

FORM APPROVED COUNTY COUNSEL 12/2/14
 BY: GREGORY P. PRIAMOS DATE

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

517B



FROM: TLMA - Planning Department

SUBMITTAL DATE:
 December 3, 2014

SUBJECT: APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 – Appellant: Double D Mining, LLC – Fourth Supervisorial District – Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR), – Location: ~25 Miles North of Blythe, ~10 Miles West of Midland Road, ~15 Miles South of State Hwy 62 – ~600 Gross Acres - Zoning: Natural Assets (N-A) - APN(s): 809-170-024 and 809-170-025 Related Cases: None; 4th/4th District.

RECOMMENDED MOTION: That the Board of Supervisors:
DENY the Appeal of the Planning Commission's Findings and Decision to suspend Surface Mining Permit No. 102 approved on September 17, 2014.

BACKGROUND:

Summary

The Planning Commission heard this matter on November 6, 2013, January 15, 2014, May 21, 2014, June 18, 2014 and August 20, 2014. During these public hearings, oral and written testimony was presented to the Planning Commission by the Planning Department concerning violations of the Surface Mining and Reclamation Act (SMARA) and of Ordinance No. 555 as well as by representatives of the (continued on next page)

JCP:djl

Juan C. Perez
 Interim Planning Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: Deposit Based Funds
 Budget Adjustment:
 For Fiscal Year:

C.E.O. RECOMMENDATION: APPROVE
 BY:
 Tina Grande
 County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended to deny the appeal.

Ayes: Jeffries, Tavaglione, Benoit and Ashley
 Nays: None
 Absent: None
 Date: January 13, 2015
 xc: Planning, Applicant

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

A-30 Positions Added
 4/5 Vote Change Order

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE
MINING PERMIT NO. 102 – Appellant: Double D Mining, LLC – Fourth Supervisorial District –
Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR), –
Location:**

DATE: December 3, 2014

PAGE: 2 of 2

BACKGROUND:

Summary (continued)

owner, Appellant Double D.

In light of the oral and written testimony presented concerning the violations specifically described in the attached Notices of Violation, including mining outside of the limits of the approved reclamation plan, over-steepened mine slopes, blocked drainage and inadequate financial assurances, the Planning Commission suspended Surface Mining Permit (SMP) No. 102 on September 17, 2014, because the owner failed to do the following:

1. present evidence documenting that the mine's activities are within the boundaries of the approved SMP No. 102 and its associated reclamation plan;
2. provide adequate financial assurances to reclaim the mine's disturbed area, and
3. provide an analysis documenting the safety of the mine's slopes.

As a result, the Planning Commission suspended SMP No. 102 until the mine's owner complies with the following:

1. submits a new aerial topographic survey map to the Planning Department showing the boundaries of the mine site and the approved reclamation plan;
2. submits and processes an application for a revised surface mining permit and reclamation plan in accordance with Ordinance No. 555 and SMARA;
3. submits a financial assurance cost estimate to the Planning Department and posts an interim financial assurance mechanism in accordance with Ordinance No. 555 and SMARA;
4. pays any outstanding arrears to the Planning Department; and
5. any other item in the September 27, 2013 Notice and Order to Comply issued by the County of Riverside that is not specifically listed above.

On October 21, 2014 the Planning Commission's Findings and Decision to suspend SMP No. 102 were placed on the Board of Supervisors agenda with a request that the Board receive and file the Commission's Findings and Decision. Thereafter, on October 22, 2014, an appeal of the Planning Commission's decision to suspend SMP No. 102 was timely filed with the Clerk of the Board by Double D Mining, LLP. Ordinance No. 555, Section 7.c. requires that the this appeal be set for public hearing before the Board of Supervisors not less than 13 nor more than 60 days from the date of the filing of the appeal. Accordingly, this appeal has been set for public hearing within the required time period and staff recommends that the appeal of the Planning Commission's Findings and Decision to suspend SMP No. 102 be denied.

Impact on Residents and Businesses

N/A

Contract History and Price Reasonableness

N/A

- ATTACHMENTS:**
- A. Planning Commission Findings and Decision, Report of Actions and Minute Order**
 - B. Double D Mining, LLP Application for Appeal**

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



16-1

10:30 a.m. being the time set for public hearing on the recommendation from Transportation & Land Management Agency/Planning regarding the Appeal of the Planning Commission recommendation on the Suspension of Surface Mining Permit No. 102 – Sun Services - Double D Mining, LLC – Chuckwalla Zoning District – East County – Desert Area Plan - Located 25 Miles North of Blythe, 10 Miles West of Midland Road and 15 Miles South of State Highway 62 - APN(s) 809-170-024 and 809-170-025, 4th/4th District, the Chairman called the matter for hearing.

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is continued to Tuesday, January 13, 2015 at 10:30 a.m.

Roll Call:

Ayes: Jeffries, Tavaglione, Benoit and Ashley
Nays: None
Absent: None

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on December 9, 2014 of Supervisors Minutes.

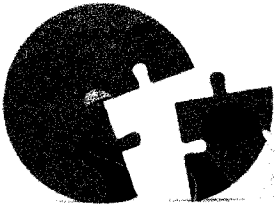
WITNESS my hand and the seal of the Board of Supervisors
Dated: December 9, 2014
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
16-1

xc: Planning, Applicant, COB



**RIVERSIDE COUNTY
PLANNING DEPARTMENT**

Carolyn Syms Luna
Director

*Set they
12/09/14*

APPLICATION FOR APPEAL

DATE SUBMITTED: 9-25-2014

Appeal of application case No(s): SMP 102 (Suspension)

Name of Advisory Agency: Planning Commission List all concurrent applications

Date of the decision or action: 9-17-2014

Appellant's Name: Double D Mining, LLC E-Mail: dave.gypsam@yahoo.com

Mailing Address: 10705 Villa Monterey Dr.
Bakersfield CA 93311
City State ZIP

Daytime Phone No: (818) 535-1089 Fax No: ()

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> Clerk of The Board for: Appeals before the Board of Supervisors. Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> Change of Zone denied by the Planning Commission Commercial WECS Permit Conditional Use Permit Hazardous Waste Facility Siting Permit Public Use Permit Variance Specific Plan denied by the Planning Commission Substantial Conformance Determination for WECS Surface Mining and Reclamation Permit 	Within 10 days after the notice of decision appears on the Board of Supervisors Agenda RIVERSIDE COUNTY CLERK OF THE BOARD OF SUPERVISORS PAID DATE: <u>10/22/14</u> AMOUNT: <u>\$405.90</u> REC'D BY: <u>Adriana Apuricio</u>

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"

APPLICATION FOR APPEAL

Use additional sheets if necessary.

David Maughan

PRINTED NAME OF APPELLANT



SIGNATURE OF APPELLANT

10-22-14

DATE

THE APPEAL FILING PACKAGE MUST CONSIST OF THE FOLLOWING:

1. One completed and signed application form.
2. Public Hearing Notice Label Requirements mailing address labels for notification of the appeal hearing.
3. All appropriate filing fees (the base fee, plus other fees specifically for the Department of Building and Safety, Fire Department, Flood Control District and/or Transportation Department conditions, if applicable).

PLEASE NOTE: Obtain surrounding property owners label package/instructions (Form 295-1051) from a County Public Information Services Center or download it from the Planning Department web page.

**ATTACHMENT TO APPLICATION FOR APPEAL FORM
IN THE MATTER OF SUSPENSION OF SURFACE MINING PERMIT NO. 102**

Double D Mining, LLC (“Double D Mining”) respectfully appeals the September 17, 2014 decision of the Riverside County Planning Commission (“Commission”) regarding suspension of Surface Mining Permit No. 102 (SMP 102). Double D Mining appeals the Commission’s decision on the basis that the decision is arbitrary, capricious and abuse of discretion, and is contrary to the requirements of the Surface Mining and Reclamation Act (SMARA), SMARA Regulations, and County Ordinance No. 555. In particular, Double D Mining appeals the following:

1. Commission’s decision to suspend SMP No. 102 until Double D Mining submits a new aerial topographic survey map to the Planning Department showing the boundaries of the Mine site and the approved reclamation plan.

Double D Mining submitted to the County an updated topographic map of the approved mining site; accordingly, the Commission’s decision is arbitrary, capricious and abuse of discretion, and thus is subject to reversal.

2. Commission’s decision to suspend SMP No. 102 until Double D Mining submits and processes an application for a revised surface mining permit and reclamation plan in accordance with Ordinance No. 555 and SMARA.

Pursuant to SMARA Regulations, the County may require Double D Mining to obtain an amended reclamation plan only if “the surface mining operation can no longer be reclaimed in accordance with its approved reclamation plan.” (14 C.C.R. § 3502(e).) The evidence submitted by Double D Mining to the Commission prior to the September 17, 2014 hearing clearly demonstrates that the site can be reclaimed in accordance with the approved reclamation plan. Accordingly, the Commission’s request that Double D Mining obtain a new or amended mining permit and reclamation plan is unwarranted by the facts and the applicable law, and thus should be rejected by the Board.

3. Commission’s decision to suspend SMP No. 102 until Double D Mining submits a financial assurance cost estimate to the Planning Department and posts an interim financial assurance mechanism in accordance with Ordinance No. 555 and SMARA.

Double D Mining secured a certificate of deposit for \$250,000 and submitted the forms for a financial assurance mechanism in that amount to the County on September 17, 2014. Accordingly, the Commission’s decision is arbitrary, capricious and abuse of discretion, and thus is subject to reversal.

WELLS FARGO BANK

1002

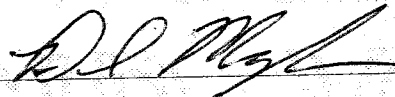
PANORAMA CITY 8548 VAN NUYS BLVD PANORAMA CITY, CA 91402

DATE 10-22-14

31-297/1240

PAY TO THE ORDER OF Riverside County Planning Dept \$ 405.96
Four Hundred and five and 96/100 DOLLARS

DAVID MAUGHAN
10705 VILLA MONTEREY DR
BAKERSFIELD CA 93311-9040



⑆ 1 2400 297 1⑆ 270405 2089⑈ 1002

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

R1411561

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 600-6100

38686 El Cerrito Road
Palm Desert, CA 92211
(760) 863-8277

Received from: DOUBLE D MINING LLC \$405.96
paid by: CK 1002
paid towards: SMP00102S1 SUBST CONF: SURF MIN/RECL PLAN
at parcel #:
appl type: SC04

By _____ Oct 22, 2014 14:56
MGARDNER posting date Oct 22, 2014

Account Code	Description	Amount
202033100200772210	LMS SURCHARGE	\$8.11
100003120100777180	PLANNING: APPEALS	\$397.85

Overpayments of less than \$5.00 will not be refunded!

Additional info at www.rctlma.org

surface mining operation without commencing reclamation shall be in accordance with the following procedures:

- a. Notice of the time, date and place of the public hearing, including a general description of the area and mining operation being considered, shall be given at least 10 days prior to the hearing by all of the following procedures:
 1. Mailing to all owners of real property which is located within 600 feet of the exterior boundaries of the proposed project, as such owners are shown on the last equalized assessment roll.
 2. Publication once in a newspaper of general circulation in the County.
 3. The Planning Director may require additional notice be given by posting in conspicuous places close to the property affected and may require notification to property owners along proposed local transportation routes.
- b. At the public hearing the Planning Commission shall hear relevant testimony from interested persons and, within a reasonable time after the close of the hearing, make its decision; provided, however, that an application for a permit shall not be granted unless that permit is expressly subject to such conditions as are necessary to protect the health, safety or general welfare of the community. The decision of the Planning Commission and the reasons for the decision shall be reduced to writing and shall be filed by the Planning Director with the Clerk of the Board of Supervisors, together with a report of the proceedings, not more than 15 days after the decision. A copy of the notice of the decision shall be mailed to the applicant and to any person who has made a written request for a copy of the decision. If the Planning Commission is unable to make a decision, that fact shall be filed with the Clerk of the Board in the same manner for reporting decisions and shall be considered as notice of denial of the application. The Clerk of the Board shall place the notice of the decision on the next agenda of the Board of Supervisors held 5 or more days after the Clerk receives the notice from the Planning Director.
- c. The decision of the Planning Commission is considered final and no action by the Board of Supervisors is required unless, within 10 days after the notice of decision appears on the Board's agenda, the applicant or an interested person files an appeal, accompanied by the appropriate filing fee indicated in Ordinance No. 671, with the Clerk of the Board or unless the Board assumes jurisdiction by ordering the matter set for public hearing. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board shall set the matter for public hearing before the Board not less than 13 nor more than 60 days thereafter, and shall give notice of the time and place of the hearing in the same manner as notice was given of the hearing before the Planning Commission.
- d. At the hearing before the Board of Supervisors, the Board shall hear the matter de novo; however, the documents and the minutes of the hearing before the Planning Commission shall be a part of the Board's record at its hearing on the matter. The Board shall hear relevant testimony from interested persons and, within a reasonable time after the close of the hearing, make its decision sustaining,

Set for HRG PER
ORD. 555, Section 7(c)

sections, levations and topographic maps;

- d. Indicate the time lag between mining and reclamation and equipment siting and removal and/or relocation;
- e. Discuss the method of handling simultaneous excavation and reclamation if applicable;
- f. Show the location of all streams, roads, railroads, sewage disposal systems, waterwells, and utility facilities within 500 feet of the site and the location of all proposed access roads to be constructed in conducting the surface mining operation, and
- g. Indicate the type of and amount of mineral commodities to be removed, the amount of mining waste to be retained on the site and the amount of mining waste to be disposed off site including the method and location of disposal of said mining waste.

SECTION 6. The reclamation plan shall, in addition to all other requirements:

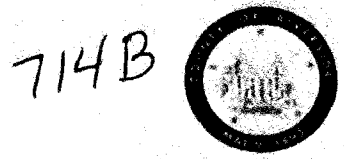
- a. Indicate the methods to be used to reclaim the land including a detailed schedule of the sequence and timing of all stages of the reclamation
- b. Describe the physical condition of the site upon the completion of all reclamation including the proposed uses or potential uses of the reclaimed site.
- c. Contain a map which will delineate through the use of cross sections and elevations the physical characteristics of the land upon the conclusion of reclamation. A topographic map shall also be provided with the location of the reclaimed land clearly indicated on said map.
- d. Describe the manner in which derelict machinery, mining waste and scraps will be removed from the reclaimed site and how contaminants will be controlled.
- e. Describe the methods to be used to ensure that the site will contain stable waste piles and slopes.
- f. Describe how reclamation of this site may affect the future use of the area for mining purposes.
- g. Show that the proposed site in its final form shall be, to the extent reasonable and practical, revegetated for soil stabilization, free of drainage and erosion problems, coordinated with present and anticipated future land use, and compatible with the topography and general environment of surrounding property.

SECTION 7. A public hearing to consider the granting suspension or revocation of a permit; an operator's financial capability of a performing reclamation; or abandonment of a

FORM APPROVED COUNTY COUNSEL 9/29/14
 BY: GREGORY P. PRAMOS DA

Departmental Concurrence

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



714B

FROM: TLMA - Planning Department

SUBMITTAL DATE:
 September 25, 2014

SUBJECT: NOTICE OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 – Mine Operator: Sun Services – Fourth Supervisorial District – Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR), – Location: ~25 Miles North of Blythe, ~10 Miles West of Midland Road, ~15 Miles South of State Hwy. 62 – ~600 Gross Acres - Zoning: Natural Assets (N-A) - APN(s): 809-170-024 and 809-170-025 – Request: Receive and file the Planning Commission's findings and decision. Related Cases: None.

RECOMMENDED MOTION: That the Board of Supervisors:
RECEIVE AND FILE the Planning Commission's Findings and Decision to suspend Surface Mining Permit No. 102 approved on September 17, 2014, attached hereto.

BACKGROUND:

Summary

The Planning Commission's decision is final and no action by the Board of Supervisors is required unless the applicant or an interested person files an appeal with the Clerk of the Board in accordance with Section 7.c of Ordinance No. 555 or the Board assumes jurisdiction by ordering the matter set for public hearing. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board will set the matter for a future public hearing before the Board in accordance with Ordinance No. 555.
 (continued on next page)

JCP:djl

[Signature]
 Juan C. Perez
 TLMA Director/Interim Planning Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: Deposit Based Funds				Budget Adjustment:	
				For Fiscal Year:	

C.E.O. RECOMMENDATION:

APPROVE
[Signature]
 BY: Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- Positions Added
- Change Order
- A-30
- 4/5 Vote

Prev. Agn. Ref.: | District: 4/4 | Agenda Number:

1-4
 10-21-14

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



FROM: TLMA - Planning Department

SUBMITTAL DATE:
November 19, 2014

SUBJECT: NOTICE OF APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 – Mine Operator: Sun Services – Fourth Supervisorial District – Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR), – Location: ~25 Miles North of Blythe, ~10 Miles West of Midland Road, ~15 Miles South of State Hwy 62 – ~600 Gross Acres - Zoning: Natural Assets (N-A) - APN(s): 809-170-024 and 809-170-025 – Request: receive and file the Planning Commission's findings and decision. Related Cases: None.

RECOMMENDED MOTION: That the Board of Supervisors:
DENY the Appeal of the Planning Commission's Findings and Decision to suspend Surface Mining Permit No. 102 approved on September 17, 2014, attached hereto.

BACKGROUND:

Summary

The Planning Commission's decision is final and no action by the Board of Supervisors is required unless the applicant or an interested person files an appeal with the Clerk of the Board in accordance with Section 7.c of Ordinance No. 555 or the Board assumes jurisdiction by ordering the matter set for public hearing. On September 17, 2014, the Agent for service for Double D Mining LLC timely filed an appeal of the Planning Commission's decision to suspend Surface Mining Permit No. 102. The Clerk of the Board has set the matter for public hearing, on December 9, 2014, before the Board in accordance with Ordinance No. 555.

JCP:dj

Juan C. Perez
Interim Planning Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: Deposit Based Funds	Budget Adjustment:
	For Fiscal Year:

C.E.O. RECOMMENDATION:

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

Departmental Concurrence

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: _____ **District:** _____ **Agenda Number:** _____

Gil, Cecilia

From: Jones, David <DLJONES@rctlma.org>
Sent: Wednesday, November 19, 2014 1:54 PM
To: Watts-Bazan, Karin; Gil, Cecilia
Cc: Traczyk, Lisa; Perez, Juan; Fordon, Bruce
Subject: RE: Appeal SMP 102
Attachments: New Form 11 - Appeal of Suspension.docx

Here is a draft Form 11. Please let me know if you have any comments. I am working on the staff report now...

From: Watts-Bazan, Karin [<mailto:KWATTSBA@co.riverside.ca.us>]
Sent: Wednesday, November 19, 2014 10:14 AM
To: Gil, Cecilia; Jones, David
Cc: Traczyk, Lisa; Perez, Juan; Fordon, Bruce
Subject: RE: Appeal SMP 102

All,

Sorry but I am all messed up on the dates. David we will need to get the Form 11 and staff report tomorrow for review if Cecilia's deadline for the public notice in Monday the 24th. If you are unable to meet this deadline, then you could just prepare a staff report requesting the Board continue the matter until the first meeting in January. Juan, how do you want to handle this?

KARIN WATTS-BAZAN
Principal Deputy County Counsel
County of Riverside
Phone: (951) 955-6300
Fax: (951) 955-6363
Email: kwattsba@co.riverside.ca.us

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From: Gil, Cecilia
Sent: Wednesday, November 19, 2014 9:11 AM
To: Watts-Bazan, Karin; Jones, David
Cc: Traczyk, Lisa; Perez, Juan; Fordon, Bruce
Subject: RE: Appeal SMP 102

So back to you David....who can send me the draft Form 11? The Ad needs to be sent out by Nov. 24 (pm).

Cecilia Gil
Board Assistant
Clerk of the Board
951-955-8464
MS# 1010

From: Watts-Bazan, Karin [<mailto:KWATTSBA@co.riverside.ca.us>]
Sent: Wednesday, November 19, 2014 8:59 AM
To: Jones, David; Gil, Cecilia
Cc: Traczyk, Lisa; Perez, Juan; Fordon, Bruce
Subject: RE: Appeal SMP 102

David,

Please be advised that although we are prepared to take the lead for the staff presentation for this appeal, it was never my intent that our office prepare the Form 11 and staff report. These documents will need to be prepared by the Planning Department. We are happy to review them and provide input like we do for Code Enforcement in connection with their abatement and SOAC proceedings before the Board. Additionally, since the documents need to be to the Executive Office and Clerk of the Board by November 25th, we will need to see them in draft form by Monday, the 23rd at the latest. If you have any further questions, please do not hesitate to contact me.

KARIN WATTS-BAZAN
Principal Deputy County Counsel
County of Riverside
Phone: (951) 955-6300
Fax: (951) 955-6363
Email: kwattsba@co.riverside.ca.us

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From: Jones, David
Sent: Wednesday, November 19, 2014 8:29 AM
To: Gil, Cecilia
Cc: Traczyk, Lisa; Perez, Juan; Watts-Bazan, Karin; Fordon, Bruce
Subject: RE: Appeal SMP 102

Cecilia,

Lisa Traczyk is preparing the Form 11 and staff report package for the appeal. I have copied her on this transmission. I believe she was aiming to have the package completed by November 25.

David L. Jones
Chief Engineering Geologist
TLMA- Planning

From: Gil, Cecilia [<mailto:CCGIL@rcbos.org>]
Sent: Wednesday, November 19, 2014 8:13 AM
To: Jones, David
Subject: Appeal SMP 102

Good morning David ☺

Just following up on this. We have this scheduled for Dec. 9, and needs to be published by Nov. 29 at the Desert Sun to comply with the 10-day notice requirement. Because of the holiday, deadline would be sooner, so by Nov. 24, we should be sending the Ad to the newspaper.

Who should I follow up with to be able to get a draft Form 11 so I can prep the Notice?

Thank you!

Cecilia Gil
Board Assistant
Clerk of the Board
951-955-8464
MS# 1010



OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060
FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

November 24, 2014

THE DESERT SUN
ATTN: LEGALS
P.O. BOX 2734
PALM SPRINGS, CA 92263

E-MAIL: legals@thedesertsun.com
FAX: (760) 778-4731

RE: NOTICE OF PUBLIC HEARING: APPEAL OF SURFACE MINING PERMIT NO.
102 SUSPENSION

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **One (1) Time on Friday,
November 28, 2014.**

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office, **WITH TWO CLIPPINGS OF THE
PUBLICATION.**

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

Cecilia Gil

Board Assistant to:
KECIA HARPER-IHEM, CLERK OF THE BOARD

Gil, Cecilia

From: Moeller, Charlene <CMOELLER@palmspri.gannett.com>
Sent: Monday, November 24, 2014 4:38 PM
To: Gil, Cecilia
Subject: RE: FOR PUBLICATION: Appeal of SMP 102 Suspension

Hi Cecilia,
Have a Safe and Happy Holiday!!! ☺

Ad received and will publish on date(s) requested.

Charlene Moeller | Media Sales Legal Notice Coordinator

The Desert Sun Media Group
750 N. Gene Autry Trail, Palm Springs, CA 92262
t 760.778.4578 | f 760.778.4528
legals@thedesertsun.com / dpwlegals@thedesertsun.com

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From: Gil, Cecilia [<mailto:CCGIL@rcbos.org>]
Sent: Monday, November 24, 2014 4:37 PM
To: Email, TDS-Legals
Subject: FOR PUBLICATION: Appeal of SMP 102 Suspension

Hello,

Attached is a Notice of public hearing for publication on Friday, Nov. 28, 2014. Please confirm. THANK YOU!

Cecilia Gil
Board Assistant
Clerk of the Board
951-955-8464
MS# 1010

NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY ON APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 – FOURTH SUPERVISORIAL DISTRICT

NOTICE IS HEREBY GIVEN that a public hearing at which all interested persons will be heard, will be held before the Board of Supervisors of Riverside County, California, on the 1st Floor Board Chambers, County Administrative Center, 4080 Lemon Street, Riverside, on **Tuesday, December 9, 2014 at 10:30 A.M.** or as soon as possible thereafter, to consider the following appeal:

APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 – Property Owner and Appellant: Double D Mining, LLC – Fourth Supervisorial District – Location: 25 Miles North of Blythe, 10 Miles West of Midland Road, and 15 Miles South of State Highway 52. APN(s) 809-170-024 and 809-170-025.

The suspension file may be viewed from the date of this notice until the public hearing, Monday through Friday, from 8:00 a.m. to 5:00 p.m. at the Clerk of the Board of Supervisors at 4080 Lemon Street, 1st Floor, Riverside, California 92501, and at the Riverside County Planning Department at 4080 Lemon Street, 12th Floor, Riverside, California 92501.

FOR FURTHER INFORMATION REGARDING THIS APPEAL, PLEASE CONTACT DAVID JONES, CHIEF ENGINEERING GEOLOGIST AT (951)955-6863 OR EMAIL AT DLJONES@rctlma.org.

Any person wishing to testify in support of or in opposition to the appeal may do so in writing between the date of this notice and the public hearing, or may appear and be heard at the time and place noted above. All written comments received prior to the public hearing will be submitted to the Board of Supervisors and the Board of Supervisors will consider such comments, in addition to any oral testimony, before making a decision on the appeal.

If you challenge the above item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence to the Board of Supervisors at, or prior to, the public hearing. Be advised that as a result of the public hearing and the consideration of all public comment, written and oral, the Board of Supervisors may sustain, reverse or modify the decision of the Planning Commission.

Please send all written correspondence to: Clerk of the Board, 4080 Lemon Street, 1st Floor, Post Office Box 1147, Riverside, CA 92502-1147.

Dated: November 25, 2014

Kecia Harper-Ihem
Clerk of the Board
By: Cecilia Gil, Board Assistant

CERTIFICATE OF POSTING

(Original copy, duly executed, must be attached to
the original document at the time of filing)

I, Cecilia Gil, Board Assistant to Kecia Harper-Ihem, Clerk of the Board of Supervisors, for the County of Riverside, do hereby certify that I am not a party to the within action or proceeding; that on November 25, 2014, I forwarded to Riverside County Clerk & Recorder's Office a copy of the following document:

NOTICE OF PUBLIC HEARING

APPEAL OF SURFACE MINING PERMIT NO. 102 SUSPENSION

to be posted in the office of the County Clerk at 2724 Gateway Drive, Riverside, California 92507. Upon completion of posting, the County Clerk will provide the required certification of posting.

Board Agenda Date: December 9, 2014 @ 10:30 A.M.

SIGNATURE: *Cecilia Gil* DATE: November 25, 2014
Cecilia Gil

Gil, Cecilia

From: Meyer, Mary Ann <MaMeyer@asrclkrec.com>
Sent: Monday, November 24, 2014 4:43 PM
To: Gil, Cecilia; Buie, Tammie; Garrett, Nancy; Kennemer, Bonnie
Subject: RE: FOR POSTING: Appeal of SMP 102 Suspension

received

From: Gil, Cecilia [<mailto:CCGIL@rcbos.org>]
Sent: Monday, November 24, 2014 4:38 PM
To: Buie, Tammie; Garrett, Nancy; Kennemer, Bonnie; Meyer, Mary Ann
Subject: FOR POSTING: Appeal of SMP 102 Suspension

Hello,

This is for posting. Please confirm. Thank you very much ☺!

Cecilia Gil
Board Assistant
Clerk of the Board
951-955-8464
MS# 1010

CERTIFICATE OF MAILING

(Original copy, duly executed, must be attached to
the original document at the time of filing)

I, Cecilia Gil, Board Assistant, for the
(NAME and TITLE)

County of Riverside, do hereby certify that I am not a party to the within action or proceeding; that on November 25, 2014, I mailed a copy of the following document:

NOTICE OF PUBLIC HEARING

APPEAL OF SURFACE MINING PERMIT NO. 102 SUSPENSION

to the parties listed in the attached labels, by depositing said copy with postage thereon fully prepaid, in the United States Post Office, 3890 Orange St., Riverside, California, 92501.

Board Agenda Date: December 9, 2014 @ 10:30 AM

SIGNATURE: Cecilia Gil DATE: November 25, 2014
Cecilia Gil

PROPERTY OWNERS CERTIFICATION FORM

I, VINNIE NGUYEN, certify that on 10/22/2014.

The attached property owners list was prepared by Riverside County GIS,

APN (s) or case numbers 809-170-024,025 For

Company or Individual's Name Planning Department,

Distance buffered 2400'.

Pursuant to application requirements furnished by the Riverside County Planning Department, Said list is a complete and true compilation of the owners of the subject property and all other property owners within 600 feet of the property involved, or if that area yields less than 25 different owners, all property owners within a notification area expanded to yield a minimum of 25 different owners, to a maximum notification area of 2,400 feet from the project boundaries, based upon the latest equalized assessment rolls. If the project is a subdivision with identified off-site access/improvements, said list includes a complete and true compilation of the names and mailing addresses of the owners of all property that is adjacent to the proposed off-site improvement/alignment.

I further certify that the information filed is true and correct to the best of my knowledge. I understand that incorrect or incomplete information may be grounds for rejection or denial of the application.

NAME: Vinnie Nguyen

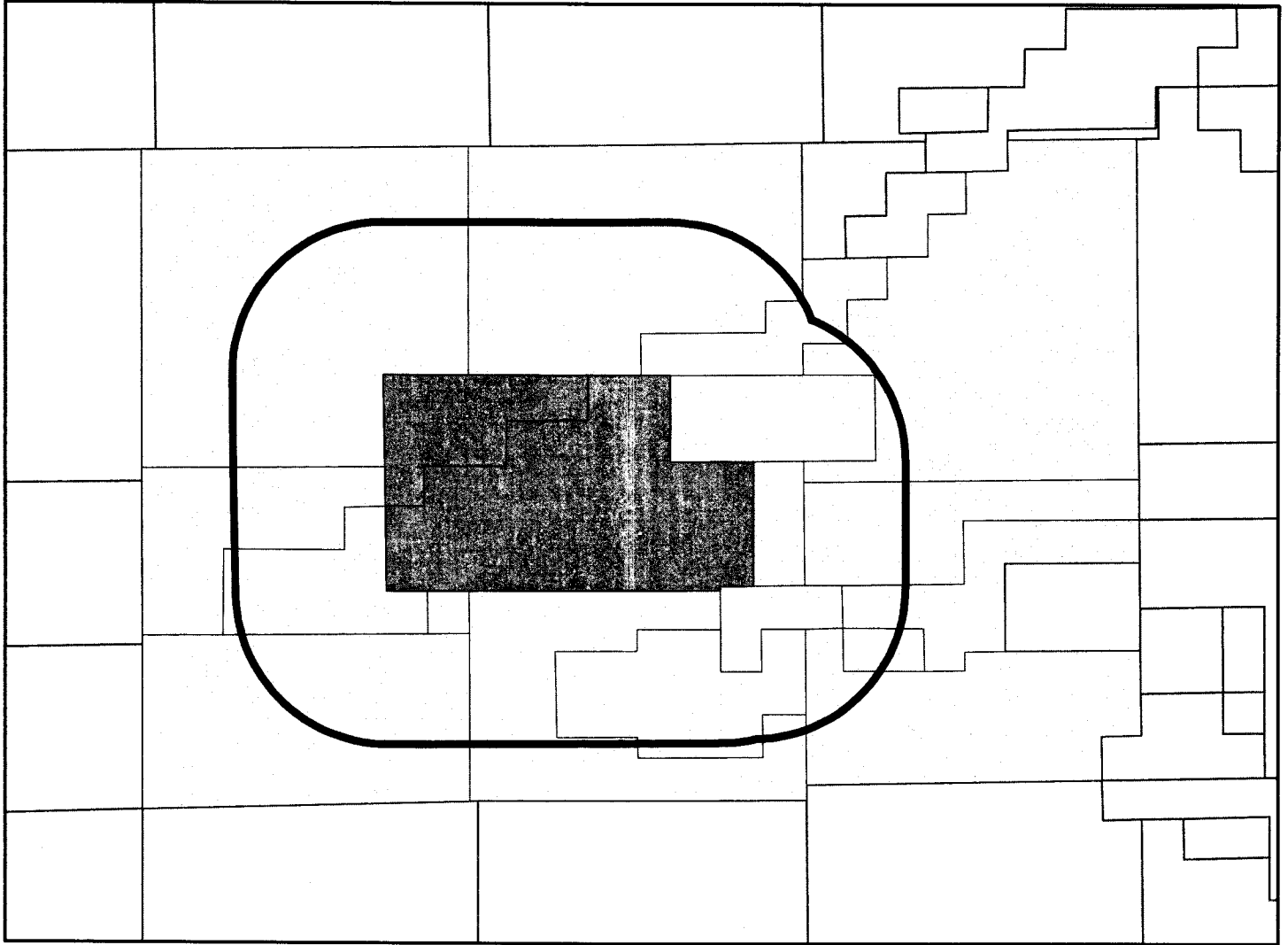
TITLE GIS Analyst

ADDRESS: 4080 Lemon Street 2nd Floor

Riverside, Ca. 92502

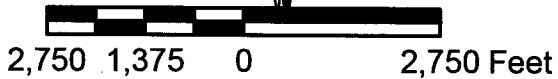
TELEPHONE NUMBER (8 a.m. – 5 p.m.): (951) 955-8158

APN: 809-170-024, 025 (2400 feet buffer)



Selected Parcels

809-170-016 809-170-024 809-170-025 809-170-026 809-170-002 809-170-003 809-170-004 809-170-022 809-170-023 809-170-027
809-170-028 809-170-029 809-170-030 809-170-031 809-170-032 809-170-033 809-170-034 809-170-036 809-170-037



Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

ASMT: 809170023, APN: 809170023
UNITED STATES GYPSUM CO
PROPERTY DEPT 179
P O BOX 6721
CHICAGO IL 60680

ASMT: 809170026, APN: 809170026
DOUBLE D MINING
C/O DONALD DEAN
662 APALACHEE CIR NE
ST PETERSBURG FL 33702



Barton, Karen

From: Chris Powell <CPowell@mitchellchadwick.com>
Sent: Friday, December 05, 2014 10:57 AM
To: COB
Cc: Fordon, Bruce
Subject: Request for Continuance of Item 16-1 on the 12/9/14 BOS Agenda
Attachments: DOC120514.pdf

Ms. Harper-Ihem,

Please see the attached letter, which requests a continuance of item 16-1, the appeal of the Planning Commission's suspension of SMP No. 102, until January 13, 2015.

Thanks,

Chris

Chris L. Powell



**MITCHELL
CHADWICK**

3001 Lava Ridge Court, Suite 120

Roseville, CA 95661

P: 916.462.8807

C: 209.612.0259

F: 916.788.0290

cpowell@mitchellchadwick.com

www.mitchellchadwick.com

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Christopher L. Powell
cpowell@mitchellchadwick.com
916-462-8807
916-788-0290 Fax

December 5, 2014

VIA U.S. MAIL AND EMAIL: COB@RCBOS.ORG

Kecia Harper-Ihem
Riverside County Clerk of the Board
4080 Lemon Street, 1st Floor.
Riverside CA 92501

**Re: Continuance of Appeal of Planning Commission's Decision to Suspend SMP 102,
Agenda Item 16-1**

Dear Ms. Harper-Ihem:

I represent Double D Mining, LLC, with regard to the Standard Gypsum Mine located in Riverside County. Presently, an appeal of the Planning Commission's decision to suspend Double D Mining's surface mining permit (SMP 102) is on the December 9, 2014 Board of Supervisors' agenda as item 16-1. We did not learn of the hearing date until yesterday, giving us only 5 days to prepare for a significant hearing. Accordingly we are asking the hearing to be continued to allow us more time to prepare. County Counsel, Bruce Fordon, informed me on December 5, 2014, that a continuance would be granted upon a formal written request to the Clerk of the Board. Please consider this letter a formal request for a continuance of the appeal to January 13, 2015.

Best regards,

MITCHELL CHADWICK LLP



Christopher L. Powell

CLP:de



**MITCHELL
CHADWICK**

Christopher L. Powell
cpowell@mitchellchadwick.com
916-462-8807
916-788-0290 Fax

December 5, 2014

VIA FEDERAL EXPRESS AND EMAIL: COB@RCBOS.ORG

Kecia Harper-Ihem
Riverside County Clerk of the Board
4080 Lemon Street, 1st Floor
Riverside, CA 92501

**Re: Continuance of Appeal of Planning Commission's Decision to Suspend SMP 102,
Agenda Item 16-1**

Dear Ms. Harper-Ihem:

I represent Double D Mining, LLC, with regard to the Standard Gypsum Mine located in Riverside County. Presently, an appeal of the Planning Commission's decision to suspend Double D Mining's surface mining permit (SMP 102) is on the December 9, 2014 Board of Supervisors' agenda as item 16-1. We did not learn of the hearing date until yesterday, giving us only 5 days to prepare for a significant hearing. Accordingly we are asking the hearing to be continued to allow us more time to prepare. County Counsel, Bruce Fordon, informed me on December 5, 2014, that a continuance would be granted upon a formal written request to the Clerk of the Board. Please consider this letter a formal request for a continuance of the appeal to January 13, 2015.

Best regards,

MITCHELL CHADWICK LLP

Christopher L. Powell

CLP:cm

{00018055;1 }

From: (916) 462-8897
Chris Powell
Mitchell Chadwick LLP
3001 Lava Ridge Court, Suite 120

Roseville, CA 95661

Origin ID: AUNA



J142214092303uv

Ship Date: 05DEC14
ActWgt:
CAD: 106335840/NET3550

Delivery Address Bar Code



SHIP TO: (916) 462-8897
BILL SENDER
Kecia Harper-Ihem
Riverside County Clerk of the Board
4080 Lemon Street, 1st Floor

Riverside, CA 92501

Ref # Double D Mining, Riverside Cty
Invoice #
PO # 00004.00000
Dept #

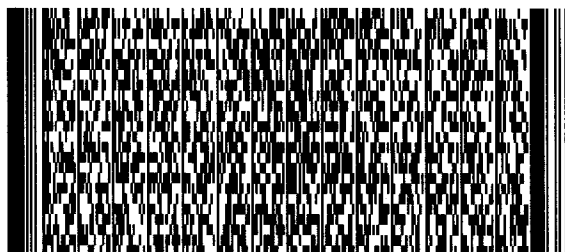
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**** 2DAY ****

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 RIVERSIDE CA 92502-1147

Customer No.	Invoice No.
RIV069	0005126517
For the Period	Thru
11/03/14	11/30/14
Due Date	Amount Due
12/15/14	7,227.32
AMOUNT PAID	

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 ON REMITTANCE.

Date	EDT	Class	Description	Times Run	Col	Depth	Total Size	Rate	Amount	
1103			BALANCE FORWARD						4,901.24	
1105	CLS	0001	CECILIA NO 1755 COUNTY O	10	2	75.00	1500.00		823.50	
1122	CLS	0001	ORD348-4791 NO 1830 - ORD 34	1	3	8.75	26.25		400.58	
1122	CLS	0001	CECILIA NO 1838 NOTICE O	4	2	213.00	1704.00		934.68	
1128	CLS	0001	CECILIA NO 1870 NOTICE O	2	2	74.00	296.00		167.32	
			<i>1755 - Transp. 3-30 of 10/28/14</i>				<i>1830 - Planning 16-1 of 12/2/14</i>		<i>\$823.50</i>	<i>\$400.58</i>
			<i>1838 - Planning / Co Co. 3-3 of 11/04/14</i>				<i>1870 - Planning 16-1 of 12/09/14 SMP 102</i>		<i>\$934.68</i>	<i>\$167.32</i>
Current		Over 30 Days	Over 60 Days	Over 90 Days	Over 120 Days	Total Due				
2,248.14		3,277.12	1,702.06	.00	.00	7,227.32				
Contract Type	Contract Qnty.	Expiration Date	Current Usage	Total Used	Quantity Remaining	Salesperson				
						OPEN 0030				

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County of Riverside

Advertiser:

RIVERSIDE COUNTY-BOARD OF SUP.
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RIVERSIDE CA 925013

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I am over the age of 18 years old, a citizen of the United States and not a party to, or have interest in this matter. I hereby certify that the attached advertisement appeared in said newspaper (set in type not smaller than non pariel) in each and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

Newspaper: .The Desert Sun

11/28/2014

I acknowledge that I am a principal clerk of the printer of The Desert Sun, printed and published weekly in the City of Palm Springs, County of Riverside, State of California. The Desert Sun was adjudicated a newspaper of general circulation on March 24, 1988 by the Superior Court of the County of Riverside, State of California Case No. 191236.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28th day of November, 2014 in Palm Springs, California.


Declarant's Signature

2014 DEC -8 AM 11:16

RECEIVED RIVERSIDE COUNTY BOARD OF SUPERVISORS

No 1870
NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY ON APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 - FOURTH SUPERVISORIAL DISTRICT

NOTICE IS HEREBY GIVEN that a public hearing at which all interested persons will be heard, will be held before the Board of Supervisors of Riverside County, California, on the 1st Floor Board Chambers, County Administrative Center, 4080 Lemon Street, Riverside, on **Tuesday, December 9, 2014 at 10:30 A.M.** or as soon as possible thereafter, to consider the following appeal:

APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 - Property Owner and Appellant: Double D Mining, LLC - Fourth Supervisorial District - Location: 25 Miles North of Blythe, 10 Miles West of Midland Road, and 15 Miles South of State Highway 52. APN(s) 809-170-024 and 809-170-025.

The suspension file may be viewed from the date of this notice until the public hearing, Monday through Friday, from 8:00 a.m. to 5:00 p.m. at the Clerk of the Board of Supervisors at 4080 Lemon Street, 1st Floor, Riverside, California 92501, and at the Riverside County Planning Department at 4080 Lemon Street, 12th Floor, Riverside, California 92501.

FOR FURTHER INFORMATION REGARDING THIS APPEAL PLEASE CONTACT DAVID JONES, CHIEF ENGINEERING GEOLOGIST AT (951)955-6863 OR EMAIL AT DLJONES@rcltma.org.

Any person wishing to testify in support of or in opposition to the appeal may do so in writing before the date of this notice and the public hearing, or may appear and be heard at the time and place noted above. All written comments received prior to the public hearing will be submitted to the Board of Supervisors and the Board of Supervisors will consider such comments, in addition to any oral testimony, before making a decision on the appeal.

If you challenge the above item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence to the Board of Supervisors at, or prior to, the public hearing. Be advised that as a result of the public hearing and the consideration of all public comment, written and oral, the Board of Supervisors may sustain, reverse or modify the decision of the Planning Commission.

Please send all written correspondence to: Clerk of the Board, 4080 Lemon Street, 1st Floor, Post Office Box 1147, Riverside, CA 92502-1147.

Dated: November 24, 2014
Kecia Harper-Ithem
Clerk of the Board
By: Cecilia Gil, Board Assistant

Published: 11/28/14

ATTACHMENT – “A”

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



FROM: TLMA - Planning Department

SUBMITTAL DATE:
September 25, 2014

SUBJECT: NOTICE OF THE PLANNING COMMISSION'S DECISION TO SUSPEND SURFACE MINING PERMIT NO. 102 – Mine Operator: Sun Services – Fourth Supervisorial District – Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR), – Location: ~25 Miles North of Blythe, ~10 Miles West of Midland Road, ~15 Miles South of State Hwy. 62 – ~600 Gross Acres - Zoning: Natural Assets (N-A) - APN(s): 809-170-024 and 809-170-025 – Request: Receive and file the Planning Commission's findings and decision. Related Cases: None.

RECOMMENDED MOTION: That the Board of Supervisors:
RECEIVE AND FILE the Planning Commission's Findings and Decision to suspend Surface Mining Permit No. 102 approved on September 17, 2014, attached hereto.

BACKGROUND:

Summary

The Planning Commission's decision is final and no action by the Board of Supervisors is required unless the applicant or an interested person files an appeal with the Clerk of the Board in accordance with Section 7.c of Ordinance No. 555 or the Board assumes jurisdiction by ordering the matter set for public hearing. If a timely appeal is filed or the Board assumes jurisdiction, the Clerk of the Board will set the matter for a future public hearing before the Board in accordance with Ordinance No. 555.

(continued on next page)

JCP:dlij


 Juan C. Perez
 TLMA Director/Interim Planning Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: Deposit Based Funds	Budget Adjustment:
	For Fiscal Year:

C.E.O. RECOMMENDATION:

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.:

District: 4/4

Agenda Number:

FORM APPROVED COUNTY COUNSEL 9/29/14
 BY: GREGORY P. PRAMOS
 Departmental Concurrence

1 **PLANNING COMMISSION**

2 **COUNTY OF RIVERSIDE**

3
4 **IN THE MATTER OF SUSPENSION OF SURFACE**

5 **MINING PERMIT NO. 102**

6
7 **FINDINGS AND DECISION**

8 The Planning Commission ("Commission") heard the above-referenced matter on November 6,
9 2013, January 15, 2014, May 21, 2014, June 18, 2014 and August 20, 2014, after giving the required
10 notice. During these hearings, oral and written testimony was presented by the County of Riverside
11 Planning Department and representatives for Double D Mining. Double D Mining operates the Standard
12 Gypsum Mine operating under Surface Mining Permit No. 102 ("SMP No. 102"). Following the oral
13 testimony on August 20, 2014, the Commission closed the public hearing, tentatively suspended SMP No.
14 102 and directed staff to prepare the following findings. The Commission has reviewed the findings and
15 hereby suspends SMP No. 102 based thereon.

16 **FINDINGS**

- 17 1. The Standard Gypsum Mine ("Mine") is operating under SMP No. 102 and is located twenty-
18 five (25) miles north of Blythe, ten (10) miles west of Midland Road and fifteen (15) miles
19 south of State Highway 62 in the County of Riverside. Sun Services, Inc. was the previous
20 operator of the Mine.
- 21 2. Double D Mining is the current owner of the Mine.
- 22 3. During the public hearing on May 21, 2014, it was confirmed that David Maughan was the
23 agent for service of process for Double D Mining.
- 24 4. On November 8, 2012, the County of Riverside ("County") issued a Notice of Violation to the
25 Mine for violating the Surface Mining and Reclamation Act which is attached hereto as
26 Exhibit A.
- 27 5. On August 22, 2013, the County issued a second Notice of Violation to the Mine for violating
- 28

FORM APPROVED COUNTY COUNSEL
BY: MICHELLE CLACK
DATE: 9/29/14

1 the Surface Mining and Reclamation Act which is attached hereto as Exhibit B.

- 2 6. The violations, more specifically described in the attached Notices of Violation, included
3 mining outside of the limits of the approved reclamation plan, over-steepened mine slopes,
4 blocked drainage and inadequate financial assurances.
- 5 7. On September 27, 2013, the Riverside County Planning Director issued a Notice and Order to
6 Comply with the Surface Mining and Reclamation Act to the Mine which is attached hereto as
7 Exhibit C.
- 8 8. Section 10.a. of Ordinance No. 555 provides that the Order to Comply shall not take effect
9 until the operator has been provided a public hearing before the Planning Commission
10 concerning the violation.
- 11 9. Public hearings on the Order to Comply took place before the Planning Commission on
12 November 6, 2013, January 15, 2014, May 21, 2014 and June 18, 2014.
- 13 10. Pursuant to Section 10.b. of Ordinance No. 348, the Planning Commission may affirm, modify
14 or set aside the order issued by the Planning Director.
- 15 11. According to the November 8, 2012 Notice of Violation, the August 22, 2013 Notice of
16 Violation and the November 6, 2013 staff report, the Mine's operating activities are outside
17 the limits of the approved SMP No. 102 and its associated reclamation plan. The Mine's
18 operation blocked water drainages and constructed vertical slopes which is not allowed under
19 SMP No. 102.
- 20 12. Additionally, according to the August 22, 2013 Notice of Violation and the November 6, 2013
21 staff report, the Mine's activities are beyond the limits of what can be reclaimed under the
22 current financial assurance of \$53,472.
- 23 13. Following oral testimony on November 6, 2013, the Commission continued the item to
24 January 15, 2014.
- 25 14. On January 15, 2014, the Commission affirmed the Order to Comply and provided a sixty (60)
26 day compliance period.
- 27 15. On May 21, 2014, the Mine's representative asked for additional time to comply with the

1 Order to Comply. Following oral testimony, the Commission again affirmed the Order to
2 Comply, continued the item to June 18, 2014, and requested Double D Mining to provide the
3 County with a new aerial topographic survey map showing the boundaries of the Mine site and
4 the approved reclamation plan. The Commission also requested the operator to submit the
5 interim financial assurances in the amount of \$1 million dollars and to pay the outstanding
6 arrears to the County.

7 16. On June 18, 2014, Double D Mining still had not complied with the Order to Comply or with
8 the Commission's May 21st request. The County still had not received the following:

- 9 a. a new aerial topographic survey map showing the boundaries of the Mine site and the
10 approved reclamation plan;
- 11 b. the necessary documents, including exhibits, to revise the permit and associated
12 reclamation plan;
- 13 c. the interim financial assurances; or
- 14 d. plans to demonstrate the safety of existing slopes.

15 17. In light of the above, following oral testimony, the Commission directed staff to begin the
16 suspension procedures in accordance with Sections 7 and 10.b. of Ordinance No. 555.

17 18. On August 20, 2014, a hearing was held before the Planning Commission to consider the
18 suspension of SMP No. 102.

19 19. At the August 20th hearing, the Mine's representative provided that the following steps were
20 taken to comply with the Order to Comply:

- 21 a. a substantial conformance application was submitted to the County on August 19,
22 2014;
- 23 b. slope stability documents were being prepared; and,
- 24 c. a cost estimate of \$216,000 for the financial assurances was submitted to the County.

25 20. At the August 20th hearing, the Planning Department's representative testified that the
26 appropriate interim financial assurance is \$1 million, which is based on calculations provided
27 by the State of California. Also, the amount of disturbed acreage at the Mine's site still needs
28

1 to be determined in order to accurately calculate the appropriate financial assurances.

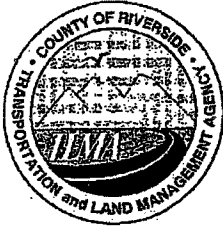
2 21. Additionally, the new aerial topographic survey map showing the boundaries of the Mine site
3 and the approved reclamation plan requested by the Commission has not been submitted by
4 the Mine's representatives.

5 22. Based on oral and written testimony provided on August 20, 2014, Double D Mining has
6 failed to do the following:

- 7 a. Present evidence documenting that the Mine's activities are within the boundaries of
8 the approved SMP No. 102 and its associated reclamation plan;
9 b. Provide adequate financial assurances to reclaim the Mine's disturbed area; and
10 c. Provide an analysis documenting the safety of the Mine's slopes.

11 **DECISION**

- 12 1. Based on the above, the Commission suspends SMP No. 102 until the Mine's owner complies
13 with all of the following:
14 a. submits a new aerial topographic survey map to the Planning Department showing the
15 boundaries of the Mine site and the approved reclamation plan;
16 b. submits and processes an application for a revised surface mining permit and reclamation
17 plan in accordance with Ordinance No. 555 and the Surface Mining and Reclamation Act;
18 c. submits a financial assurance cost estimate to the Planning Department and posts an
19 interim financial assurance mechanism in accordance with Ordinance No. 555 and the
20 Surface Mining and Reclamation Act;
21 d. Pays any outstanding arrears to the Riverside County Planning Department;
22 e. Any other item in the September 27, 2013 Notice and Order to Comply issued by the
23 County of Riverside that is not specifically listed above.
24 2. In accordance with Section 7.c of Ordinance No. 555 the decision by the Commission is
25 considered final.
26
27
28



COUNTY OF RIVERSIDE
TRANSPORTATION and LAND MANAGEMENT AGENCY



DEPARTMENT OF BUILDING AND SAFETY

Mike Lara
Director

Notice of Violation

November 8, 2012

Standard Gypsum Mine
ATTN: Dave Maughan
19301 Ventura Blvd., Suite 204
Tarzana, CA 91356

RE: CA Mine ID: 91-33-0076
SMP102

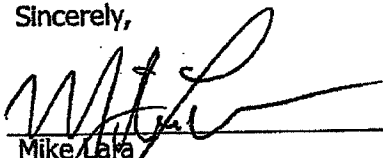
Dear Surface Mine Operator,

The purpose of this letter is to notify you that you are in violation with the Surface Mining and Reclamation Act of 1975, Public Resources Code Section 2710 et seq. (SMARA). The County of Riverside is the lead agency for this surface mining operation. Failure to comply with the corrections identified below with-in the time limits identified may result in revocation of SMP00102. **You have 30 days to comply with this Notice of Violation.**

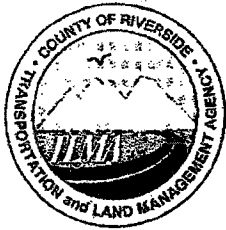
Violations:

1. Mining outside the limits of the approved mining and reclamation plan damaging natural habitat.
2. Inadequate protection for streams, stockpiles/tailing exposed to stream erosion, materials cast into stream ways.
3. Inadequate protection of waste from wind and water erosion.
4. Open adit along north edge of property.
5. Derelict equipment, tires, metal scraps, debris located along the northwest portion of the site.
6. Vertical slopes in excess of approved and safe heights (estimated at 100 feet vertical).
7. Materials cast into stream ways, partially blocked drainage.
8. Burning trash on-site without permit.
9. Failure to produce required blasting permit.
10. Ponding water and/or groundwater in the bottom of the pit.
Correction Measures Required.
11. Failure to provide updated Financial Assurance Cost Estimate and Financial Assurance Mechanism.

Sincerely,



Mike Lara
Director of Building and Safety



COUNTY OF RIVERSIDE
TRANSPORTATION and LAND MANAGEMENT AGENCY
DEPARTMENT OF BUILDING AND SAFETY



Mike Lara
Director

Notice of Violation

August 22, 2013

Sent Regular U.S. Mail and
Certified Mail No.
7001 2510 0003 8636 4776

Sun Services
Standard Gypsum Mine
19301 Ventura Boulevard, Suite 204
Tarzana, CA 91356

RE: CA Mine ID: 91-33-0076
RCL00102

Dear Surface Mine Operator:

This notice is to inform you that no later than **July 1st of each calendar year**, you are required by California Law (Public Resources Code 2207) and Riverside County Code 5.48 (County Ordinance 555), to submit to the Director of Building and Safety, Lead Agency for mining activity in Riverside County, a copy of your 2012 Annual Mining Report (MRRC-2). You must submit additional information including applications for your annual Special Inspection Permit and Building Industrial Commercial Storm Water Permit included with the applicable fees.

The purpose of this letter is to notify you that you are in violation with the Surface Mining and Reclamation Act of 1975, Public Resources Code Section 2710 et seq. (SMARA). The County of Riverside is the lead agency for this surface mining operation. Failure to comply with the corrections identified below with-in the time limits identified may result in revocation of RCL00102.

You have 30 days to comply with this Notice of Violation.

Site is found in non-compliance with reclamation standards (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 9, Section 3007 et seq.)

In addition to the Annual Report all surface mine operators are required to submit the following:

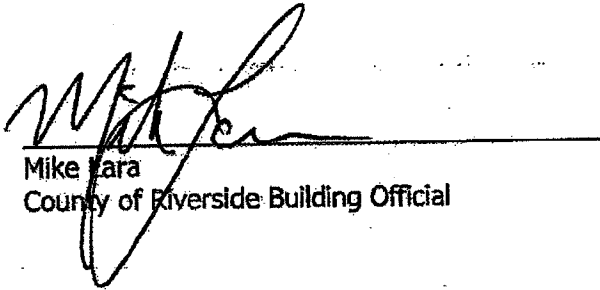
1. Surface Mine Permit/ BIC Permit. (Annual Inspection Permit Application).
2. Annual updated financial assurance cost estimates.
3. Provide a current Statement of Responsibility.
4. New aerial topography with property lines and setbacks identified.

Page 1 of 2

5. Certify all disturbances are within the limits of the Surface Mining/Reclamation Plan.
6. Indicate maximum depth of excavations.
7. Provide quantity in cubic yards and tons of minerals mined during the reporting period.
8. Provide a statement from a Certified Engineering Geologist/Geotechnical Engineer that all slopes (cut & fill), both active and inactive, are within the permitted boundaries, at the approved angles and are stabilized.
9. Provide a copy of your Waste Discharge Identification Number obtained for the project from the State Water Resources Control Board. If exempt, please provide state "Letter of Exemption".
10. Provide a copy all of approved Financial Assurance Mechanisms posted.
11. Provide proof of Annual Inspection Fees paid to the Office of Mining and Reclamation.

Please contact Chris Trinidad, Environmental Compliance Inspector II, at (951) 955-8116 or Email ctrinida@rctlma.org if you have any questions or need assistance.

Sincerely,



Mike Lara
County of Riverside Building Official



RIVERSIDE COUNTY
PLANNING DEPARTMENT

Carolyn Syms Luna
Director

September 27, 2013

Via Certified Mail

Sun Services, Inc.
Attention: Dave Maughan
19301 Ventura Blvd., Suite 204
Tarzana, CA 91356
818-510-4439

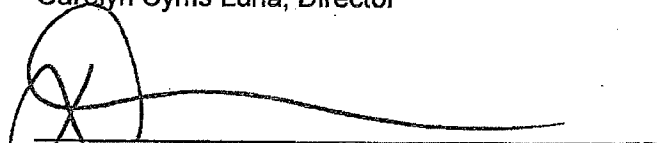
Standard Gypsum Mine (SMP00102)
CA Mine ID #91-33-0076
Notice and Order to Comply

Dear Mr. Maughan,

Enclosed with this letter is a Notice and Order to comply with the California Surface Mining and Reclamation Act (SMARA), Public Resources Code, Division 2, Chapter 9, Section 2719 et seq.

Sincerely,

RIVERSIDE COUNTY PLANNING DEPARTMENT
Carolyn Syms Luna, Director



David L. Jones, CEG No. 2283
Chief Engineering Geologist, TLMA-Planning

Encl: Notice, Order, Attachment A

cc: Carolyn Sym Luna, Planning Director
Mike Lara, Building Official
Michelle DeArmond, Chief of Staff – 4th District
Shellie Clack, Deputy County Counsel
Ken Trott, Environmental Program Manager, OMR
J. Curtis Edmondson, Law Offices of J. Curtis Edmondson
File: SMP00102

B:\Geology\SMP\SMARA 2013\Standard Gypsum\Order to Comply 9-13.docx

Riverside Office · 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-6892 · Fax (951) 955-1811

Desert Office · 77588 El Duna Court
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7555

IN THE MATTER OF)
SUN SERVICES, INC.)

MINING OPERATION)
STANDARD GYPSUM MINE – SMP00102)
CA MINE ID #91-33-0076)

ATTN:)
DAVE MAUGHAN)

NOTICE AND ORDER TO COMPLY WITH SMARA
[Public Resource Code Section 2774.1]

NOTICE IS HEREBY GIVEN THAT:

1. Sun Services, Inc. has violated provisions of California's Surface Mining and Reclamation Act, ("SMARA") found at Public Resources Code, division 2, Chapter 9, beginning at Section 2710 et seq. and associated regulations (the "Regulations") found at Title 14, California code of Regulations Section 3500 et seq., for which the County of Riverside (hereinafter "County") may issue Notice of Violations, Cease and Desist Orders, Orders to Comply and administrative penalties under Pub. Res. Code Section 2774.1.
2. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by mining outside the limits of the approved mining and reclamation plan damaging natural habitat.

SMP00102 Exhibit A provides the limits for benching, wastes, and haul roads.

California Code of Regulations Section 3502(g) states: "Should an expansion of an operation into an area not covered by an approved reclamation plan be determined by the lead agency to be a substantial deviation, an amended reclamation plan shall be prepared that ensures adequate reclamation for the surface mining operation. The amended reclamation plan shall incorporate current reclamation standards for the entire area governed by the plan that is impacted by the deviation. If reclamation has been substantially initiated at the time that a lead agency determines that an amended reclamation plan is required, the operator may complete reclamation of those areas according to the previously approved reclamation plan, except for those areas that are or will be affected by the proposed expanded mining activities which shall be subject to the requirements of the amended reclamation plan."

3. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan and *California Code of Regulations 3706(d)* by not employing adequate protection for streams by exposing stockpiles/tailings to stream erosion and by casting materials into stream ways.

SMP00102 Condition of Approval No. 9. states: The permittee shall, during the proposed mining operation, ensure that off-site storm run-off through the property outlets at substantially the same location s exists under natural conditions.

California Code of Regulations 3706(d) states: "Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or

other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gulying, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event."

4. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by not providing adequate protection of mine wastes from wind and water erosion.

SMP00102 Exhibit A provides the limits for benching, wastes, and haul roads.

California Code of Regulations 3706(d) states: "Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gulying, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event."

5. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by constructing and allowing an open adit to remain along the north edge of the property (also outside the limits of the approved mining and reclamation plan).

SMP00102 Exhibit A provides the limits for benching, wastes, and haul roads.

Surface Mining Permit and Reclamation Plan Approval III Proposed Operations C. states: Mining methods used will be: open pit, multi bench, low level and trucking to processing plan and railroad.

California Code of Regulations Section 3713 (b) states: "Prior to closure, all portals, shafts, tunnels, or other surface openings to underground workings shall be gated or otherwise protected from public entry in order to eliminate any threat to public safety and to preserve access for wildlife habitat."

6. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by placing derelict equipment, tires, metal scrap, and debris along the northwest portion of the site.

SMP00102 Exhibit A provides the limits for benching, wastes, and haul roads.

Surface Mining Permit No. 102 Appendix, item A states: On the mining plan map the area where the waste from the mining operation will be placed is shown. Other than rock, no waste material, machinery or scrap will be accumulated or deposited in these areas. At the railroad siding where the gypsum will be crushed and classified there is no waste material in the process. Any derelict machinery would be removed and sold for scrap.

7. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by constructing slopes in excess of approved heights and slope inclination (vertical).

SMP00102 Exhibit A provides the limits for benching, wastes, and haul roads.

SMP00102 Condition of Approval No. 6. (a-c): Construction Slopes states:

- (a) Where the face is composed of loose or unstable materials, the slope of the face shall not exceed 50 degrees where the height is greater than can be reached by the dipper or bucket of the excavator or loader.
- (b) Where the face is composed of moderately compacted materials that are not firmly cemented or consolidated by which experience indicates will stand well in place, the slope shall not exceed 65 degrees where the height is greater than can be reached by the dipper or bucket of the excavator or loader.
- (c) Where the face is composed of firmly cemented or consolidated materials that experience indicates do not spall or cave readily, the slope shall not exceed 80 degrees where the height is greater than can be reached by the dipper or bucket of the excavator or loader.

Surface Mining Permit and Reclamation Plan Approval, V Reclamation Plan, F. states: As was mentioned previously the gypsum deposits extends to a depth of over 600 feet as demonstrated by core drilling. Current economics dictate an initial development with a series of 25 foot benches. Leaving the excavations open and in good condition would allow continued operation in the future under more favorable economic conditions.

8. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by partially blocking site drainage by casting materials into stream ways.

SMP00102 Condition of Approval No. 9. states: The permittee shall, during the proposed mining operation, ensure that off-site storm run-off through the property outlets at substantially the same location as exists under natural conditions.

Surface Mining Permit and Reclamation Plan Approval, V Reclamation Plan, D.3. states: Waste areas, as indicated on the map, will be in a large gully area. Waste material will be mainly of large size rock with low profile dumps.

Surface Mining Permit and Reclamation Plan Approval, V Reclamation Plan, D.4. states: No major drainage area will be disturbed. In the waste areas channeling would reduce any damming effect.

9. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of the approved reclamation plan by allowing rainwater and/or groundwater to pond in the bottom of the pit.

SMP00102 Condition of Approval No. 8. states: No standing water shall be permitted on the site which could create a hazard to the public.

SMP00102 Condition of Approval No. 9. states: The permittee shall, during the proposed mining operation, ensure that off-site storm run-off through the property outlets at substantially the same location as exists under natural conditions.

10. Sun Services has engaged in surface mining operations as defined by Pub. Res. Code Section 2735 in Riverside County at the Standard Gypsum Mine, SMP00102, CA Mine ID# 91-33-0076 in violation of Public Resource Code Section 2773.1(a)(3) and County Ordinance No. 555 Section 9.a. by failing to provide updated financial Assurance Cost Estimate and Financial Assurance Mechanism.

County Ordinance No. 555 Section 9.a. states: ...The amount of the financial assurance shall be adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan and shall be adjusted annually to account for new lands disturbed, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan....

Public Resource Code Section 2773.1(a)(3) states, "The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan."

11. On November 13, 2012, Sun Services, Inc. received a Notice of violation dated November 8, 2012 by certified mail informing Sun Services, Inc. that mining operations conducted at the Standard Gypsum Mine were in violation of their approved reclamation plan as described in items 2-10 above.
12. As of the date of this Notice and Order, Sun Services, Inc. has not submitted or obtained a revised reclamation plan and financial assurance approved pursuant to SMARA.

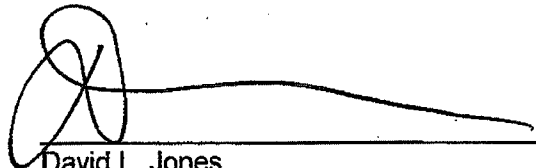
6. Provide an amended financial assurance cost estimate that fully responds to and incorporates any comments or requirements from Riverside County and/or the Department no later than 5 calendar days after receipt of any comments or requirements from Riverside County and/or the Department regarding the financial assurance cost estimate originally submitted pursuant to paragraph 5 above.
7. Provide a financial assurance mechanism in the full amount of the approved financial assurance cost estimate or paragraph 6, above, within 5 calendar days from receipt of notification by Riverside County or the Department of the approved financial assurance cost estimate. The issuer must be authorized to and doing business in California, and provide an original or certified copy of the financial assurance mechanism to Riverside County and the Department.
8. Commence reclamation pursuant to the approved revised reclamation plan by March 31, 2014.
9. Complete reclamation pursuant to the approved revised reclamation plan by December 31, 2014, excepting revegetation. Both Riverside County and the Department must inspect and certify reclamation as being complete.
10. Complete revegetation pursuant to the approved revised reclamation plan by March 1, 2015 wherein revegetation success monitoring shall begin. Both Riverside County and the Department must inspect and certify revegetation planting as being complete.
11. Full completion of reclamation continues until successful revegetation is established in accordance with the approved revised reclamation plan that is certified complete by inspection by both Riverside County and the Department.
12. Appear before the Riverside County Planning Commission on November 6, 2013 for the hearing pursuant to Pub. Res. Code Section 2774.1(b) and Riverside County Ord. No. 555 Section 10.a.

The Order shall be effective immediately following the hearing before the Riverside County Planning Commission on November 6, 2013. If Sun Services, Inc. fails to comply with this Order, it may be subject to administrative penalties pursuant to Pub. Res. Code Section 2774.1(c) of up to five thousand dollars (\$5,000) per day, assessed from the original date of noncompliance.

If you have any questions regarding this Order, please contact my office at (951) 955-6863.

Date

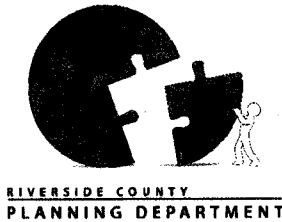
9/27/13



David L. Jones
Chief Engineering Geologist
TLMA - Planning
Riverside County

**PLANNING COMMISSION HEARING
REPORT OF ACTIONS
SEPTEMBER 17, 2014**

- 3.2 SURFACE MINING PERMIT NO. 102, SUSPENSION OF MINING PERMIT** – Mine Operator: Double D Mining, LLC – Fourth/Fourth Supervisorial District – Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR) – Location: 25 Miles north of Blythe, 10 Miles west of Midland Road, 15 Miles south of State Hwy. 62 – 400 Gross Acres - Zoning: Natural Assets (N-A) - **REQUEST:** The Planning Commission to review and consider the findings prepared for the suspension of Surface Mining Permit No. 102 associated with the Notice and Order to Comply issued by the County pursuant to the Surface Mining and Reclamation Act and County Ord. No. 555. Related Cases: None. Continued from August 20, 2014. Project Manager: David Jones at (951) 955-6863 or email dlijones@rctlma.org. (Quasi-judicial) (**Public Hearing Closed on August 20, 2014**).
- Planning Commission Action:**
By A Vote Of 5-0,
APPROVED THE FINDINGS OF FACT AND DECISION TO SUSPEND THE SURFACE MINING PERMIT.
- 3.3 CHANGE OF ZONE NO. 7826 – CEQA Exempt** - Applicant: County of Riverside – All Supervisorial Districts - Location: Countywide – **REQUEST:** The change of zone proposes the following amendments to Riverside County Ordinance No. 348: (1) amend Section 18.18 (Detached Accessory Buildings) to modify development standards and the review process for detached accessory buildings; (2) amend Section 18.28 (Conditional Use Permits), Section 18.28a (Second Unit Permits), Section 18.29 (Public Use Permits) and Section 18.30 (Plot Plans) to modify the time period to use an approved permit and other minor changes to the sections; and (3) amend Section 19.43 (Modifications to Approved Permits) to modify the approval process for on-site advertising structures and signs. Continued from August 20, 2014. Project Planner: David Mares at (951) 955-9076 or email dmares@rctlma.org. (Legislative)
- Planning Commission Action:**
By A Vote Of 5-0,
CONTINUED TO OCTOBER 15, 2013.
- 3.4 PLOT PLAN NO. 14522 REVISED PERMIT NO.1 – CEQA Exempt** - Appellant: **World's Biggest Cabazon Dinosaurs** - Applicant: World's Biggest Cabazon Dinosaurs – Representative: Trip Hord – Fifth/Fifth
- Planning Commission Action:**
By A Vote Of 5-0
CONTINUED TO MARCH 18, 2015.



**PLANNING COMMISSION
MINUTE ORDER
SEPTEMBER 17, 2014**

I. AGENDA ITEM 3.2

SURFACE MINING PERMIT NO. 102, SUSPENSION OF MINING PERMIT – Mine Operator: Double D Mining, LLC – Fourth/Fourth Supervisorial District – Chuckwalla Zoning District – East County - Desert Area Plan: Open Space: Rural (OS-RUR) – Location: 25 Miles north of Blythe, 10 Miles west of Midland Road, 15 Miles south of State Hwy. 62 – 400 Gross Acres - Zoning: Natural Assets (N-A). (Quasi-judicial) **(Public Hearing Closed on August 20, 2014).**

II. PROJECT DESCRIPTION:

The Planning Commission to review and consider the findings prepared for the suspension of Surface Mining Permit No. 102 associated with the Notice and Order to Comply issued by the County pursuant to the Surface Mining and Reclamation Act and County Ord. No. 555. Related Cases: None. Item continued from August 20, 2014.

III. MEETING SUMMARY:

The following staff presented the subject proposal:

Project Manager: David Jones at (951) 955-6863 or email djones@rctlma.org.

Chris Powell, 2001 Lava Ridge Ct, Ste. 120, Roseville, (209) 612-0259 spoke against the suspension.

IV. CONTROVERSIAL ISSUES:

None

V. PLANNING COMMISSION ACTION:

Public Comments: **Closed**

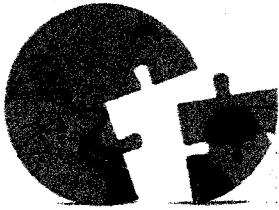
Motion by Chairman Sanchez, 2nd by Commissioner Sloman

A vote of 5-0,

APPROVED THE FINDINGS OF FACT AND DECISION TO SUSPEND THE SURFACE MINING PERMIT.

CD The entire discussion of this agenda item can be found on CD. For a copy of the CD, please contact Mary Stark, TLMA Commission Secretary, at (951) 955-7436 or email at mcstark@rctlma.org.

ATTACHMENT – “B”



RIVERSIDE COUNTY PLANNING DEPARTMENT

Carolyn Syms Luna
Director

APPLICATION FOR APPEAL

DATE SUBMITTED: 9-25-2014

Appeal of application case No(s): (SMP⁰⁰102 81)
List all concurrent applications

Name of Advisory Agency: Planning Commission


Date of the decision or action: 9-17-2014

Appellant's Name: Double D Mining, LLC E-Mail: dave.gypsum@yahoo.com

Mailing Address: 10705 Villa Monterey Dr.
Bakersfield CA 93311
City State ZIP

Daytime Phone No: (818) 535-1089 Fax No: ()

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> Clerk of The Board for: Appeals before the Board of Supervisors. Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> Change of Zone denied by the Planning Commission Commercial WECS Permit Conditional Use Permit Hazardous Waste Facility Siting Permit Public Use Permit Variance Specific Plan denied by the Planning Commission Substantial Conformance Determination for WECS Surface Mining and Reclamation Permit 	Within 10 days after the notice of decision appears on the Board of Supervisors RIVERSIDE COUNTY CLERK OF THE BOARD OF SUPERVISORS  PAID DATE: <u>10/22/14</u> AMOUNT: <u>\$ 405.90</u> REC'D BY: <u>Theresa Aparicio</u>

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

8-11
8-11
8-11

APPLICATION FOR APPEAL

Use additional sheets if necessary.

David Maughan

PRINTED NAME OF APPELLANT

Del Maughan

SIGNATURE OF APPELLANT

10-22-14

DATE

THE APPEAL FILING PACKAGE MUST CONSIST OF THE FOLLOWING:

1. One completed and signed application form.
2. Public Hearing Notice Label Requirements mailing address labels for notification of the appeal hearing.
3. All appropriate filing fees (the base fee, plus other fees specifically for the Department of Building and Safety, Fire Department, Flood Control District and/or Transportation Department conditions, if applicable).

PLEASE NOTE: Obtain surrounding property owners label package/instructions (Form 295-1051) from a County Public Information Services Center or download it from the Planning Department web page.

**ATTACHMENT TO APPLICATION FOR APPEAL FORM
IN THE MATTER OF SUSPENSION OF SURFACE MINING PERMIT NO. 102**

Double D Mining, LLC (“Double D Mining”) respectfully appeals the September 17, 2014 decision of the Riverside County Planning Commission (“Commission”) regarding suspension of Surface Mining Permit No. 102 (SMP 102). Double D Mining appeals the Commission’s decision on the basis that the decision is arbitrary, capricious and abuse of discretion, and is contrary to the requirements of the Surface Mining and Reclamation Act (SMARA), SMARA Regulations, and County Ordinance No. 555. In particular, Double D Mining appeals the following:

1. Commission’s decision to suspend SMP No. 102 until Double D Mining submits a new aerial topographic survey map to the Planning Department showing the boundaries of the Mine site and the approved reclamation plan.

Double D Mining submitted to the County an updated topographic map of the approved mining site; accordingly, the Commission’s decision is arbitrary, capricious and abuse of discretion, and thus is subject to reversal.

2. Commission’s decision to suspend SMP No. 102 until Double D Mining submits and processes an application for a revised surface mining permit and reclamation plan in accordance with Ordinance No. 555 and SMARA.

Pursuant to SMARA Regulations, the County may require Double D Mining to obtain an amended reclamation plan only if “the surface mining operation can no longer be reclaimed in accordance with its approved reclamation plan.” (14 C.C.R. § 3502(e).) The evidence submitted by Double D Mining to the Commission prior to the September 17, 2014 hearing clearly demonstrates that the site can be reclaimed in accordance with the approved reclamation plan. Accordingly, the Commission’s request that Double D Mining obtain a new or amended mining permit and reclamation plan is unwarranted by the facts and the applicable law, and thus should be rejected by the Board.

3. Commission’s decision to suspend SMP No. 102 until Double D Mining submits a financial assurance cost estimate to the Planning Department and posts an interim financial assurance mechanism in accordance with Ordinance No. 555 and SMARA.

Double D Mining secured a certificate of deposit for \$250,000 and submitted the forms for a financial assurance mechanism in that amount to the County on September 17, 2014. Accordingly, the Commission’s decision is arbitrary, capricious and abuse of discretion, and thus is subject to reversal.

4. Commission's decision to suspend SMP No. 102 until Double D Mining pays any outstanding arrears to the Planning Department.

On September 17, 2014, Double D Mining tendered a check to the County for a sum of \$34,284.20, thus complying with the Commission's request regarding the outstanding arrears. Accordingly, the Commission's decision is arbitrary, capricious and abuse of discretion, and thus is subject to reversal.

5. Commission's decision to suspend SMP No. 102 until Double D Mining complies with any other item in the September 27, 2013 Notice and Order to Comply.

Double D Mining has complied with all lawful County requirements set forth in the September 27, 2013 Notice and Order to Comply.

In light of Double D Mining's submittal of a financial assurance mechanism, payment of the County fees, and cooperation with all reasonable and lawful County requirements, Double D Mining asks the Board of Supervisors to reverse the Commission's September 17, 2014 decision.

PROPERTY OWNERS CERTIFICATION FORM

I, VINNIE NGUYEN, certify that on 10/22/2014

The attached property owners list was prepared by Riverside County GIS,

APN (s) or case numbers 809-170-024,025 For

Company or Individual's Name Planning Department,

Distance buffered 2400'

Pursuant to application requirements furnished by the Riverside County Planning Department, Said list is a complete and true compilation of the owners of the subject property and all other property owners within 600 feet of the property involved, or if that area yields less than 25 different owners, all property owners within a notification area expanded to yield a minimum of 25 different owners, to a maximum notification area of 2,400 feet from the project boundaries, based upon the latest equalized assessment rolls. If the project is a subdivision with identified off-site access/improvements, said list includes a complete and true compilation of the names and mailing addresses of the owners of all property that is adjacent to the proposed off-site improvement/alignment.

I further certify that the information filed is true and correct to the best of my knowledge. I understand that incorrect or incomplete information may be grounds for rejection or denial of the application.

NAME: Vinnie Nguyen

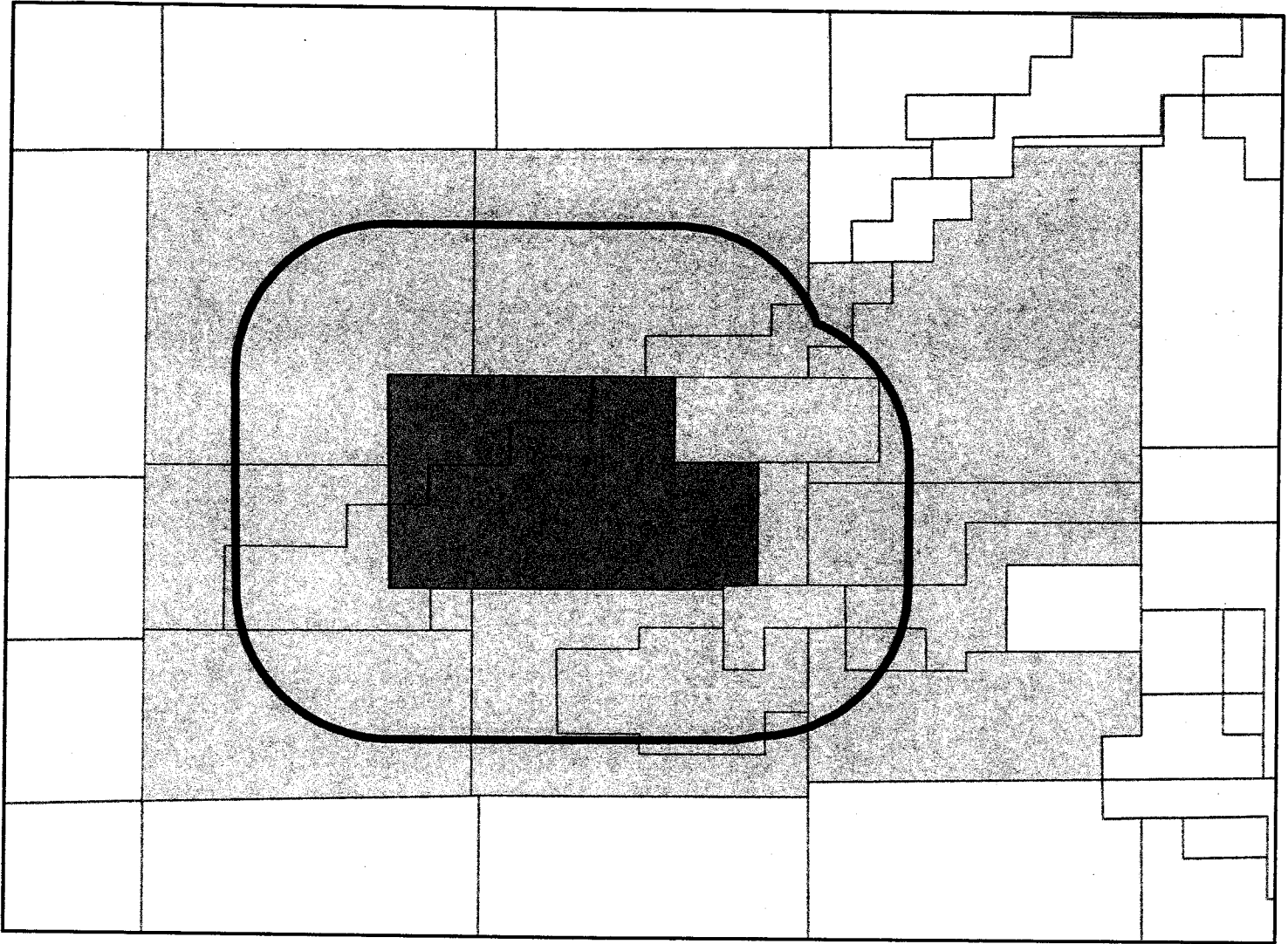
TITLE GIS Analyst

ADDRESS: 4080 Lemon Street 2nd Floor

Riverside, Ca. 92502

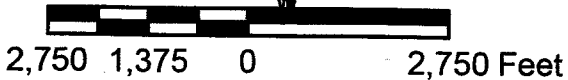
TELEPHONE NUMBER (8 a.m. - 5 p.m.): (951) 955-8158

APN: 809-170-024, 025 (2400 feet buffer)



Selected Parcels

809-170-016 809-170-024 809-170-025 809-170-026 809-170-002 809-170-003 809-170-004 809-170-022 809-170-023 809-170-027
809-170-028 809-170-029 809-170-030 809-170-031 809-170-032 809-170-033 809-170-034 809-170-036 809-170-037



Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

R1411561

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 600-6100

38686 El Cerrito Road
Palm Desert, CA 92211
(760) 863-8277

Received from: DOUBLE D MINING LLC \$405.96
paid by: CK 1002
paid towards: SMP00102S1 SUBST CONF: SURF MIN/RECL PLAN
at parcel #:
appl type: SC04

By _____ Oct 22, 2014 14:56
MGARDNER posting date Oct 22, 2014

Account Code	Description	Amount
202033100200772210	LMS SURCHARGE	\$8.11
100003120100777180	PLANNING: APPEALS	\$397.85

Overpayments of less than \$5.00 will not be refunded!

Additional info at www.rctlma.org

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ASMT: 809170026, APN: 809170026
DOUBLE D MINING
C/O DONALD DEAN
662 APALACHEE CIR NE
ST PETERSBURG FL 33702

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Use Avery® Template 5162®

Feed Paper

Bend along line to
expose Pop-up Edge™

AVERY® 5962®





**MITCHELL
CHADWICK**

Christopher L. Powell
cpowell@mitchellchadwick.com
916-462-8807
916-788-0290 Fax

January 12, 2015

VIA U.S. MAIL AND EMAIL

Riverside County Board of Supervisors
4080 Lemon Street, 5th Floor
Riverside, California 92501

Re: Appeal of Planning Commission's Suspension of Surface Mining Permit No. 102

Dear Supervisors:

I represent Double D Mining, LLC ("Double D Mining") with respect to the Standard Gypsum Mine ("Mine") in Riverside County. The Mine, which is located approximately 20 miles northwest of Blythe, supplies regional farmers with gypsum for agricultural use, and employs numerous County residents. The Mine currently operates under a valid permit and reclamation plan (SMP 102), issued by the County in 1978. To briefly summarize my client's position - Double D believes its operation is in compliance with County and State law, has worked in good faith to address all of the County's issues with the operation, is willing to continue to cooperate with the County to address any remaining compliance issues, but fundamentally disagrees with the County's position that a new/revised mining permit is required. It is this disagreement on the need for a new/revised mining permit that was the basis for the suspension.

As you know, the Planning Commission voted to suspend the Mine's permit on September 17, 2014. Essentially, the Planning Commission suspended the Mine's permit on County staff's recommendation because Double D Mining refused to submit an application for a "revised" surface mining permit and reclamation plan, as requested in a September 27, 2013 Notice and Order to Comply ("Notice and Order"). Double D Mining has complied with all other items listed in the Notice and Order to Comply (e.g. updated financial assurances, submittal of a slope stability study and surveyed topographical maps); however, there is no need for a revised permit/reclamation plan since Double D Mining has a valid permit which has not expired, has not been exceeded in scope or intensity in any non-trivial manner, and with which Double D Mining can fully comply. Moreover, there is no legal basis under the California Surface Mining and Reclamation Act ("SMARA") or the County Code for the Planning Commission's order to submit an application for a revised surface mining permit and reclamation plan.

The County's request for a revised permit/reclamation plan essentially divests my client of its existing permit and therefore constitutes a taking of property without just compensation in

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2015-1-125592

violation of the U.S. and California Constitutions. Further, by ordering Double D Mining to submit an application for a revised permit/reclamation plan, the County is needlessly pushing an existing mining operation with valid permits into a process that would likely involve preparation of an Environmental Impact Report ("EIR") under the California Environmental Quality Act ("CEQA"), take 3-5 years to complete (not including litigation, if sued by a project opponent), and which would cost *at least* \$500,000 in consulting and legal fees. As such, I respectfully request that you reverse the Planning Commission's decision to suspend SMP 102, find that no revised permit/reclamation plan is required, and direct County staff to work with my client to accomplish the following: (1) resolve any remaining compliance issues (we believe the mine is in full compliance with SMP 102, but will cooperate with staff regarding any issues they believe are outstanding); and (2) process a substantial conformance application, as necessary, to clarify issues identified by County staff (e.g. addition of surveyed topographical maps, clarified slope requirements based on the slope stability analysis, clarification of mining area boundary).

I. History of Enforcement Action

On November 8, 2012, the County issued a Notice of Violation ("NOV") for the Mine alleging eleven separate violations of SMP 102. At that time, the Mine was owned by Sun Services, who was involved in litigation over ownership of the Mine. Mine manager, David Maughan, immediately implemented measures to address the violations. Despite David Maughan's efforts to correct the onsite issues raised in the NOV, then-owner Sun Services was unable to update the financial assurances and hire a consultant to address the other issues, which resulted in the issuance of a second NOV on August 22, 2013. The Planning Commission issued a Notice and Order on September 27, 2013, which ordered correction of the various issues mentioned in the previous NOVs and, importantly, required that the Mine owner submit an application for a revised mining permit and reclamation plan. There was no adequate legal basis for this request provided in the Notice and Order, which is essentially a revocation of the existing permit. In January of 2014, ownership of the Mine was transferred to Double D Mining, LLC. Soon thereafter, Double D Mining hired mining consultants, George Webber and Steve Kupferman, and legal counsel, Mitchell Chadwick, LLP, to assist with addressing compliance issues. The compliance status of the Mine was considered at three Planning Commission hearings in 2014, as Double D Mining endeavored to address the issues raised in the Notice and Order.

To address the Notice and Order, Double D Mining and its consultants have accomplished the following: (i) posted a reclamation bond for \$250,000 (this exceeds the amount requested by County staff); (ii) submitted a slope stability analysis prepared by Steve Kupferman illustrating the stability of the slopes; (iii) paid all outstanding fees to the County; (iv) submitted a substantial conformance application which seeks to provide updated maps and minor clarifications to the Reclamation Plan, as necessary; (v) submitted a new surveyed map of the property; (vi) corrected other minor violations, such as trash on the property.

On September 17, 2014, the Planning Commission acknowledged that Double D Mining had accomplished the items listed above, but voted to suspend the mining permit due to the fact that Double D Mining had declined to submit an application for a revised mining permit and reclamation plan.

II. Reasons for Planning Commission's Suspension of the Mining Permit

As stated in the staff report for this hearing, the Planning Commission suspended SMP 102 because Double D Mining allegedly failed to do the following:

1. present evidence documenting that the Mine's activities are within the boundaries of the approved SMP No. 102 and its associated reclamation plan;
2. provide adequate financial assurances to reclaim the Mine's disturbed area, and
3. provide an analysis documenting the safety of the Mine's slopes.

Double D Mining has in fact complied with all of the above.

The staff report then states that the Planning Commission suspended SMP No. 102 until the Mine's owner complies with the following:

1. submits a new aerial topographic survey map to the Planning Department showing the boundaries of the Mine site and the approved reclamation plan;
2. submits and processes an application for a revised surface mining permit and reclamation plan in accordance with Ordinance No. 555 and SMARA;
3. submits a financial assurance cost estimate to the Planning Department and posts an interim financial assurance mechanism in accordance with Ordinance No. 555 and SMARA;
4. pays any outstanding arrears to the Planning Department; and
5. any other item in the September 27, 2013 Notice and Order to Comply issued by the County of Riverside that is not specifically listed above.

Double D Mining has in fact complied with all of the above, except for no. 2, which is an unlawful forfeiture of Double D Mining's existing permit.

III. The Mine is in Compliance with its Permit and Reclamation Plan and Suspension of SMP 102 is Unwarranted since it was Based on Double D Mining's Refusal to Comply with an Unlawful Order to Submit a Revised Permit and Reclamation Plan Application

a. Adequate Financial Assurances have been Submitted

Subsequent to August 20th hearing, County Geologist, David Jones, and George Webber met in person to address the County's concerns about the correct cost of reclamation, as represented in the submitted financial assurance cost estimate ("FACE"). The County transmitted comments on the previously submitted FACE on August 27th, requesting that the total cost of reclamation should be \$239,632. Double D Mining secured a certificate of deposit (CD) for \$250,000 and submitted the forms for a financial assurance mechanism on September 17, 2014.

Note that my client's financial assurance submittal has not yet been deemed final by the County, due to what we believe are unreasonable comments/rejections of two rounds of submittals (our third submittal of the FACE is being processed now). The first submittal on August 27th was rejected by the County based on a technical issue with one of the notary pages. The second submittal of the FACE was then rejected for the wrong notary page being used (individual vs. corporate) and five other comments. One of the comments was that the operating agreement was not included. In fact, an original copy of the operating agreement was sent with the first submission and was then lost by the County. Another comment in the second submittal was that, in fact, a certificate of deposit cannot be used for a financial assurance of over \$100,000 due to the limits of FDIC insurance. This is incorrect, since the FDIC limit was raised to \$250,000 several years ago, and is also a bizarre comment since County staff told Double D Mining representative David Maughan, in person, that a CD would be acceptable. It is unfortunate that the County could not compile all of its various comments on the FACE submittal the first time, because adding various new objections to the FACE submittal each time will ensure that this process is endless. The current unfinalized state of the FACE makes Double D Mining look like it is not putting forth effort to comply with County and State requirements, but in fact, the County's unreasonable process is thwarting Double D Mining's best efforts to get the FACE finalized.

b. The Mine Slopes are Consistent with SMP 102 and are Stable

The NOV's issued against the Mine alleged that the slopes were unstable and exceeded the maximum steepness allowed under SMP 102. However, Steve Kupferman, California Certified Engineering Geologist, submitted a slope stability analysis on September 11, 2014, which states that "there were no indications of major slope failures, such as planar or circular failures that would indicate gross instability [and] **the slope analysis indicated that the mining/construction slopes do not exceed 80 degrees** [the maximum steepness allowed in the

approved reclamation plan].” The slope stability analysis also noted some loose overhanging rocks and “wedge failures” of the active mining slopes, for which a number of measures were recommended to ensure safety, such as scaling of active slopes, removal of loose rock debris and safety berms. If the County agrees with the referenced measures, Double D Mining will agree to implement these at the Mine site. As such, Double D Mining has complied with the County’s request to “document the relative safety of the mining slopes” as stated in the order to comply.

c. County Fees are Fully Paid

Double D Mining tendered a check to the County for a sum of \$34,284.20 on September 17th (see attached Exhibit “B”, which is a scan of the check delivered to the County). This represents the full amount of County fees that have been invoiced to Double D Mining.

d. Mining Activity is within the Property Boundary

The first of three reasons presented in the staff report for the suspension is that Double D Mining did not “present evidence documenting that the mine’s activities are within the boundaries of the approved SMP No. 102 and its associated reclamation plan.” At the Planning Commission Hearing on September 17, 2014, Double D Mining submitted a surveyed map detailing the location of the mining activity compared to the property boundary. This was the first survey prepared for the property in decades. The survey showed that the Mine itself was completely within the property boundary as set forth in the permit; however one of the gypsum stockpiles had been pushed off the property onto adjacent land. At first, it was suspected that this adjacent land was BLM property, but in fact, it turns out that the adjacent land is part of the original mining patent, but was simply omitted from the legal description in the County permit. That stockpile has now been pushed back onto the Mine property and does not intrude into the adjacent land, which is owned by Double D Mining. No damage has occurred to adjacent land as a result of this stockpile, especially since the material in the stockpile is very similar to the surface of the land in the Mine vicinity (i.e., there are numerous naturally occurring gypsum outcroppings in the area).

The real dispute regarding the mining boundary is not about this stockpile that was pushed off of the property boundary. This situation clearly does not require a new mining permit and reclamation plan, since no mining occurred offsite and the stockpile has been moved back onto the property. Rather, as discussed below, the real dispute is whether SMP 102 allows mining on the entire property or only in a small area of the property.

e. SMP 102 Allows Mining Anywhere Within the Boundary of the 611-Acre Property

The County has alleged that mining occurred outside of the property, or at a minimum, outside of the "mining area" as interpreted by County staff. The updated map submitted to the County by Double D Mining shows that mining has not occurred off of the property (a stockpile was pushed off of the property and has been pushed back onto the property), and as discussed below, the "mining area" pointed to by County staff as being exceeded, and as grounds for requesting an amended reclamation, is a gross mischaracterization of the 1979 reclamation plan.

The Mine was originally approved in 1974 under conditional use permit 1628-E and was again approved in 1979 under surface mining permit 102 ("SMP 102") to comply with the newly enacted California Surface Mining And Reclamation Act ("SMARA"), which required that all active surface mines be subject to a reclamation plan (SMP 102 is attached as Exhibit "C"). With regard to the scope of the property that could be mined under the 1979 approval, the reclamation plan stated as follows:

IV Maps of Mined Lands

Enclosed is a proposed mining plan map that was submitted to the Planning Commission back in 1974 for a Conditional Use Permit, Case No. 1628-E under the name of Agricultural Gypsum Co. which was granted (See enclosed copy of letter) but not used. The conditions prevalent then are the same now. **This map just includes a portion of the total area where the mining operations will start. It is proposed as operations continue additional areas will be included under the same methods.** Access roads to the general area are already there, only remedial work is needed to make them operable.

(SMP No. 102, page 2, emphasis added.)

The 1974 map included in the 1979 Reclamation Plan showed a small portion of the property as the mining area; however, the above language clearly envisioned that the Mine would proceed beyond the small mining area on the map, within which "mining operations will start." County staff is now using the mining area outline on this map as a hard mining boundary, when that is contrary to the text of the Reclamation Plan that this was "just a portion" of the area in which mining would occur. Mining activity has certainly proceeded beyond the small area on the map where mining operations would start, but that is consistent with the 1979 Reclamation Plan's broad language. While it seems unusual based on the modern mine permits and reclamation plans that mining would be allowed on all 611.318 acres of the Mine property, this was not at all unusual in 1979, especially for a mine in a remote unpopulated area. It makes far less sense that in 1979 the County only permitted the operator to mine a tiny portion of the property and expected subsequent approvals for addition of each new area. This was clearly not the County's

or the operator's intent. It should be noted briefly that even if mining did occur off of the property, which it has not, the County's request to amend the permit would still not be the proper remedy since the land surrounding the Mine property is federally-owned.

The primary basis for the County's request that an amended mining permit be submitted is the argument that mining has exceeded the allowed mining boundary, but as set forth above, that argument only makes sense under a strained and illogical reading of the 1979 Reclamation Plan. In response to the County's request for an amended reclamation plan, Double D Mining submitted a substantial conformance application on August 19, 2014, which would clarify the maps for the existing mine permit, while not changing the overall substance of the mining permit. This was submitted to allow the County to implement the minor mapping or other changes it believed were necessary for clarity, while preserving Double D Mining's property rights in the existing permit. We received a written response to this submittal on September 15, 2014, which reiterates the County's position that a new permit must be obtained, but without providing any legal basis for that conclusion.

f. The County's Request that Double D Mining Submit a Revised Permit and Reclamation Plan Application does not conform with SMARA or the County Code

Although the County has suggested that a reclamation plan amendment is needed to bring Double D Mining into compliance at the Mine site, this request is not warranted under the law or facts.

SMARA statute and ordinances state that an amendment to a reclamation plan is warranted for "substantial deviations from the original plan." (See, e.g., Pub. Res. Code § 2777; 14 CCR § 3502(d) (emphasis added).) "Substantial deviation" is defined as "a change or expansion to a surface mining operation that substantially affects the completion of the previously approved reclamation plan, or that changes the end use of the approved plan to the extent that the scope of the reclamation required for the surface mining operation is substantially changed." (14 CCR § 3502(d).) Examples given in SMARA for what constitutes a substantial deviation include a substantial increase in the disturbance area of the mine or maximum mining depth, substantial extension in the termination date, among others. Additionally, a lead agency may require a reclamation plan amendment if it determines, after an inspection, that the mining operation can no longer be reclaimed in accordance with the approved reclamation plan. (Id. § 3502(e).)

Double D Mining has submitted a substantial conformance application, because this is the proper approval to accomplish the minor map updates needed for clarity. Under the County Code, "substantial conformance" is "a request for a nonsubstantial modification of an approved permit or reclamation plan which does not change the original approval or the effect of the approval on surrounding property." (Riverside County Code § 5.48.130(B).)

The County's request for a new permit and reclamation plan implies that the Mine "can no longer be reclaimed in accordance with its approved reclamation plan"; therefore an application for an amended plan should be submitted. On the contrary, the Mine can be reclaimed in accordance with the 1979 reclamation plan; therefore no amended reclamation plan is required.

IV. The Suspension is an Unlawful Taking of Property without Just Compensation

The Planning Commission's demand that Double D Mining obtain an amended mining permit amounts to a regulatory taking under both the U.S. and California Constitutions. The U.S. Supreme Court has long recognized that, although the property may be regulated to a certain extent, such a regulation constitutes a taking if it goes "too far." *Lingle v. Chevron U.S.A. Inc.* (2005) 544 U.S. 528, 537-38; *Lockaway Storage v. County of Alameda* (2013) 216 Cal.App.4th 161, 184. Importantly, a local agency "may not evade the takings clause by fabricating a despite ... or by otherwise arbitrarily imposing conditions on development in order to ... discourage that development." *Lockaway Storage*, 216 Cal.App.4th at 188; *see also Lingle*, 544 U.S. at 537-38 (a local entity's police power cannot be used as a device to oust a lawful use without providing a full compensation). As explained above, the Planning Commission's position that Double D Mining shall forfeit its valid mining permit is so unreasonable from the legal standpoint that it appears to be taken for no purpose other than to oust Double D Mining from its lawful mining operation. Therefore, revocation of Double D Mining's mining permit under these circumstances would violate Double D Mining's constitutional rights unless the County provides Double D Mining with a constitutionally required compensation.

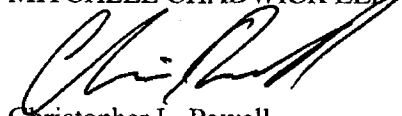
V. Conclusion

Double D Mining has responded to each of the issues raised in the Notice and Order, and has addressed all of the issues listed by the Planning Commission for suspending SMP 102 with the exception of submitting a revised permit and reclamation plan application. From my client's perspective, after correcting the outstanding violations, its permit was suspended because it refused to forfeit its permit. There is no reason to require a revised permit because the existing permit is valid and can be fully complied with. Further, suspension of the mine permit based on Double D Mining's refusal to obtain a revised permit, when there is no legal basis for this request, is a taking of property, in violation of the U.S. and California Constitutions.

Accordingly, Double D Mining requests that you reverse the suspension of its permit, and find that rather than a new/revised mining permit, a substantial conformance can be processed to clarify any maps or reclamation plan requirements.

Best regards,

MITCHELL CHADWICK LLP



Christopher L. Powell

CLP