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Non-Compliance





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1. **Mining Reclamation Plans.**

Mining Reclamation Plans (“MRPs”) are required at least every 5 years (every year if in channel mining occurs) Staffs assertion that they have authority to vary the timing of MRPs is totally unfounded. The rates of extraction may vary but MRPs are required every 5 years.





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1. Conditional Use Permit and Master Reclamation Plan Page C-10

Periodic Review: All mining and reclamation activities will be reviewed annually in accordance with SMARA requirements, with County staff review and approval of detailed mining and reclamation implementation plans for in-channel areas coinciding with periodic review of any Army Corps of Engineers permit for in-channel mining (or at least every 5 years, whichever is sooner)...



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2. **Planning commission review** is to occur every 10 years. The language of the 1997 approvals which contain this condition is clear. It says "every 10 years". It has no reference to any later dates to trigger the beginning of the 10 years. Staff has recently come up with the idea that the 10 year period, should, for some unexplained reason, be triggered by a later, separate, permit.

[staff originally claimed a ten year review had been conducted previously which is not true]



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2. Conditional Use Permit and Master Reclamation Plan Page C-10

The County Planning Commission shall review compliance with this permit every 10 years to ensure that the policies and standards of the Specific Plan and implementing permit conditions are being adequately implemented and are effectively mitigating significant environmental impacts as projected in the project Final EIS/R. If, during each ten (10) year review, the Planning Commission determines that the conditions imposed on the project are inadequate to effectively mitigate these significant environmental impacts, the Planning Commission may impose reasonable additions to, or modifications of, project conditions to further mitigate these significant environmental impacts.



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3. **Revegetation:** Revegetation was to be concurrent with mining operations. As one example, in years 1-3 Applicant was to “revegetate completed slopes and backfilled areas in Davis Pit”. This should’ve been done by 2000 at latest, still not even started- Davis pit is still completely barren in 2014. All 3 staff reports have acknowledged efforts at revegetation have failed. Working with a new consultant does not meet the requirements of the approvals, which require that revegetation actually be established.

Applicant has worked with numerous consultants in the past.



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3. Conditional Use Permit and Master Reclamation Plan Page C-8

6. Revegetate completed slopes and backfilled area in Davis pit.





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4. **Wetland habitat:** Staff reports acknowledge failure to establish wetland habitat. Staff “working with applicant” does not meet the requirement of the ‘97 approvals which require that it be successfully established. Was supposed to be established “in advance or concurrently with” disturbance, which occurred in 2005.

Wetlands is still not even planted,
much less established.





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4. Conditional Use Permit and Master Reclamation Plan Page C-36

e) **General Requirements:** Prior to impacting any wetlands... the applicant shall prepare and submit a wetlands mitigation plan prepared by a Agency approved Biologist or Wetlands Specialist..... Wetlands mitigation shall be implemented.... prior to disturbance....





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5. **Removal of approximately 25 surface acre lake:** Original approvals required mitigation at the ratio of 1.5:1 for wetlands that may appear during mining. The definition of wetlands in the 1997 approvals is not dependent on the existence of wetlands vegetation as staff report implies. The definition is tied to moisture conditions, which clearly occurred.





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The staff report comment that the Davis Basin did not originally contain wetlands is irrelevant, since the condition specifically refers to wetlands that occur during mining and is addition to mitigation requirements for pre existing wetlands.

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Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support vegetation adapted for life in saturated soil conditions.





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5. Conditional Use Permit and Master Reclamation Plan Page C-34

WETLAND MITIGATION

26. (Wetland & Willow Riparian Habitat Avoidance/Replacement):

a) *Mitigation Ratio:* To mitigate for impacts on wetlands... Total... wetlands... provided in these identified mitigation sites shall be required to equal at least 1.5 times the area of wetlands... removed or disturbed by mining... Replacement... Shall be provided in advance or concurrently with removal of wetland... associated with approved mining.



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6. **Landscape screening:** Landscape screening was to be established in years 1-3 (prior to 2001) Staff report claims some was originally done in 2004 but died. A decade later, in the summer of 2014, applicant replanted some areas. Even if successful (which it won't be) the planting is 14 years after required.





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6. Conditional Use Permit and Master Reclamation Plan Page C-10

Perimeter Screening:

Phase 1, Years 1-3

Screen plantings as required by project conditions will be planted along the site perimeter except for areas fronting the river and along a portion of the western boundary as illustrated in Figure 18 of the Specific Plan.





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7. **Non native species:** Numerous staff reports and reports from consultants over many years confirm the rampant existence of non native species which the '97 approvals provided were to be eradicated. The fact that 17 years after the original approvals applicant has contracted with a new consultant is not compliant with the original approvals.





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8. **CEQA analysis is required since this is a discretionary approval.**

Discretionary for 2 reasons:

1. to determine if project is in compliance
2. to consider if new conditions are required to adequately mitigate environmental impacts.

The fact that the ten year reviews are intended to be discretionary is set forth in the original approvals.



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8. EIR, page XII – 15

Goal/Policy

a. In order for the County to be able to minimize adverse direct or indirect environmental impacts, it should have discretionary review authority over all mineral extraction activities on an annual basis. This review should be conducted as prescribed under the California Environmental Quality Act.

...In reviewing mineral resource activities' potential impacts, cumulative impacts on the environment must be considered, as well as the impacts of individual operations.



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9. Guiding principals of 1997 approvals.

1. A concept stressed repeatedly in the approvals was that reclamation, mitigation and restoration were to be performed concurrently with mining.
2. A second concept was to establish outside time frames for such activities.
3. A third was that review was to be ongoing as to compliance and that the county retained discretion to impose new conditions.





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10. **Summary** -

1. History of non-compliance.
Applicant has engaged in a lengthy pattern of non-compliance.
2. Noncompliance apparently was noted even before the 1997 approvals.
3. From meetings with staff, it is apparent they were unfamiliar with what 97 approvals require.
4. After issues are pointed out to them, they simply attempt to rationalize, rather than taking meaningful action.