



# RIVERSIDE COUNTY PLANNING DEPARTMENT

Carolyn Syms Luna  
Director

DATE: November 22, 2013

TO: Clerk of the Board of Supervisors

FROM: Planning Department - Riverside Office *D.M.*

SUBJECT: SURFACE MINING PERMIT NO. 139 REVISED PERMIT NO. 1

(Charge your time to these case numbers)

**The attached item(s) require the following action(s) by the Board of Supervisors:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place on Administrative Action (Receive & File; EOT)                   | <input type="checkbox"/> Set for Hearing (Legislative Action Required: CZ, GPA, SP, SPA)        |
| <input checked="" type="checkbox"/> Labels provided If Set For Hearing                                     | <input type="checkbox"/> Publish in Newspaper:  |
| <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input checked="" type="checkbox"/> 30 day | **SELECT Advertisement**  |
| <input type="checkbox"/> Place on Consent Calendar   | <input type="checkbox"/> **SELECT CEQA Determination**  |
| <input type="checkbox"/> Place on Policy Calendar (Resolutions, Ordinances; PNC)                           | <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day |
| <input type="checkbox"/> Place on Section Initiation Proceeding (GPIP)                                     | <input type="checkbox"/> Notify Property Owners (app/agencies/property owner labels provided)   |
|  | Controversial: <input type="checkbox"/> YES <input type="checkbox"/> NO                         |

**Designate Newspaper used by Planning Department for Notice of Hearing:**  
(1st Dist) Press Enterprise

**Documents to be sent to County Clerk's Office for Posting within five days:**

Notice of Determination and Mit Neg Dec Forms  
California Department of Fish & Wildlife Receipt (CFG5848)

**Do not send these documents to the County Clerk for posting until the Board has taken final action on the subject cases.**

Riverside Office · 4080 Lemon Street, 12th Floor  
P.O. Box 1409, Riverside, California 92502-1409  
(951) 955-3200 · Fax (951) 955-1811

Desert Office · 38686 El Cerrito Road  
Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** TLMA - Planning Department

**SUBMITTAL DATE:**  
November 22, 2013

REVIEWED BY EXECUTIVE OFFICE

DATE \_\_\_\_\_  
Tina Grande

Departmental Concurrence

**SUBJECT: SURFACE MINING PERMIT NO. 139, REVISED PERMIT NO. 1** – Adopt Mitigated Negative Declaration – Applicant: Eric Werner – Mayhew Aggregates & Mine Reclamation – First/First Supervisorial District - Location: South of I-15 and Temescal Canyon - **REQUEST:** The project proposes to consolidate Plot Plan No. 1828, Reclamation Plan No. 106, and Surface Mining Permit No. 139; reduce permitted annual tonnage allowed from 5,000,000 to 2,000,000; reconfigure areas subject to mining activities on-site to include the existing slopes and setback areas located along the western and southern boundaries of the site; and extend the expiration date of the permits from January 2018 to December 31, 2068 (50-years). No changes in the existing approved mining and trucking method or intensity proposed. Further, the Permit proposes to construct an inert debris engineered fill operation (IDEFO) to be located within the limits of the Surface Mining Permit No. 139 mine site.

**RECOMMENDED MOTION:**

**RECEIVE AND FILE** the Notice of Decision for the above referenced case acted on by the Planning Commission November 6, 2013.

The Planning Department recommended Approval; and,  
**THE PLANNING COMMISSION:**

**ADOPTED** a **MITIGATED NEGATIVE DECLARATION** for **ENVIRONMENTAL ASSESSMENT NO. 42476**, based on the findings incorporated in the initial study and the conclusion that the project will not have a significant effect on the environment; and,

*Carolyn Syms Luna*

Carolyn Syms Luna  
Planning Director

Initials: CSL:ms *D.M.*  
(Continued on Attached Page)

Dept't Recomm.:  Policy  
Per Exec. Ofc.:  Policy  
 Consent  Consent

**Prev. Agn. Ref.**

**District:** 1/1

**Agenda Number:**

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11A: SURFACE MINING PERMIT NO. 139, REVISED PERMIT NO. 1

DATE: NOVEMBER 22, 2013

Page: 2 of 2

**APPROVED SURFACE MINING PERMIT NO. 139 REVISED PERMIT NO. 1**, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.



RIVERSIDE COUNTY  
PLANNING DEPARTMENT

**PLANNING COMMISSION HEARING  
REPORT OF ACTIONS  
NOVEMBER 6, 2013**

**3.5 SURFACE MINING PERMIT NO. 139, REVISED PERMIT NO. 1** – Intent to Adopt a Mitigated Negative Declaration – Applicant: Eric Werner – Mayhew Aggregates & Mine Reclamation – First/First Supervisorial District – Location: South of I-15 and Temescal Canyon – 215 Gross Acres - Zoning: Mineral Resources and Related Manufacturing (M-R-A) - **REQUEST: SMP139R1** proposes to consolidate PP1828, RCL106, and SMP139; reduce permitted annual tonnage allowed from 5,000,000 to 2,000,000; reconfigure areas subject to mining activities on-site to include the existing slopes and setback areas located along the western and southern boundaries of the site; and extend the expiration date of the permits from January 2018 to December 31, 2068 (50-years). No changes in the existing approved mining and trucking method or intensity proposed. Further, the SMP proposes to construct an inert debris engineered fill operation (IDEFO) to be located within the limits of the SMP139 mine site. - Project Planner, Matt Straite at (951) 955-8631 - email [mstraite@rctlma.org](mailto:mstraite@rctlma.org), and David Jones at (951) 955-6863 - email [djones@rctlma.org](mailto:djones@rctlma.org). (Quasi-judicial)

Staff Report Recommendation:

**ADOPTION OF A MITIGATED NEGATIVE DECLARATION; APPROVAL OF SURFACE MINING PERMIT.**

Staff's Recommendation at Hearing:

**ADOPTION OF A MITIGATED NEGATIVE DECLARATION; APPROVAL OF SURFACE MINING PERMIT.**

Planning Commission Action:

By A Vote Of 5-0, **ADOPTED A MITIGATED NEGATIVE DECLARATION** subject to revisions made at hearing; **APPROVED THE SURFACE MINING PERMIT** subject to revisions to the Conditional of Approval.

Agenda Item No.: 3.5  
Area Plan: Temescal Canyon  
Zoning District: Glen Ivy  
Supervisory District: First/First  
Project Planner: Matt Straite/ Dave Jones  
Planning Commission: November 6, 2013

SURFACE MINING PERMIT NO. 139, REVISED  
PERMIT NO. 1  
Environmental Assessment No. 42476  
Applicant: Mayhew Aggregates & Mine  
Reclamation  
Engineer/Representative: Todd Pendergrass

## COUNTY OF RIVERSIDE PLANNING DEPARTMENT STAFF REPORT

### PROJECT DESCRIPTION AND LOCATION:

Surface Mining Permit No. 139 Revision No. 1 (SMP00139R1) proposes to consolidate PP01828, RCL00106, and SMP00139; reduce permitted annual tonnage allowed from 5,000,000 to 2,000,000; reconfigure areas subject to mining activities on-site to include the existing slopes and setback areas located along the western and southern boundaries of the site; and extend the expiration date of the permits from January 2018 to December 31, 2068 (50-years). No changes in the existing approved mining and trucking method or intensity proposed. Further, the SMP proposes to construct an inert debris engineered fill operation (IDEFO) to be located within the limits of the SMP00139 mine site.

The project is located in the Temescal Valley Area Plan, more specifically it is located southerly of I-15, easterly of Glen Ivy Hot Springs, and westerly of the Sycamore Creek Specific Plan (SP256A2).

### ISSUES OF POTENTIAL CONCERN:

#### *Shared Slopes*

As explained above, the project proposes to take existing man-made slopes between different mining permits and use the material within those slopes. Naturally, half of the existing slope is within the current project, SMP139, and the other half is in another permitted mine. Because the applicants cannot use the material within SMP139 without changing the slopes in the neighboring mine, a condition of approval has been added explaining that they cannot use the materials in those slope areas until the neighboring mining entitlements have been revised to reflect the removal of material from the neighboring entitlement (COA 70.Planning.1 for slopes shared by SMP133, and 70.Planning.2 for slopes shared by SMP143).

#### *Access*

Marti Road which provides access to a number of mining operations has already been vacated. Because this permit is requesting an extension, conditions of approval have been added to the project requiring the applicant to continue to provide viable access to the other mines through Marti Road former right of way until such time that access is no longer required. Additionally, an alternative access can be provided to the satisfaction of the Planning Director.

#### *CEQA review of shared slopes*

Because the modifications to the neighboring mine entitlements are required in order to permit the mining of these slopes in SMP139, the potential CEQA impacts of the total slope removal (use) needed to be reviewed. This was essential to address any potential of CEQA piecemealing. Therefore, the attached EA/MND analyzes the full impacts of the entire slope removal (use).

Further, there are mitigation measures in the CEQA document (Mitigated Negative Declaration and Environmental Assessment No.42476) that were not made a condition of approval for SMP139R1 because it relates to the neighboring mine, SMP182 and 143, 150, and/or 202. However, the trigger for the mitigation measures (M-BI-1 and 4) is any revision to mines. Because any revision of SMP182 or

other mines contiguous to the project will tier off of the EA created for SMP139R1, the mitigation will be implemented with that project at the time those mines are revised.

**SUMMARY OF FINDINGS:**

- |  |  |
|--|--|
| 1. Existing General Plan Land Use (Ex. #5):    | Open Space: Mineral Resources (OS-MIN)   |
| 2. Surrounding General Plan Land Use (Ex. #5): | Open Space: Mineral Resources (OS-MIN) to the south, west and north, Open Space: Conservation (OS-C) to the east.  |
| 3. Existing Zoning (Ex. #2):                   | Mineral Resources and Related Manufacturing (M-R-A).   |
| 4. Surrounding Zoning (Ex. #2):                | Mineral Resources and Related Manufacturing (M-R-A) to the south, and west, Specific Plan (SP) to the north and east, Manufacturing, Service Commercial (M-SC) to the north. |
| 5. Existing Land Use (Ex. #1):                 | Mining   |
| 6. Surrounding Land Use (Ex. #1):              | Single Family residential to the north and east, open space and resort to the west, open space to the south.   |
| 7. Project Data:                               | Total Acreage: 215   |
| 8. Environmental Concerns:                     | See attached environmental assessment  |

**RECOMMENDATIONS:**

**ADOPTION** of a **MITIGATED NEGATIVE DECLARATION** for **ENVIRONMENTAL ASSESSMENT NO. 42476**, based on the findings incorporated in the initial study and the conclusion that the project will not have a significant effect on the environment; and,

**APPROVAL** of **SURFACE MINING PERMIT NO. 139 REVISED NO. 1**, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.

**FINDINGS:** The following findings are in addition to those incorporated in the summary of findings and in the attached environmental assessment, which is incorporated herein by reference.

1. The project site is designated Open Space: Mineral Resources (OS-MIN) on the Temescal Area Plan.
2. The proposed use, surface mining, is a permitted use in the in the Open Space: Mineral Resources (OS-MIN) designation.
3. The project site is surrounded by properties which are designated Open Space: Mineral Resources (OS-MIN) to the south, west and north, Open Space: Conservation (OS-C) to the east.
4. The zoning for the subject site is Mineral Resources and Related Manufacturing (M-R-A).

5. The proposed use, surface mining, is a permitted use, subject to approval of a Surface Mining Permit in the Mineral Resources and Related Manufacturing (M-R-A).
6. The proposed use, surface mine, is consistent with the development standards set forth in the Mineral Resources and Related Manufacturing (M-R-A) zone.
7. The project site is surrounded by properties which are zoned Mineral Resources and Related Manufacturing (M-R-A) to the south, and west, Specific Plan (SP) to the north and east, Manufacturing, Service Commercial (M-SC) to the north.
8. Similar mining uses have been constructed and are operating in the project vicinity.
9. This project is located within Criteria Area 3348 of the Western Riverside County Multiple Species Habitat Conservation Plan, and as such was required to complete the HANS review. This project fulfills those requirements.
10. This project is within the City Sphere of Influence of Corona.
11. This land division is located within a very high fire hazard severity zone.
12. This surface mine has been designed so that the project is in compliance sections 4290 and 4291 of the Public Resources Code by providing a defensible space within each lot of 100 feet from each side, front and rear of a pad site, requiring that the site have fuel modification standards acceptable to the Riverside County Fire Department, no buildings shall be covered or have dead brush overhang the roof line and requiring that the roof structure shall be maintained free of leaves, needles, or other vegetation.
13. Fire protection and suppression services will be available for the subdivision through Riverside County Fire Department.
14. The project meets the regulations regarding road standards for fire equipment access adopted pursuant to Section 4290 of the Public Resources Code and Riverside County Ordinance No. 787 by requiring road standards for fire equipment access, standards for signs identifying streets, roads and buildings, minimum private water supply reserves for emergency fire use, and fuel brakes and green belts.
15. Environmental Assessment No. 42476 identified the following potentially significant impacts:
  - a. Biological Resources
  - b. Transportation / Traffic

These listed impacts will be fully mitigated by the measures indicated in the environmental assessment, conditions of approval, and attached letters. No other significant impacts were identified.

**CONCLUSIONS:**

1. The proposed project is in conformance with the Open Space: Mineral Resources (OS-MIN) Land Use Designation, and with all other elements of the Riverside County General Plan.

2. The proposed project is consistent with the Mineral Resources and Related Manufacturing (M-R-A) zoning classification of Ordinance No. 348, and with all other applicable provisions of Ordinance No. 348.
3. The public's health, safety, and general welfare are protected through project design.
4. The proposed project is clearly compatible with the present and future logical development of the area.
5. The proposed project will not have a significant effect on the environment.
6. The proposed project will not preclude reserve design for the Western Riverside County Multiple Species Habitat Conservation Plan (WRCMSHCP).

**INFORMATIONAL ITEMS:**

1. As of this writing, no letters, in support or opposition have been received.
2. The project site is not located within:
  - a. A County Service Area (CSA);
  - b. A dam inundation area;
  - c. An area drainage plan;
  - d. The Stephens Kangaroo Rat Fee Area or Core Reserve Area; or,
  - e. California Gnatcatcher, Quino Checkerspot Butterfly habitat.
3. The project site is located within:
  - a. The city of Corona sphere of influence;
  - b. A 100-year flood plain, an area drainage plan, or dam inundation area;
  - c. A fault area;
  - d. An area of low to moderate liquefaction; and,
  - e. A high fire area.
4. The subject site is currently designated as Assessor's Parcel Numbers 290-060-043, 290-110-012, -015, -017, -019, -024, -025.



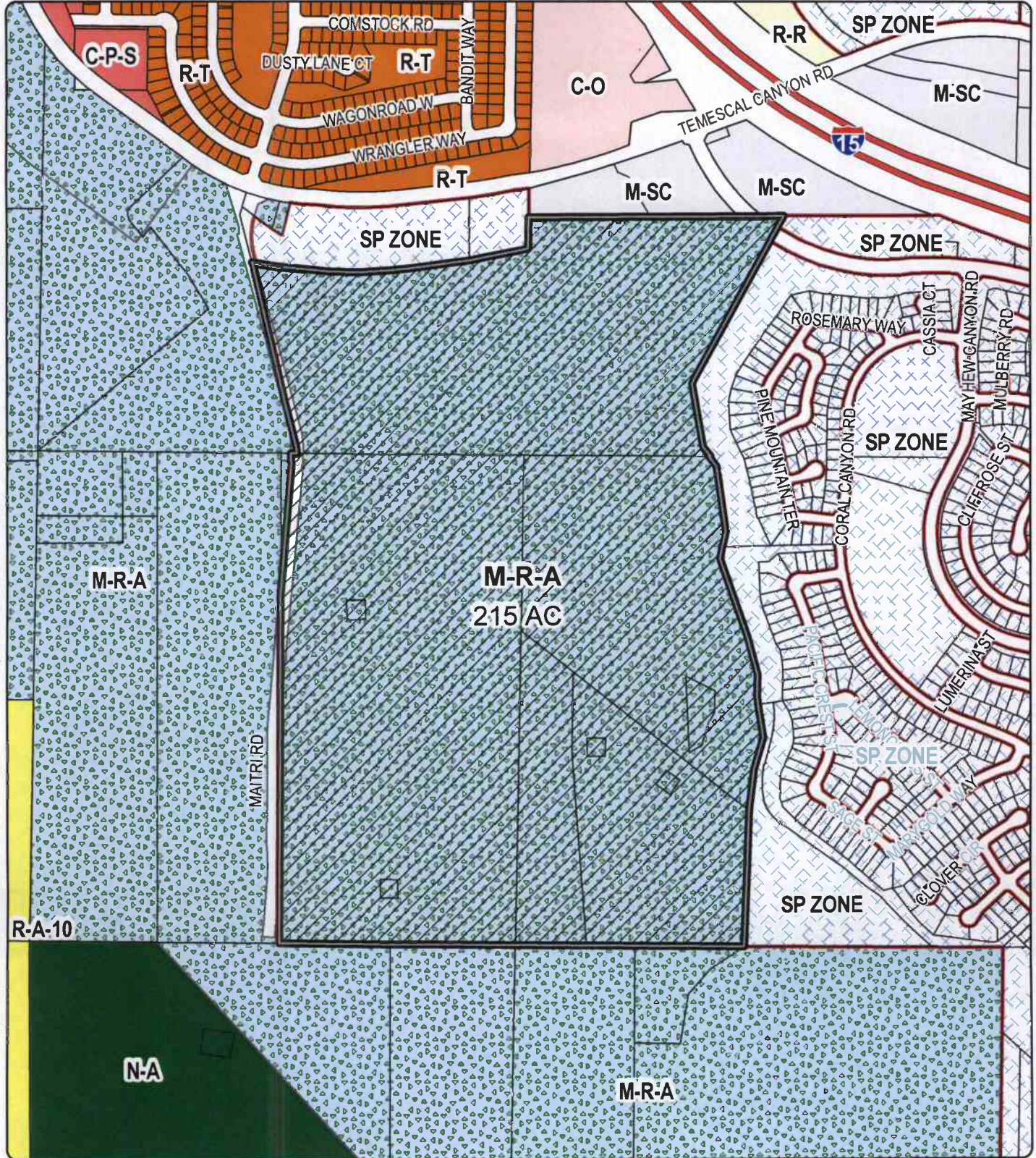
RIVERSIDE COUNTY PLANNING DEPARTMENT

SMP00139R1

EXISTING ZONING

Supervisor Jeffries  
District 1

Date Drawn: 7/30/13  
Exhibit 2

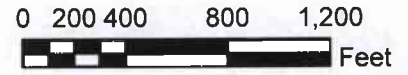


Zoning Area: Glen Ivy  
Township/Range: T5SR6W  
Section: 2, 11



Assessors Bk. Pg. 290-06, 11  
Thomas Bros. Pg. 834 F1  
Edition 2009

DISCLAIMER: On October 7, 2003, the County of Riverside adopted a new General Plan providing new land use designations for unincorporated Riverside County parcels. The new General Plan may contain different types of land use than is provided for under existing zoning. For further information, please contact the Riverside County Planning Department offices in Riverside at (951) 955-3200 (Western County), or in Indio at (760) 863-8277 (Eastern County) or website at <http://www.lima.co.riverside.ca.us/index.html>



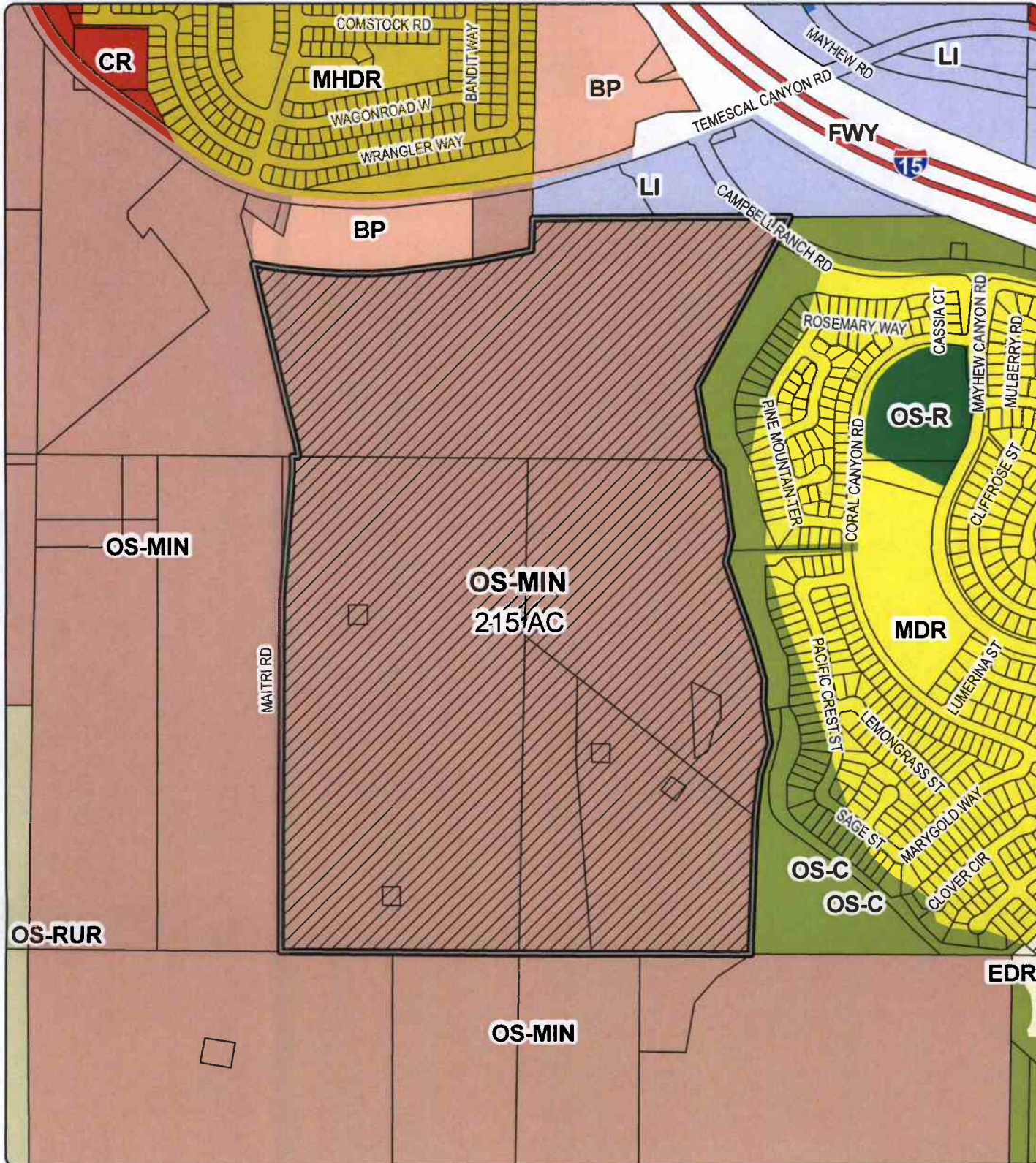
RIVERSIDE COUNTY PLANNING DEPARTMENT

SMP00139R1

EXISTING GENERAL PLAN

Supervisor Jeffries  
District 1

Date Drawn: 7/30/13  
Exhibit 5

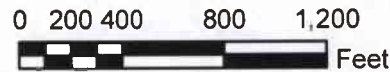


Zoning Area: Glen Ivy  
Township/Range: T5SR6W  
Section: 2, 11

Assessors Bk. Pg. 290-06, 11  
Thomas Bros. Pg. 834 F1  
Edition 2009



DISCLAIMER: On October 7, 2003, the County of Riverside adopted a new General Plan providing new land use designations for unincorporated Riverside County parcels. The new General Plan may contain different types of land use than is provided for under existing zoning. For further information, please contact the Riverside County Planning Department offices in Riverside at (951) 955-3200 (Western County), or in Indio at (760) 863-8277 (Eastern County) or website at <http://www.tlma.co.riverside.ca.us/index.html>



# RIVERSIDE COUNTY PLANNING DEPARTMENT

## SMP00139R1

### LAND USE

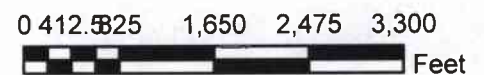
Supervisor Jeffries  
District 1

Date Drawn: 7/30/13  
Exhibit 1



Zoning Area: Glen Ivy  
Township/Range: T5SR6W  
Section: 2, 11

Assessors Bk. Pg. 290-06, 11  
Thomas Bros. Pg. 834 F1  
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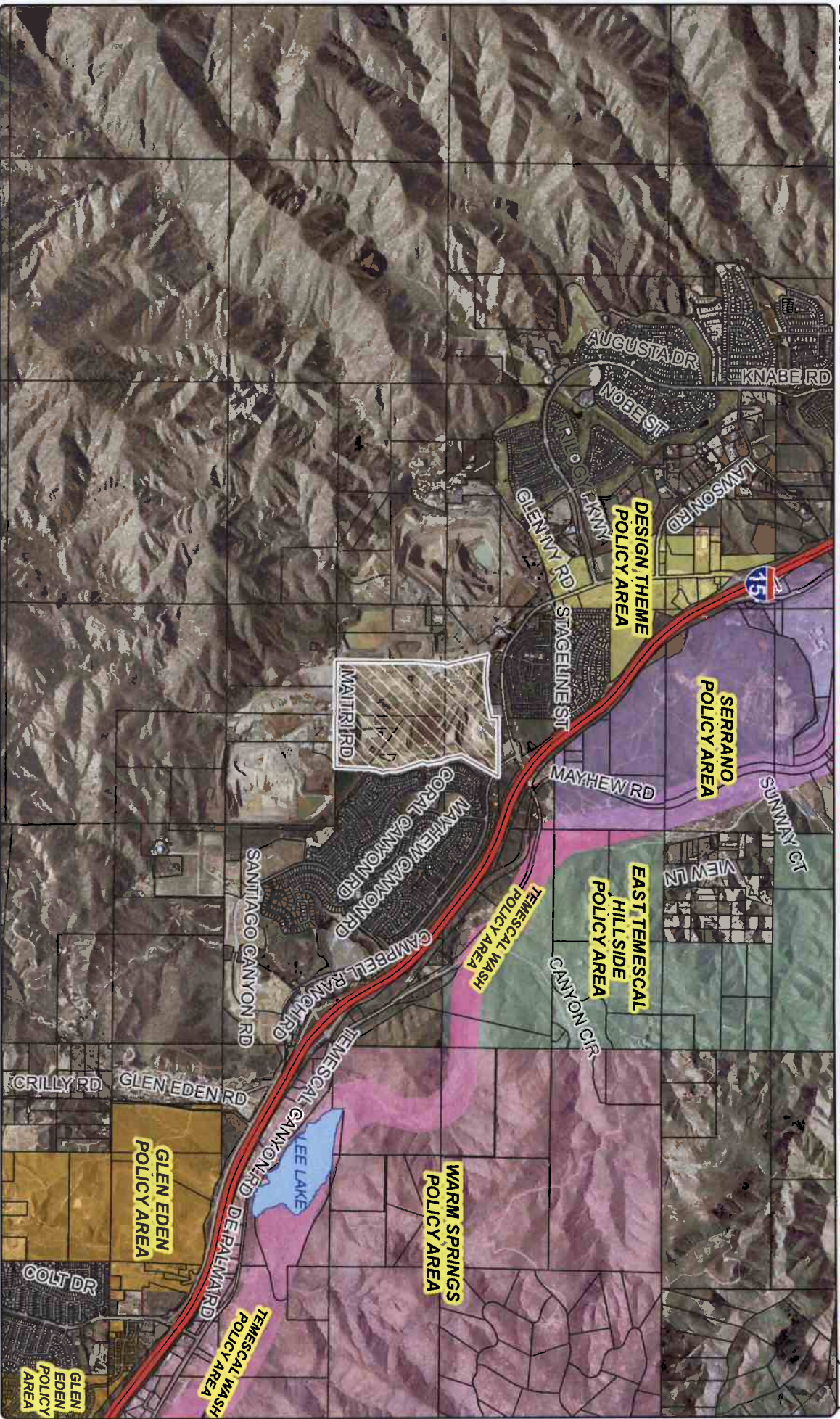
RIVERSIDE COUNTY PLANNING DEPARTMENT

CZ07692 PM35849

VICINITY/POLICY AREAS

Supervisor Jeffries  
District 1

Date Drawn: 7/30/13  
Vicinity Map



Zoning Area: Glen Ivy  
Township/Range: T5SR6W

Section: 2, 11

DISCUSSION: On October 7, 2003, the County of Riverside adopted a new General Plan providing new land use designations for unincorporated Riverside County parcels. The new General Plan may contain different types of land use than is provided for under existing zoning. For further information, please contact the Riverside County Planning Department offices in Riverside at (951) 955-3200 (Western County), or in Indio at (760) 863-8277 (Eastern County) or website at <http://www.planning.riversideca.gov/landuse.htm>

Assessors Bk. Pg. 290-06, 11  
Thomas Bros. Pg. 834 F1  
Edition 2009




















**Legend**

-  Property Limits
-  Project Impact Area
-  Avoidance Area
-  Southern Willow Scrub - Riparian Habitat
-  Potential Habitat - Slender horned Spineflower



**MAYHEW AGGREGATES  
AND MINE RECLAMATION PROJECT**  
HANS Riparian/Riverine Map

GLENN LUKOS ASSOCIATES



# Mayhew Aggregates and Mine Reclamation

SMP139R1

## Exhibit C—Project Description

April 2013

### Introduction

The Temescal Canyon area is home to a number of surface mining operations, most of which have been in operation since the 1970's and 80's, and is the source of large quantities of construction grade aggregates for Riverside, Orange, San Diego and San Bernardino Counties. The alluvial fans of Mayhew Canyon and Coldwater Canyon have both been recognized as having geological resources significant to the State of California. It is the point where these two alluvial fans converge where Mayhew Aggregates & Mine Reclamation ("MAMR") has its surface mining operation.

More specifically, MAMR's surface mining operation located at 24890 Maitri Road in Riverside County, California near the city of Corona, and is presently governed under 3 separate entitlements. C.L. Pharris was the original operator of the site, and permitted the site as Plot Plan 1828 ("PP1828") in 1975. In 1978, to satisfy the requirements of the Surface Mining and Reclamation Act (SMARA), a Reclamation Plan was prepared for the mining operations approved under PP 1828, and was ultimately approved by Riverside County as Reclamation Plan 106 ("RCL106").

In 1982, an area just outside the southeast corner of PP1828 was added as Surface Mining Permit 139 ("SMP139"), with the disturbance created by SMP139 added to the area to be reclaimed under RC L106. SMP139 and RCL106 do not have expiration dates, but PP1828 currently has an expiration date in 2018.

This application will consolidate multiple permits (PP 1828, RCL106, and SMP139) into a single, comprehensive entitlement for the property. All uses currently permitted under PP1828, SMP139, and RCL106, including the existing, on-site concrete batch-plant would be combined under the new SMP139 Revision 1 ("SMP139R1") entitlement.

The adjoining pits consist of Werner Corporation's Mayhew mines (SMP 143, 150, and 182), which lie directly to the south of MAMR, and Chandler's Sand and Gravel (SMP202), which is directly to the west of MAMR. Both mining operations share common boundaries with MAMR which can be mined and reclaimed. The additional reserves made accessible in this application will total approximately 46,000,000 tons, and would be included as part of the SMP139R1 entitlement, which is currently permitted through January, 2018. By maintaining, and not increasing production or operational levels, the operation will be extended by 50 years, based on a combination of current levels and demand forecasts. The new permit would have an expiration date of December 31, 2068.

To help achieve final reclamation of the property, MAMR will be operating an Inert Debris Engineered Fill Operation ("IDEFO"), which is described later in this application. The IDEFO operation would be permitted as part of the Reclamation Plan for SMP 139R1. Generally, the IDEFO would allow for the importation and processing of inert construction debris to aid in the reclamation of the current mining operation. The IDEFO would be an instrumental part of MAMR's plan to start reclaiming the property along the east property line of the project, initially flattening existing slopes, then filling portions of the project site to create developable and usable parcels. The IDEFO will serve as a compliment to existing reclamation activities on the site, which currently utilize silts and clays both on site and from the adjacent mining operations.

CASE: SMP00139R1  
EXHIBIT: C  
DATE: 1/3/13  
PLANNER: M. STRAITE



## Site and Area Characteristics

### Access

Access to the project site is via Maitri Road, south off of Temescal Canyon Road. Customers and employees commuting to the site would typically exit Temescal Canyon Road or Indian Truck Trail off of Interstate 15 in the unincorporated area of Riverside County between the cities of Corona and Lake Elsinore. Maitri Road is now a private roadway which provides access for all utilities and essential public services. Surface Mines 143, 150, and 182 also have their access using this roadway. These will all continue to have access to the site by way of recorded easements. Security and public safety will be enhanced through the use of controlled access, with security during off-hours, near the intersection of Maitri Road and Temescal Canyon Road.

### Utilities

Water is used on site for dust control and aggregate processing. Although Elsinore Valley Municipal Water District ("EVMWD") is the primary source of water, the operation is capable of recycling a very large percentage of its process water through a system of hydro-cyclones, clarifying tanks, and de-silting basins. Although runoff from the Mayhew Creek is detained within the southern portion of the site, flows from Mayhew Creek are not utilized in any site operations. Sewage disposal for the project will be handled through an existing septic system.

Commercial (or line) power is used to operate processing equipment and administrative operations (offices, scalehouse, shop, etc). Southern California Edison provides electricity to the site via their existing network of transmission lines. Back-up generators are available locally if needed to supplement operations if there is a disruption in electrical service. Telephone and internet are provided to the site by Verizon, and no other utilities, including gas, are required at this time. Per the recorded utility easements, the property owners will be responsible for the relocation, and cost of relocation, of Maitri Road and all affected utilities.

### Land Use

The project site, which consists of approximately 215 acres, is designated "Open Space – Mineral Resources (OS – MIN)" and is zoned "M-R-A (Mineral Resources and Related Manufacturing)," which permits mining and reclamation activities subject to a mining permit under County Ordinance 555.

The project site lies specifically within the Temescal Canyon Area Plan of the County of Riverside's General Plan, and does not fall within a General Plan Policy Area (as evidenced by the October 2003 County of Riverside General Plan - Temescal Canyon Area Plan - Policy Area Map (Figure 4/Page 31) or a General Plan Policy Overlay Area. Riverside County's General Plan and the Temescal Canyon Area Plan list the Land Use Designation for the subject site as Open Space Mineral (OS-MIN) which allows for the currently permitted use of mineral extraction and processing facilities. This application is proposing to extend the life of the currently permitted reserves as well as expand the permitted reserves to include the reserves currently within the slopes and setbacks between the contiguous Surface Mining Permits (SMP). Said application is designed to conform to the current Open Space Mineral (OS-MIN) Designation and will not require an amendment to the General Plan. In addition, the subject site is zoned M-R-A (Mineral Resources and Related Manufacturing) per its Ordinance 348 Zoning Designation and again, this application will not require a change to the current zoning.

The proposed Inert Debris Engineered Fill Operation (IDEFO) will be the primary mechanism for implementing our required reclamation for the subject site. Therefore, with the IDEFO as a compatible use to implement ultimate reclamation of the site, the proposed application will conform to both the current General Plan Designation of

Open Space Mineral (OS-MIN) and M-R-A zoning. Specifically, mining activities and the proposed IDEFO operation are permitted uses pursuant to Section 12.60.b.(1) of Ordinance 348, which indicates that the M-R-A zone allows for *“Mining, quarrying, excavating, beneficiating, concentrating, processing, and stockpiling of rock, sand, gravel, decomposed granite, clay, gypsum, limestone, metallic ores, and similar materials, and the rehabilitation of the resulting excavations.”*

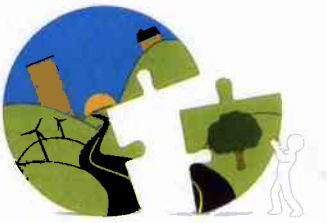
The adjacent land uses to the West and South are comprised of other permitted mining operations which include industrial uses in the form of three (3) Ready-Mix Concrete Batch Plants and an Asphalt Plant. The nearest residential areas are the Sycamore Creek development to the east and Butterfield Estates across Temescal Canyon Road to the north. The closest residence within Sycamore Creek is more than 250 feet from the property line, while the closest residence within Butterfield Estates is over 500 feet from the site. To the south of SMP 143 is forest land consisting of Cleveland National Forest.

Zoning on surrounding properties includes M-R-A, M-SC, N-A, and SP Zone. Other than the parcels fronting Temescal Canyon Road, which are not a part of this application, all designations for the site are “Open Space - Mineral Resources (OS-MIN).” Exhibit “A” includes a project Site Vicinity Map, and shows the project site.

The site is part of the Temescal Valley-Orange County Production-Consumption Region (P-C Region) which is classified by the California Division of Mines and Geology (DMG) as a Mineral Resource Zone (MRZ-2) as found in *Map Sheet 52 (MS52 – Updated 2006) Aggregate Availability in California Report & Map*. This area is classified as such, due to data that has been presented, which demonstrates the existence of significant deposits of PCC-grade aggregate. Furthermore, the continued production of aggregates from the area, and this site in particular, are vital to supplying the construction material needs of the local economy.

Construction aggregate is the largest non-fuel mineral commodity produced in California, and aggregate production plays a major role in the economy of Southern California. Demand for aggregate is expected to increase as the state’s population continues to grow and infrastructure is maintained and improved. In 2006, the 50-year forecast demand for aggregates was 1,122 million tons, while the permitted aggregate resources were only 355 million tons (Exhibit F - Aggregate Availability in California, December 2006). This project will provide additional reserves, while not increasing environmental impacts.

Exhibit D is an aerial orthophoto of the site, with the project boundary shown in red. The site was photographed in January 2011. Exhibit E is a U.S. Geological Survey Quadrangle Map delineating the site boundaries.



# RIVERSIDE COUNTY PLANNING DEPARTMENT

## Memorandum

**DATE:** November 6, 2013  
**TO:** Planning Commission  
**FROM:** Matt Straite  
**RE:** **AGENDA ITEM 3.5 revised site Plan, Additional letters, Revisions to Conditions of Approval**

### *Revised Site Plan*

All mining projects require a 30 day review by the Department of Conservation, Office of Mine Reclamation. We received their review letter after the case was scheduled for hearing (with their consent). They requested some modifications (see their attached letter) which have been made to the new version of the site plan included in this memo.

### *Additional Letters*

The Following letters were received after the staff report was published:

- Email from **California Fish and Wildlife Department** dated October 7, 2013 (a notice of the hearing was sent to the author as they were not included in the prior hearing notice list).
  - This email did not raise any concerns that were not addressed in the CEQA document. See T&B response attached for more detail.
- The **Santa Ana Regional Water Quality Control Board** dated October 8, 2013
  - The letter from the SARWQCB reiterates information they communicated to us previously, information that was included in the staff report in the form of an email from them summarizing their concerns with the project. These concerns were addressed in great detail in the EA for the project.
- The **Office of Planning and Research (OPM)** dated October 8, 2013 (a notice of the hearing was sent to the author as they were not included in the prior hearing notice list).
  - The project was given a full 30 day State Clearinghouse review. When this happens some State departments send their project letters to the OMR, who in turn, sends them to us. This OMR letter contained a letter from the Native American Heritage Commission dated September 136 3013 [sic]. The letter requested that the County conduct a record search of the affected area. However, the affected area has been mined for many years. No record search was required. See the EA for more information.
- The **Office of Planning and Research (OPR)** dated October 9, 2013
  - The OPR received the SARWQCB letter late and sent the same letter to us (see above).
- **Department of Conservation Office of Mine Reclamation (OMR)** dated October 9, 2013
  - This letter requested some slight revisions to the plans. All requested revisions have been made (see above).
- **Department of Transportation District 8 (CalTrans)** dated October 17, 2013 (a notice of the hearing was sent to the author as they were not included in the prior hearing notice list).
  - This letter requests that a traffic study be required for the project. One was already submitted for the project and has been reviewed by the Riverside County Transportation Department.
- Responses to the CDFW letter by the contracted consultant (T&B Planning) in table form.
- Responses to the RWQCB letter by the contracted consultant (T&B Planning) in table form.

- Responses to the CalTrans letter by the contracted consultant (T&B Planning) in table form and an attached freeway mainline analysis memo Urban Crossroads had prepared when the traffic study scope was being identified. CalTrans reviewed this memo and determined that it was acceptable and that no freeway ramp merge/diverge analysis was warranted.
- Mayhew Aggregates Dated October 4, 2013
  - This letter contains responses to the OMR letter.
- **Todd Gempel Dated** October 29, 2013
  - In this letter, a local resident explains that his family has respiratory issues that, he contends, may be a result of the applicants mining activity. He requests a continuance, additional studies, and mitigation. The air quality studies done for the project determined that the project would result in a decrease of diesel particulates and would not exceed the SCAQMD threshold. The mitigation requested by the author is already required in 60.Planning.14 (air quality sampling).
- Responses to the Todd Gempel letter by the contracted consultant (T&B Planning) in table form.
- **SCAQMD** dated October 31, 2013
  - This letter explains that any modification of equipment will require modification of the existing SCAQMD permits for the applicant.
- **Yingqi Hu, Wanhua Xiao** (no date but received on November 4, 2013)
  - This letter contends that the mine is too close to residences creating noise and dust concerns. All impacts were addressed in the CEQA documents and determined that all impacts are less than significant with mitigation.
- Responses to the SCAQMD letter by the contracted consultant (T&B Planning) in table form.
- Responses to the Hu/Xiao letter by the contracted consultant (T&B Planning) in table form.

#### *Revised CEQA Document*

As a result of a request by the California Department of Fish and Wildlife, in their letter dated October 7, 2013, one slight revision was made to the CEQA document. The change was made on page 2-6 (attached), in addition to some minor changes to incorporate the Streambed Alteration Agreement (e.g., adding it to References, the list of appendices, etc.). In addition attached is an approved Streambed Alteration Agreement that will be added to the Appendix of the final CEQA document (a copy is attached to this memo).

NOTE: The slight alteration and addition to the Appendix of the CEQA document does not trigger the need or any recirculation of the CEQA document. A recirculation is only required if the change comprises a "substantial revision" that would deprive the public the opportunity to meaningfully comment on the project's environmental effects. A minor revision to add a reference to the approved Streambed Alteration Agreement (that in essence is in no way affected by the proposed project) does not comprise a "substantial revision" to the CEQA document.

#### *Revised Conditions of Approval*

The project was conditioned, regarding fees, as if it were a new project. After discussions with the County Fee Administrator, the conditions are being revised to add additional clarity regarding the required MSHCP Fee (Ord. No. 810 Fee), the DIF Fee and the TUMF Fee. No fees are required under all these ordinances, please see attached memo from the Fee Administrator. The following edits clarify:

10.Planning.34            USE- ORD 810 O S FEE (1)

In accordance with Riverside County Ordinance No. 810, **this mitigation fee will not apply as referred to under MSHCP Resolution 2004-223; Section 3a indicating: ...The fee shall be paid**

only on the gross acreage of the project site that was previously vacant and built subsequent to the effective date of this ordinance. Recognizing that the revised use area under SMP00139R1 is a manufactured slope and that this revision will allow further disturbance into that area; therefore this acreage is exempt from payment. ~~to assist in providing revenue to acquire and preserve open space and habitat, an Open Space Mitigation Fee shall be paid for each development project or portion of an expanded development project to be constructed in Western Riverside County. The amount of the fee for commercial or industrial development shall be calculated on the basis of "Project Area," which shall mean the net area, measured in acres, from the adjacent road right-of-way to the limits of the project development.~~

~~20.Trans.1 SMP WRCOG TUMF AND DIF~~

~~Within 45 days of project approval, the project proponent shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of issuance, pursuant to Ordinance No. 824.~~

~~Within 45 days of project approval, the project proponent shall pay the Developer Impact Fee (DIF) in accordance with the fee schedule in effect at the time of issuance, pursuant to Ordinance No. 659.~~

60.Planning.20 SMP- ORD 810 OS FEE SMP (2)

In accordance with Riverside County Ordinance No. 810, this mitigation fee will not apply as referred to under MSHCP Resolution 2004-223; Section 3a indicating: ... The fee shall be paid only on the gross acreage of the project site that was previously vacant and built subsequent to the effective date of this ordinance. Recognizing that the revised use area under SMP00139R1 is a manufactured slope and that this revision will allow further disturbance into that area; therefore this acreage is exempt from payment. ~~Prior to any additional disturbance permitted by Surface Mining Permit No. 139R1, the permit holder shall comply with the provisions of Riverside County Ordinance No. 810, which requires the payment of the appropriate fee set forth in the Ordinance, unless the fee has already been paid. The amount of the fee shall be based on the "Project Area" as defined in the Ordinance and afore-mentioned Condition of Approval. The Project Area for the subject surface mining permit is calculated to be 215 acres. In the event Riverside County Ordinance No. 810 is rescinded and or superseded by a subsequent mitigation fee ordinance, payment of the appropriate fee set forth in that ordinance shall be required.~~

~~90.Planning.3 SMP- ORD 810 OS FEE SMP (2)~~

~~Prior to the issuance of a certificate of occupancy, or upon building permit final inspection prior to use or occupancy for cases without final inspection or certificate of occupancy (such as an SMP), whichever comes first, the applicant shall comply with the provisions of Riverside County Ordinance No. 810, which requires the payment of the appropriate fee set forth in the Ordinance. The amount of the fee will be based on the "Project Area" as defined in the Ordinance and the aforementioned Condition of Approval. The Project Area for Surface Mining Permit No. 139R1 is calculated to be 255 net acres. In the event Riverside County Ordinance No. 810 is rescinded, this condition will no longer be applicable. However, should Riverside County Ordinance No. 810 be rescinded and superseded by a subsequent mitigation fee ordinance, payment of the appropriate fee set forth in that ordinance shall be required.~~

In addition, the following new condition is being added for further clarity:

10.Planning.44 DIF AND TUMF FEES



Pursuant to Ordinance No. 659, this mitigation fee will not apply as indicated under DIF Resolution 2008-160; Sections 2B which states: ...The DIF fee shall be paid only on the gross acreage of the project site that was previously vacant and built subsequent to the effective date of the ordinance. Section 4A & H also states: DIF fees for surface mining operations will be determined by the total acreage of the 'Intensive Use Area'. DIF fees shall not be assessed on the area designated as the "Mineral Extraction Area" within the surface mining operation. The area proposed as revised use under SMP00139R1 is a manufactured slope and designated as "Mineral Extraction Area" and therefore exempt. Be sure this area is noted as "Mineral Extraction Area" on the approved Exhibit A dated 1/3/13.

Pursuant to Ordinance 824, this mitigation fee will not apply as there are no buildings or additions to existing buildings purposed under this SMP00139R1. Please note that if new buildings or structures that qualify for WTUMF payment are proposed, a further review will be required and WTUMF may apply.

Y:\Planning Case Files-Riverside office\SMP00139R1\DH-PC-BOS Hearings\DH-PC\Nov 6 2013 PC hearing\Memo to PC\Memo to PC.docx

Additional Letters Received after the Public review  
of the CEQA document

**From:** [Brandt, Jeff@Wildlife](mailto:Brandt.Jeff@Wildlife)  
**To:** [Straite, Matt](mailto:Straite.Matt)  
**Cc:** [Adelson, Mark@Waterboards](mailto:Adelson.Mark@Waterboards); [Robertson, Glenn@Waterboards](mailto:Robertson.Glenn@Waterboards); [Brandt, Jeff@Wildlife](mailto:Brandt.Jeff@Wildlife); [Maloney-Rames, Robin@Wildlife](mailto:Maloney-Rames.Robin@Wildlife)  
**Subject:** Mitigated Negative Declaration for Surface Mining Permit No. 139 Revision No. 1, County of Riverside, State Clearinghouse No. 2013091018  
**Date:** Monday, October 07, 2013 7:48:28 PM

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Mr. Matt Straite  
Planning Department  
County of Riverside  
4080 Lemon St., 12<sup>th</sup> Floor  
Riverside CA, 92502-1409

Re: Mitigated Negative Declaration for Surface Mining Permit No. 139 Revision No. 1  
County of Riverside, State Clearinghouse No. 2013091018

Dear Mr. Straite:

The Department of Fish and Wildlife (Department) appreciates this opportunity to comment on the Mitigated Negative Declaration (MND) for Surface Mining Permit No. 139 Revision No. 1 (Project), County of Riverside, State Clearinghouse (SCH) No. 2013091018. The Department is responding as a trustee agency for fish and wildlife resources [Fish and Game Code sections 711.7 and 1802 and the California Environmental Quality Act Guidelines (CEQA) section 15386] and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Lake and Streambed Alteration Agreement (LSAA) (Section 1600 et seq.) or a California Endangered Species Incidental Take Permit (Fish and Game Code Sections 2080 and 2080.1).

Project Description and Geographic Location

The Project is a revision to Surface Mining Permit 139 (SMP139R1). The Project is located southwest of the junction of Temescal Canyon Road with the Interstate 15 (I-15). There is residential development to the east. Mining is occurring on the south and west of the Project. The Project involves combining two existing surface mining permits (P1828 and SMP 139) and Reclamation Plan 106 (RCL106) into one permit, SMP139R1. The existing reclamation plan for PP1828 was prepared as RCL106. In 1982, SMP00139 was added to the reclamation plan. PP1828 expires in 2018. SMP00139 is currently fenced, signed and includes a 50 foot perimeter buffer.

Specifically, the revised permit involves: amending Reclamation Plan 106 (RCL106), relocating an existing down-drain structure to the south, mining of on-site and off-site slopes and setbacks, reducing the existing mining entitlement by 3,020,000 tons per year (TPY), analyzing the impacts from mining expansion into SMP00202, SMP00182, SMP00150, and SMP00143, and extending the permit expiration date from 2018 to 2068. The Project will allow the mining of 2,000,000 TPY and reduces the number of pits from three to one by combining the pits.

Adjacent off-site mining permits are SMP00143, SMP00150, SMP00182, and SMP0202. These off-site permits will remain separate; however, they must be revised to allow for the mining of slopes and set-backs. The impacts from incursions into these off-site SMPs are analyzed in this MND. Encroachments into off-site mining permits SMP00202, SMP00182, SMP00150, and SMP00143 are analyzed in this MND, however, discretionary permits are required for revisions to these four mining permits. Expansion into the four adjacent mining permits will not occur until the four mining permits are revised and approved and CEQA is complied with. The slopes to be mined are located in the south and east of SMP0019R1. The additional aggregate reserve from the mining of slopes and set-backs equals 46,000,000 tons.

Mining in the alluvial fans of Mayhew Creek and Coldwater Canyon was begun in the 1970s. In the 1970's flows from Mayhew Creek were diverted via a man-made, soft-bottom drainage course around the SMP 139 mining operations. Storms in 2005 caused the channel banks to erode and collapse, and the mine owners were directed by the County to construct a 300 foot long concrete down-drain structure to direct water from Mayhew Creek directly to a mining pit. The reclamation area of the Project includes the perimeter slopes in the northwest, north, east and southeast. Approximately 186 acres of the central portion of the site is to be reclaimed. In addition, SMP00139R1 would allow for the importation and placement of construction debris for use as fill in the reclamation plan.

#### Biological Resources, Impacts and Mitigation Measures

The central portion of the site has been mined. Native vegetation is located on the slopes and perimeter of SMP139R1. Vegetation communities found on the site include: disturbed alluvial scrub, Riversidean Sage Scrub, chaparral, southern willow scrub, and a desilting basin.

#### Natural Community Conservation Program (NCCP)

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The Department is responsible for ensuring appropriate conservation of fish and wildlife resources, including rare, threatened, and endangered plant and animal species, pursuant to the CESA, and administers the Natural Community Conservation Planning Program (NCCP Program). On June 22, 2004, the Department issued NCCP approval and Take Authorization for the WRMSHCP per Section 2800 *et seq.* of the California Fish and Wildlife Code. The WRMSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the MSHCP please go to: <http://www.rctlma.org/mshcp/>.

The County of Riverside is the Lead Agency and signatory to the Implementing Agreement of the

MSHCP. The site is located within the Temescal Canyon Area Plan portion of the MSHCP. The site includes the southwest portion of Criteria Cell #3348 of Cell Group 1 (Subunit 3: Temescal Wash-West). The site is surrounded on two sides by mining, one side by residential development and the northern side by Temescal Canyon Road.

#### Lake and Streambed Alteration Agreement

In June, 2013 the Department issued a transfer and amendment of Lake or Streambed Alteration Agreement Notification No. 5-066-97 (Agreement). Condition 30 of the Agreement requires the permittee to compensate for habitat impacts by funding the enhancement and conservation of 9.7 acres of suitable habitat through the Riverside-Corona Resource Conservation District (RCRCD). Condition 36 requires the Transferee to submit an annual report to DFW for the life of the mining operations, and through the Reclamation Plan. Condition 34 and 35 require the RCRCD to conform with a native plant palette and submit an annual report for 5 years.

Although the proposed Project is within the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) and is subject to Section 6.1.2, Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, a Lake and Streambed Alteration Agreement Notification is still required by the Department for impacts to State jurisdictional waters associated with the project. Additionally, the Department's criteria for determining the presence of jurisdictional waters are more comprehensive than the MSHCP criteria in Section 6.1.2. The adequacy of the JD will be reviewed by the Department. Any mitigation measures required by the resource protection policies of the MSHCP should be included in the CEQA document.

The Department recommends submitting a notification early on, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Streambed Alteration Agreement notification package, please go to <http://www.dfg.ca.gov/habcon/1600/forms.html>.

A Project must provide adequate avoidance, mitigation, monitoring, funding sources, a habitat management plan and reporting commitments. The CEQA document does not provide a Habitat Mitigation and Monitoring Plan, and therefore, additional CEQA documentation will be required prior to execution (signing) of the Agreement. In order to avoid delays or repetition of the CEQA process, potential impacts to a stream or lake, as well as avoidance and mitigation measures need to be discussed within this CEQA document. Permit negotiations conducted after and outside of the CEQA process are not CEQA-compliant because they deprive the public and agencies of their right to know what project impacts are and how they are being mitigated (CEQA Section 15002).

The Department opposes the elimination of ephemeral, intermittent and perennial stream channels, lakes and their associated habitats. The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or off-site at a 3:1 minimum replacement to-impact ratio, depending on the impacts and proposed mitigation. Additional mitigation requirements through the Department's Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, project design, and

other factors.

The following information will be required for the processing of a Streambed Alteration Agreement and the Department recommends incorporating this information to avoid subsequent CEQA documentation and project delays:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);
- 2) Discussion of avoidance measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance. Please refer to section 15370 of the CEQA guidelines for the definition of mitigation.

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The Project is complex in that it involves four adjacent mining permits (SMP00202, SMP00182, SMP00150 and SMP00143), PP1828, SMP00139 and Reclamation Plan 106. Each permit requires a reclamation plan. The Department is concerned about the relationship of previous Lake and Streambed Alteration Agreements, reclamation plans and mitigation measures to the current Project. Revisions to the Reclamation Plan 106 should include an analysis of the differences between these. The Department requests the CEQA document be revised to address these Department's concerns:

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1. Provide a table showing an analysis of previous mitigation measures and mitigation measures for the current project to ensure that they do not conflict;
2. Provide an analysis of the various reclamation plans and ensure they do not conflict;
3. Provide an analysis of how the future mining of the slopes and setbacks for this project will impact adjoining mining permits, reclamation plans, habitat mitigation and monitoring plans, and other mitigation measures for all the mining permits and reclamation plans;
4. Discuss the requirements of any Lake and Streambed Alteration Agreements issued in the project area and adjoining sites;
5. Provide a map and detailed graphic showing previously approved and future mitigation areas;
6. Mitigation should be provided for impacts to riparian habitat, oak trees, mule fat scrub and Riversidean sage scrub as a result of proposed mining;.
7. All special plants should be surveyed as per the Department's 2009 guidance for Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. The guidance document can be found at the following link:  
<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/ProtocolsforSurveyingandEvaluatingImpacts.pdf>
8. Asses the water rights associated with the diversion of flows from Mayhew Creek to the mining pit, and;
9. Asses the steps necessary to restore the flows from the mining pit to Mayhew Creek.

In order to avoid delays or repetition of the CEQA process, potential impacts to a stream or lake, as well as avoidance and mitigation measures need to be discussed within this CEQA document.

Thank you for this opportunity to comment. Please contact Robin Maloney-Rames, Environmental

Scientist, at (909) 980-3818, if you have any questions regarding this letter.

Sincerely,

Jeff Brandt  
Senior Environmental Scientist  
Habitat Conservation  
California Department of Fish and Wildlife  
3602 Inland Empire Blvd, Suite C-220  
Ontario, CA 91764  
Phone (909) 987-7161  
Fax (909) 481-2945  
Email [jeff.brandt@wildlife.ca.gov](mailto:jeff.brandt@wildlife.ca.gov)

**From:** [Robertson\\_Glenn@Waterboards](mailto:Robertson_Glenn@Waterboards)  
**To:** [Straitte\\_Matt \(MSTRAITTE@rcrlma.org\)](mailto:Straitte_Matt(MSTRAITTE@rcrlma.org))  
**Cc:** [Adelson\\_Mark@Waterboards](mailto:Adelson_Mark@Waterboards); [Porzio\\_Kevin@Waterboards](mailto:Porzio_Kevin@Waterboards); [Jeff.Brandt \(Jeff.Brandt@wildlife.ca.gov\)](mailto:Jeff.Brandt@wildlife.ca.gov)  
**Subject:** Answer on Mayhew Aggregates and Mine Reclamation Permit Application, Info for CEQA  
**Date:** Tuesday, April 09, 2013 8:32:40 PM  
**Attachments:** [Mayhew Aggregates Memo from Aaron Miller, before CEQA 2013.pdf](#)

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To Matt Straitte and Riverside County Planning Department:

Staff of the Regional Board and State Water Resources Control Board, Division of Water Rights (State Board) have intended to get this answer to you prior to your release of the CEQA document for the proposed Surface Mining Permit Revision 139 (SMP 139R1), for expansion of operations by Mayhew Aggregates and Mine Reclamation in Temescal Canyon. We thank you for your patience; some unfortunate delays came up.

With our State Board, I have been evaluating the detailed information that you and Jeramey Harding sent me, in order to provide you regulatory information that should be highlighted in the CEQA document. Aaron Miller of the State Board directed their attached memo to me, for distribution to all involved parties. Along with my office, the State Board requests to also be included on your CEQA distribution list at:

Kevin Porzio  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Staff is now better aware of the site history, including past permits that as early as 1991 allow for the contingency of having Mayhew Creek leave its normal course to enter gravel pits SMP 150 or 139. Eventually, Mayhew Creek did breach into SMP 139 during a 2005 storm. A concrete downdrain was permitted (see final paragraph 4, below) and constructed to prevent headcutting. There has been no subsequent attempt toward an admittedly difficult reversal of the situation, i.e., restoring continuation of the Creek to its remaining streambed east of the site (Mayhew Creek eventually joins Temescal Creek). We understand that the collected water in SMP 139 is said to not be used in the gravel mining operations and is only infiltrated to the water table. Notwithstanding, a diversion of Mayhew Creek has definitely occurred, needs to be recognized, and must not be grandfathered. The proposed permit revision for expansion of the site's mining operations ("SMP 139R1"), with associated CEQA for a new project, must now be updated to emphasize current water rights policy, regulations, and legislation.

Unless the diversion is to be reversed, Mayhew Aggregates must apply for a water right. Surface waters of the State of California are owned by the State, and the State Board grants a right if water is available and all impacts of the diversion can be mitigated. The application for the water right (State Board website) has associated fees. The right to use the water for a beneficial use is expected to be granted. Any circular argument that Mayhew is not using the collected water in the gravel pit for a beneficial purpose, and therefore rejects the right, can be obviated by stating that



their infiltration serves the Region 8 Basin Plan's Groundwater Recharge beneficial use (GWR) for Temescal Creek and its tributaries.

The CEQA document should analyze any impacts to any other parties legally diverting farther downstream, both along Mayhew Creek and Temescal Creek, since all of Mayhew Creek appears to be diverted at the downdrain into SMP 139. What environmental impacts are being caused farther downstream of the diversion, even along Temescal Creek? Will mitigation described in the CEQA document include discussion of complete implementation of the 2005 HMMP, which was the planned 9.7-acre restoration of mulefat community in the northeastern corner of SMP 139? Will the CEQA document consider this level of ecological function to be sufficient mitigation for the diversion? That's part of the evaluation needed for public and agency review.

Among the permits I introduced above (Riverside County Planning; California Department of Fish and Game, now Wildlife; Army Corps of Engineers agreement on an HMMP, though not on a CWA Section 404 Permit), the Regional Board's authorization under Order No. 2004-0004-DWQ was applied for, and paid for, but apparently never issued. Perhaps staff was waiting on a CEQA ruling at the time (2005-07), or waiting on the type of consolidated information now studied in 2013. I will take all this into account as your CEQA process, and a water right application, continues.

Thank you. Glenn Robertson

Glenn S. Robertson, PG, M.S.  
Engineering Geologist (CEQA Coordinator)  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501  
Phone: 951-782-3259  
FAX: 951-781-6288  
Email: [Glenn.Robertson@waterboards.ca.gov](mailto:Glenn.Robertson@waterboards.ca.gov)



EDMUND G. BROWN JR.  
GOVERNOR




MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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**State Water Resources Control Board**

**TO:** Glenn S. Robertson, PG, M.S.  
Engineering Geologist (CEQA Coordinator)  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501

**FROM:** Aaron Miller, Supervisor   
Enforcement Unit 4  
Senior Water Resource Control Engineer  
**DIVISION OF WATER RIGHTS**

**DATE:** March 25, 2013

**SUBJECT:** MAYHEW AGGREGATES AND MINE RECLAMATION WATER DIVERSION IN  
TEMESCAL CANYON

Mr. Robertson,

This memorandum is in response to your inquiry regarding the Mayhew Aggregates and Mine Reclamation (Mayhew Aggregates) diversion of water from Mayhew Creek in Riverside County and any potential issues that should be addressed in any California Environmental Quality Act (CEQA) document that is prepared for the project.

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) is responsible for the administration of appropriative water rights in California initiated after 1914; commonly referred to as "post-1914 appropriative water rights." An appropriative water right is required for the diversion of surface water and water flowing in subterranean streams through known and definite channels for beneficial purposes. Any unauthorized diversion of water constitutes a trespass against the State, and the State Water Board may impose a civil liability in an amount not to exceed \$500 for each day that a trespass occurs. (California Water Code § 1052, et seq.)

Based on the information provided to the Division, it appears Mayhew Aggregates is diverting all the water in Mayhew Creek to storage in the existing mine pit. The Division's database shows no record of a basis of right for the referenced diversion of Mayhew Creek. The diversion of surface water for a beneficial purpose from a natural channel, such as Mayhew Creek, requires an appropriative water-right permit from the State Water Board. If water is being diverted and a beneficial use of the water is not being made, the diversion could be considered wasteful and unreasonable. The State Water Board has a duty to protect the public trust and to prevent the waste and unreasonable use of water, unreasonable method of use, or unreasonable method of diversion of water. (Water Code § 275)

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

All diversions from a stream have the potential of reducing downstream flows and thereby encroaching on the availability of water for downstream water right holders. CEQA projects which may alter the flow of an existing water course should include an evaluation of any existing basis of right or if a water right will be required and include a detailed analysis of water availability by examining potential impacts to downstream water right holders and potential impacts to the environment. It appears these issues will need to be addressed in any CEQA document prepared for this project.

Additionally, Water Code § 5101 requires, with minor exceptions, that a person who diverts water from a surface stream, spring or subterranean stream must report this diversion by filing an initial Statement of Water Diversion and Use (Statement) with the State Water Board, followed thereafter by triennial Supplemental Statements, unless the diversion is covered by a permit, license or registration issued by the Division or the diversion is included in other approved reporting documents submitted to the State Water Board. Based on Division records, Mayhew Aggregates has not filed a Statement for the current diversion of water from Mayhew Creek. Information regarding the Statement program and a link to obtaining the necessary form can be found at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/diversion\\_use/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/).

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for diversions that have occurred since 2009, plus \$500 per day for each additional day on which the violation continues if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person. (Water Code § 5107, subd. (c) (1)) It would appear that Mayhew Aggregates should immediately file this form with the Division.



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

October 8, 2013

Matt Straite  
Riverside County Planning Department  
4080 Lemon Street, 12<sup>th</sup> Floor  
Riverside, CA 92501

### **DRAFT MITIGATED NEGATIVE DECLARATION, SURFACE MINING PERMIT (SMP) REVISION 139R1, PROPOSED REVISED PERMIT FOR MAYHEW AGGREGATES & MINE RECLAMATION, 24890 MAITRI ROAD, TEMESCAL CANYON AREA OF CORONA, RIVERSIDE COUNTY, SCH# 2013091018**

Dear Mr. Straite:

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Board) has reviewed the September 6, 2013 Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the proposed re-permitting (Project) of an existing gravel quarry and its expansion to 215 acres. The Project, to be operated by applicant Mayhew Aggregates & Mine Reclamation (Mayhew), would be accomplished through the consolidation of Surface Mining Permit (SMP) 139, Reclamation Plan 106, and Plot Plan 1828 into eventual excavation of a single pit during a 50-year period beginning in 2018 (MND p.1-3,.3-1). The site is located in Temescal Canyon, in unincorporated Riverside County near the city of Corona, south of Interstate 15 and Temescal Canyon Road.

We request that the following comments be incorporated into the final MND, in order to protect water quality standards (i.e., water quality objectives and beneficial uses) identified in the Water Quality Control Plan for the Santa Ana River Basin, 1995, as amended (Region 8 Basin Plan):

1. An electronic mail sent by Board staff on April 9, 2013 and a March 25, 2013 memorandum from staff of the State Water Resources Control Board, Division of Water Rights (SWRCB - DWR), are attached for inclusion in the CEQA record for this Project.

The MND should reflect that the applicant must apply to the SWRCB for a water right, for the 2005 diversion and retention of Mayhew Creek, unless that diversion is reversed. Board staff is aware that although a 2005 storm surge in Mayhew Creek breached one of the gravel quarries (SMP 139) to create an inadvertent capture of the Mayhew Creek flow, a concrete downdrain was subsequently constructed for erosion control that formalizes this diversion. The determinations made in 2006 between the Riverside County Planning Department, U.S. Army Corps of Engineers (USACOE), California Department of Fish and Game (now Department of Fish and Wildlife, CDFW), and the Regional Board regarding the original approval of the downdrain need to be updated in light of the renewal process for the reclamation permit and proposed relocation of the downdrain (from the existing SMP 139 pit

to the future SMP 150 pit), by obtaining a water right and by completing authorization under State Board Order No. 2004-0004-DWQ with mitigation (see Comment 2, below).

Board staff note that efforts were not implemented in 2005 or 2006 (MND p.2-12) to create a dike or other structure outside of the quarry in order to re-direct Mayhew Creek back to its natural streambed. As a result of this inaction, the warm freshwater habitat, wildlife, water-contact recreation, and non-contact water recreation beneficial uses of Mayhew Creek have been impacted. We disagree with the MND conclusion that the lost Mayhew Creek flows, which are tributary to Temescal Creek (and its beneficial uses), constitute a minor loss because they would only have reached Temescal Creek anyway during 50-100 year storms. Infiltration (groundwater recharge beneficial use) appears to be the only use of the diverted water (MND p. 1-1), yet Regional and State Board staff believe this suffices to warrant formally reporting the diversion to the SWRCB-DWR, because Mayhew could always decide later to use this collected onsite surface water and groundwater during the life of the permit. Where issues raised in the communications attached to this letter have not been directly addressed in this MND, please revise the MND with appropriate responses.

2. Board staff is aware that in 2005, the site's previous operator, CEMEX Construction Materials, L.P., applied to the Regional Board for authorization under State Board Order No. 2004-0004-DWQ, for impacts to waters of the state associated with the diversion of Mayhew Creek and construction of the downdrain discussed above. A fee was paid to the Regional Board for this permitting action, and required mitigation was proposed through an interagency Habitat Mitigation and Monitoring Program (HMMP) agreement for the restoration of 9.7 acres of onsite mulefat habitat (MND p. 2-6). However, authorization from the Regional Board was never issued because CEQA analysis for the diversion had not been conducted by a lead agency, until the current MND. The MND should reflect that Regional Board staff would consider issuing this authorization for discharges of fill that are collectively 0.2 acre or less in area, relying on the current MND to satisfy CEQA compliance, for past impacts and likely future impacts to Mayhew Creek (Figure 2-3, "Location of Off-Site Impact Areas) provided that water right issue referenced in 1., above, is rectified, and that the HMMP agreement, or a modification of it that satisfies (at minimum) CDFW regarding the proposed oak woodland removal, is implemented.
3. The project proposes establishment of an inert landfill onsite ("Inert Debris Engineered Fill Operation"). On August 16, 2013, the Regional Board renewed previous coverage (October 3, 2011) for Mayhew's proposed landfill under Regional Board Resolution No. R8-2013-0015. This is the new waiver of waste discharge requirements for various inert wastes, provided that certain conditions continue to be met, in conformance to California Code of Regulations, Title 27, for the operation of inert landfills. You may contact Regional Board staff ([Reza.Akhtarshad@waterboards.ca.gov](mailto:Reza.Akhtarshad@waterboards.ca.gov)) with any questions. Please direct the applicant to contact the Local Solid Waste Enforcement Agency of the County of Riverside Department of Environmental Health's Environmental Protection and Oversight Division (EPO) regarding all other Title 27 compliance.

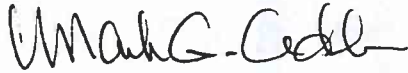
Mr. Matt Straite

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October 8, 2013

If you have any questions, please contact Glenn Robertson at (951) 782-3259 or [Glenn.Robertson@waterboards.ca.gov](mailto:Glenn.Robertson@waterboards.ca.gov), or me at (951) 782-3234 or [Mark.Adelson@waterboards.ca.gov](mailto:Mark.Adelson@waterboards.ca.gov)

Sincerely,



Mark G. Adelson, Chief  
Regional Planning Programs Section

Attachments – March 25, 2013 SWRCB Memorandum and April 9, 2013 RWQCB electronic mail

Cc w/attach: State Clearinghouse  
California Dept. of Fish and Wildlife, Ontario- Jeff Brandt  
State Water Resources Control Board, Division of Water Rights – Kevin Porzio  
Mayhew Aggregates & Mine Reclamation, LLC, Corona, Todd Pendergrass—  
[tpendergrass@wernercorp.net](mailto:tpendergrass@wernercorp.net)

X:\Groberts on Magnolia\Data\CEQA\CEQA Responses\ Mit Neg Dec - Co of Riverside Planning Dept – Mayhew Aggregate Permit – Letter  
GSR/MGA

**From:** [Robertson\\_Glenn@Waterboards](mailto:Robertson_Glenn@Waterboards)  
**To:** [Straite\\_Matt\(MSTRAITE@rctima.org\)](mailto:Straite_Matt(MSTRAITE@rctima.org))  
**Cc:** [Adelson\\_Mark@Waterboards](mailto:Adelson_Mark@Waterboards); [Porzio\\_Kevin@Waterboards](mailto:Porzio_Kevin@Waterboards); [Jeff Brandt \(Jeff.Brandt@wildlife.ca.gov\)](mailto:Jeff.Brandt@wildlife.ca.gov)  
**Subject:** Answer on Mayhew Aggregates and Mine Reclamation Permit Application, Info for CEQA  
**Date:** Tuesday, April 09, 2013 8:32:40 PM  
**Attachments:** [Mayhew Aggregates Memo from Aaron Miller, before CEQA 2013.pdf](#)

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To Matt Straite and Riverside County Planning Department:

Staff of the Regional Board and State Water Resources Control Board, Division of Water Rights (State Board) have intended to get this answer to you prior to your release of the CEQA document for the proposed Surface Mining Permit Revision 139 (SMP 139R1), for expansion of operations by Mayhew Aggregates and Mine Reclamation in Temescal Canyon. We thank you for your patience; some unfortunate delays came up.

With our State Board, I have been evaluating the detailed information that you and Jeramey Harding sent me, in order to provide you regulatory information that should be highlighted in the CEQA document. Aaron Miller of the State Board directed their attached memo to me, for distribution to all involved parties. Along with my office, the State Board requests to also be included on your CEQA distribution list at:

Kevin Porzio  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Staff is now better aware of the site history, including past permits that as early as 1991 allow for the contingency of having Mayhew Creek leave its normal course to enter gravel pits SMP 150 or 139. Eventually, Mayhew Creek did breach into SMP 139 during a 2005 storm. A concrete downdrain was permitted (see final paragraph 4, below) and constructed to prevent headcutting. There has been no subsequent attempt toward an admittedly difficult reversal of the situation, i.e., restoring continuation of the Creek to its remaining streambed east of the site (Mayhew Creek eventually joins Temescal Creek). We understand that the collected water in SMP 139 is said to not be used in the gravel mining operations and is only infiltrated to the water table. Notwithstanding, a diversion of Mayhew Creek has definitely occurred, needs to be recognized, and must not be grandfathered. The proposed permit revision for expansion of the site's mining operations ("SMP 139R1"), with associated CEQA for a new project, must now be updated to emphasize current water rights policy, regulations, and legislation.

Unless the diversion is to be reversed, Mayhew Aggregates must apply for a water right. Surface waters of the State of California are owned by the State, and the State Board grants a right if water is available and all impacts of the diversion can be mitigated. The application for the water right (State Board website) has associated fees. The right to use the water for a beneficial use is expected to be granted. Any circular argument that Mayhew is not using the collected water in the gravel pit for a beneficial purpose, and therefore rejects the right, can be obviated by stating that

their infiltration serves the Region 8 Basin Plan's Groundwater Recharge beneficial use (GWR) for Temescal Creek and its tributaries.

The CEQA document should analyze any impacts to any other parties legally diverting farther downstream, both along Mayhew Creek and Temescal Creek, since all of Mayhew Creek appears to be diverted at the drowndrain into SMP 139. What environmental impacts are being caused farther downstream of the diversion, even along Temescal Creek? Will mitigation described in the CEQA document include discussion of complete implementation of the 2005 HMMP, which was the planned 9.7-acre restoration of mulefat community in the northeastern corner of SMP 139? Will the CEQA document consider this level of ecological function to be sufficient mitigation for the diversion? That's part of the evaluation needed for public and agency review.

Among the permits I introduced above (Riverside County Planning; California Department of Fish and Game, now Wildlife; Army Corps of Engineers agreement on an HMMP, though not on a CWA Section 404 Permit), the Regional Board's authorization under Order No. 2004-0004-DWQ was applied for, and paid for, but apparently never issued. Perhaps staff was waiting on a CEQA ruling at the time (2005-07), or waiting on the type of consolidated information now studied in 2013. I will take all this into account as your CEQA process, and a water right application, continues.

Thank you. Glenn Robertson

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