

ATTACHMENT 6: FINDINGS FOR DENIAL

1.1 CEQA FINDINGS

1.2

CEQA EXEMPTION

The Planning Commission finds that denial of the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270. Please see the Notice of Exemption, included as Attachment B of the Planning Commission staff report dated January 3, 2017.

2.0 VESTED RIGHTS FINDINGS

Only findings that cannot be made are discussed below:

2.1 *“Pursuant to the diminishing asset doctrine, the area the Applicant desires to be excavated was clearly intended to be excavated at the time the permit requirement went into effect.”*

As discussed in the Staff Report dated January 3, 2017, and herein incorporated by reference, this finding cannot be made because the objective evidence does not support that the areas requested to be vested were clearly intended to be excavated prior to the September 29, 1958 adoption of Ordinance 971 which established the requirement for a Conditional Use Permit (CUP) for mining and reclamation activities in the County. Additionally, Attachments 9, 10 and 11 of the May 8, 2018 Board Letter, incorporated herein by reference, include multiple letters from the Law Office of Marc Chytilo that further show the evidence in the record does not support vested rights.

3.0 RECLAMATION PLAN FINDINGS

Only findings that cannot be made are discussed below:

3.1 *The Reclamation Plan and the potential use of reclaimed land in compliance with the plan are consistent with the provisions of the Land Use and Development Code (LUDC) and the Comprehensive Plan.*

With the denial of the vested rights request, the proposed project is not in compliance with the provisions of the LUDC. Without an associated Conditional Use Permit or vested rights determination, a Reclamation Plan is not in compliance with the LUDC. Therefore, this finding cannot be made.