equipment setbacks during mining of Phase IV, conducting ground vibration testing during mining of Phases III and IV; for PM10 impacts, watering or chemically treating haul roads and processing areas to control dust, wetting or covering loaded transport trucks, limiting speed on the project site, and ceasing operations when wind speeds can create excessive amounts of dust. Final EIR at 4-13.

(ii) Generation of fugitive dust emissions which would contribute to PM nonattainment for the San Joaquin Valley Air Basin: Mitigations include watering or chemically treating haul roads and processing areas to control dust, wetting or covering loaded transport trucks, limiting speed on the project site, and ceasing operations when wind speeds can create excessive amounts of dust. Final EIR 4-77.

(iii) The generation of additional truck traffic on the segment of SR 216 between the Stillwell site and the entrance to the existing Lemon Cove plant: Mitigations include construction of a modified left turn lane from SR 216 into the existing Lemon Cove facility, construction of acceleration lanes onto SR 216 from the existing Lemon Cove plant and from the Stillwell site onto westbound SR 216, and a deceleration lane/left turn lane from eastbound SR 216 to the Stillwell site. Final EIR at 4-93.

(iv) Impacts to the Valley elderberry longhorn beetle (VELB), a federal-listed endangered species: Mitigations include establishment of a fifty-foot setback from the dripline of any elderberry plant in Phases II through IV plus backfilling any mined areas within the standard 100 foot setback (usually required by FWS) with topsoil to promote natural regeneration of the riparian community. Mitigation also includes elimination of Phase I of the project. Final EIR at 4-127 to 128.

(v) Impacts to loss of nesting habitat for other special status species, particularly the Western pond turtle: Mitigation measures include building barriers to prevent nesting of the Western pond turtle on the project site, and conducting wildlife surveys prior to excavation of each phase of the project to determine if foraging and nesting patterns of special bird/bat species would be affected by the mining operations. Final EIR at 4-129

(vi) Noise generated by excavation equipment, etc. that is above existing ambient conditions during mining of Phases III and IV: Mitigation measures include the construction of a temporary earthen berm along the eastern boundary of the project in Phases III and IV to shield local residences from onsite noise, conduct mining in Phases III and VI in a southeasterly direction from the proposed haul road to maintain the maximum depth of equipment below the ground surface, further shielding local residences from onsite noise, and conducting short term noise exposure testing during the mining of Phases III and IV to determine if any additional noise mitigation is warranted. Segments of the earthern berm may be lowered or removed by the mine operator if noise levels conform to the levels required in condition No. 41 and if residents along the east boundary to the setment to be lowered or removed agree in writing. Final EIR at 4-137 to 4-141, Conditions of Approval No. 42.

(vii) Noise above ambient conditions that is generated b the portable crushing and screening of aggregates and loading haul trucks during mining in Phases IV of the project: Mitigation measures include establishing a 450 foot setback between mining equipment and residences (R3 through R8) along the southeastern boundary of the site in Phase IV, and conducting ground vibration and short-term noise testing during mining in Phase III and IV to ensure that processing and loading noise are not exceeding the project standards of significance. Final EIR at 4-141.

(viii) The cumulative effect of noise above ambient conditions due to the total surface mining project: Mitigation includes those measures listed in F and G above. Final EIR at 4-142.

(ix) Impede access to Southern California Edison's power transmission structures: Mitigation includes providing replacement rights to Southern California Edison (SCE) for any access roads which may need to be relocated due to mining, at no cost to SCE, constructing a utility access road crossing to ensure access to SCE vehicles and equipment onto tower access roads, and install commercial-type driveways, 16-feet wide, with curb depressions capable of supporting 40 tons on a three axle vehicle. Final EIR at 4-143 to 4-147.

(x) Failure to observe minimum height clearances from overhead conductors, resulting in damage to utility towers: Mitigation will consist of maintaining a 17 foot clearance from all overhead conductors and more than a 25 foot clearance from all Edison structures by equipment working in the Edison Right-of-way. Final EIR at 4-147.

(xi) Possible damage to Edison power insulators due to dust from the mining operations: Mitigation will consist of applying measures described under B above, which includes watering all haul roads and processing areas to reduce dust. Final EIR at 4-147.

(xii) Possible erosion of soil surrounding Edison's utility towers by wave action on the 89-acre lake: Mitigation includes careful monitoring of the shoreline in the vicinity of the utility towers for evidence of excessive wave erosion, and the protection of any area of the shoreline which retreats more than 10 feet in horizontal distance with wave dispersing armor rock (rip-rap). Final EIR at 4-147 to 148.

(xiii) Temporary and permanent alternation of the visual character of the project site and surroundings: Mitigation includes placement of a temporary visual

screening berm along the eastern boundary of the project site to obscure near views of the site and establishment of a landscape buffer of native trees along the southern boundary of the site to block oven views by travelers on State Route 216). Final EIR at 4-160 to 4-167.

(5) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, this Board hereby approves and adopts as the findings of this Board, findings B.12. through B.16., as set forth in Resolution No. 7961, attached hereto as Exhibit B.

(6) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, this Board hereby approves and adopts the conditions of approval approved by the Planning Commission as modified and set forth in Exhibit C attached hereto.

(7) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, this Board hereby approves and adopts the Mitigation Monitoring and Reporting Program approved by the Planning Commission as modified and set forth in Exhibit D attached hereto.

(8) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, this Board hereby approves and adopts the Groundwater Monitoring Program as approved by the Planning Commission and set forth in Exhibit E attached hereto.

(9) Based on substantial evidence in the record, including evidence produced at the October appeals hearing, and after carefully considering conflicting expert testimony regarding the potential geohydrological impacts of the project, this Board hereby finds that PMR 98-003, when carried out in conformance with all conditions set forth in Exhibit C, will not have a significant effect on the environment, complies with the requirements of the California Surface Mining and Reclamation Act and the regulations of Chapter 25 of Part VII of the Ordinance Code of Tulare County, and will not be detrimental to the public health, safety, or general welfare of persons residing or working in the area or to the general welfare of the County.

(10) Accordingly, this Board hereby (a) upholds the decision of the Planning Commission, (b) denies each of the consolidated appeals of the Planning Commission's approval of PMR 98-003, and (c) approves PMR 98-003 subject to all conditions of approval set forth in

Exhibit C attached hereto.

(11) This Board directs the County Resource Management Agency to prepare, execute, file and cause to be posted, the Notice of Determination as required by law.

The foregoing resolution was adopted upon motion of Supervisor Maples, seconded by Supervisor Conway, at a meeting on this 5th day of November, 2002, by the following vote:

AYES: Supervisors Sanders, Conway, Maze, Worthley, Maples

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: JANET HOGAN
County Administrative Officer/Clerk
of the Board of Supervisors

BY: _____
Deputy Clerk

RMA
CAO
Auditor
11-5-02
DG

WPM/11/7/02/RMA-990354/78185.wpd