

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



ITEM: 3.18
(ID # 24324)

MEETING DATE:
Tuesday, March 12, 2024

FROM : TLMA-PLANNING:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/PLANNING:
PAR210273 - Robertson's Vesting Mine Determination Findings - Not a project under CEQA.
District 2. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) **ADOPT** Resolution Number 2024-072 Findings to Support Robertson's Ready Mix Vested Rights Determination Request (PAR No. 210273);
- 2) **APPROVE** a notice of determination of vesting rights for Robertson's Ready Mix on a total of 782.7 acres, pursuant to the facts, findings, and testimony within this report; and,
- 3) **CONFIRM** that the vested activities related to mining include aggregate mining (which may include excavation, crushing, washing, sorting, stockpiling, loading, transporting, and otherwise managing an aggregate surface mine) including using equipment as reasonable and necessary so long as such use does not affect a prohibited intensification or expansion of the use.

ACTION:Policy


John Hildebrand, Planning Director 3/7/2024

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Jeffries and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Perez and Gutierrez
Nays: None
Absent: None
Abstained: Washington
Date: March 12, 2024
xc: Planning

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

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| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost |
|---|-----------------------------|--------------------------|-----------------------------------|---------------------|
| COST | \$0 | \$0 | \$0 | \$0 |
| NET COUNTY COST | \$0 | \$0 | \$0 | \$0 |
| SOURCE OF FUNDS: 100% DBF Funded | | | Budget Adjustment: No | |
| | | | For Fiscal Year: 2024/2025 | |

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Robertson’s Ready Mix (RRM) operates an aggregate surface mining operation on approximately 132 acres of land located immediately east of the Dos Lagos Golf Course and south of Cajalco Road, along the Temescal Wash. RRM conducts these operations on land leased from Cajalco Road Quarry, LLC and Corona Cajalco Road Development LP and also conducts operations on parcels owned by third parties. The mining operation includes extraction of aggregate material from the hillside and conveying the excavated and initially crushed material to the existing processing area. Aggregate material is then fed to the crushing and screening plant for sorting, sizing, crushing of oversized rock, and stockpiling of the finished materials. Equipment used at the site in the mining operations includes mobile equipment such as dozers and front-end loaders as well as the fixed processing plant. This operation has an approved Reclamation Plan 118 (as amended in 2020 by Substantial Conformance No. 4).

In December 2021, RRM applied to the County for a Determination of Vested Rights (Request) under section 2776 of the Surface Mining and Reclamation Act and Riverside County Ordinance No. 555. RRM requested that its “previously confirmed vested right (to mine aggregate and conduct related surface mining operations, across approximately **132 acres** of RRM’s property) be confirmed to include the remaining area of RRM’s contiguous mining property, which encompasses approximately 792.22 total acres of land, colloquially known as the Hubbs Harlow Quarry (‘HH VRA’), inclusive of the previously confirmed 132 acre vested right area.”

This item was initially scheduled for the March 28, 2023 Board of Supervisors hearing. The following summary outlines this item’s relevant hearing dates and outcomes:

- 1) March 28, 2023 – initial public hearing date. Item was continued.
- 2) May 2, 2023 – item was presented to the Board by staff and applicant. Board took public comment and closed public hearing. Item was continued.
- 3) June 27, 2023 – no discussion. Item was continued.
- 4) August 1, 2023 – no discussion. Item was continued.

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- 5) February 6, 2024 – final hearing date.

Determination of Vesting

At the February 6, 2024 Board of Supervisors hearing, the Board approved a determination of vesting rights by a vote of 3 to 1, with one Supervisor abstaining, for the entire 792.22 acres of land. The following findings, as stated in Resolution No. 2024-072, are in support of this vesting determination:

A. Environmental Findings:

1. The Board's determination of vested rights is not a project for purposes of the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. (CEQA). CEQA applies to discretionary activities. The determination of a vested right is not a discretionary project for purposes of CEQA because the standards that govern the determination of vested rights do not provide the County with the authority or discretion to condition, modify, or deny the application based on environmental concerns.

B. Land Use Findings:

1. The HH VRA has a General Plan Land Use Designation of Open Space – Minerals (OS-MIN), Open Space – Rural (OS-RUR), and Open Space – Water (OS-W) within the Temescal Canyon Area Plan Boundary. The HH VRA is not located within a Specific Plan or Community Plan. Portions of the HH VRA are within the Mineral Resources (M-R), Mineral Resources and Related Manufacturing (M-R-A), and Natural Assets (N-A) zones. Within these zones, surface mining and associated reclamation activities are authorized uses, consistent with Ordinance No. 348. As determined from the Board of Supervisors, the HH VRA is subject to Vested Rights; therefore, surface mining activities and associated operations are a legal, non-conforming use, and the Board's determinations herein recognize that continued surface mining activities within the HH VRA, by virtue of the Vested Rights, do not require a separate conditional use or surface mining permit under Ordinance No. 555, and that reclamation of any mining-related disturbance created after January 1, 1976 is required to be conducted pursuant to an approved reclamation plan, consistent with the requirements of SMARA. No surface mining activities or ground disturbance shall occur outside of the boundaries of the approximately 132 acres of RCL 118S4 until an approved Reclamation Plan has been obtained.
2. Pursuant to Ordinance No. 555, Section 17 (as amended through Ordinance No. 555.20) and SMARA Section 2776, CRQ, as landowner and mineral estate owner of the HH VRA, maintains the Vested Rights to continue conducting surface mining activities and therefore, a surface mining permit is not required. The Vested Rights have been previously recognized by the County in various prior approvals, including

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but not limited to, CU 1146 (1970); Reclamation Plan 118 (1982) ("RP 118"); RCL 118S1 (2013); RCL 118S2 (2016); RCL 118S4 (2020); and by the County and the Superior Court for the County and the Riverside in the Amended Judgements (2013, 2016) which are described in the findings contained therein. The facts underlying these previous determinations and findings are documented by materials reviewed and considered by the County and the Board, and included in the Record, including but not limited to various documents submitted by RRM detailing the existence, nature, and scope of the vested right, and testimony and other materials presented before the Board at its meeting on May 2, 2023.

C. Findings Regarding Location and Ownership:

1. As of January 31, 1949, the Vested Rights were established on property owned, at that time, by Leilamae Harlow, and as identified in the Request's Figure B-1.1. This vested property comprised the entirety of Section 15 and the south half of Section 10, Township 4 South, Range 6 West, in Riverside County, including the mineral estate encompassing rock, sand, and gravel, among other mineral materials, as well as rights to surface use easements, as demonstrated by the information provided in the Request, as supplemented, and accompanying exhibits, including Appendix A and Supplemental Tables A-1 – A-4. RRM, as the lessee of CRQ, is the successor-in-interest to that property, a portion of which comprises the HH VRA subject to this Request, and more specifically identified in the Request's Revised Figure B-1.2, as well as Table A-1 and Supplemental Tables A-1 – A-4, and as demonstrated by the information provided in the Request, as supplemented, and accompanying exhibits.

D. Findings Acknowledging Previously Confirmed Vested Rights:

1. The County has previously recognized and determined that the Vested Rights exist on approximately 132 acres of RRM's leasehold within the HH VRA, specifically, the area encompassed within the boundaries of RCL 118S4, consistent with the County's prior approvals of permits and reclamation plans for portions of CRQ's property, including CU 1146, RP 118, RCL 118S1, RCL 118S2, RCL 118S4, as well as the stipulations and court judgments in the Amended Judgments.

E. Findings Regarding Geographic Scope and Scale of Vested Rights:

1. The Record demonstrates that portions of the area within the HH VRA were subject to surface mining activities, including rock quarry operations, clay mines, gravel pits, haul roads, and exploration activities, prior to January 31, 1949. The Record demonstrates that as of January 31, 1949, there was an objective, demonstrated intent to mine the entire HH VRA, based on the extent of actual surface mining activities that occurred throughout property, and on documentation provided in the

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Record demonstrating an objective intent to mine the entire property. Consistent with California law regarding the establishment of a vested right to mine, the Record provides a preponderance of evidence that the Vested Rights encompass the entirety of the HH VRA.

2. The Record further demonstrates that, subsequent to January 31, 1949, surface mining activities sufficiently occurred on portions of the property, including within the HH VRA, without additional County approvals being required or obtained, demonstrating the continued exercise of the Vested Rights and development of the HH VRA as a legally non-conforming surface mining use, further corroborating the existence of Vested Rights.
3. Based on the forgoing facts, the Vested Rights subject to the Request include an additional 650.7 acres of land within the HH VRA, which was not previously subject to a County determination of vested rights and lies adjacent to but outside the boundary of RCL 118-S4, as more fully described in the Request, Revised Figure B-1.2, Table A 1, and Supplemental Tables A-1 – A-4. Accordingly, the total area within the HH VRA that is subject to the Vested Rights is 782.7 acres.

F. Findings Regarding Lack of Substantial Change to Operations:

1. Recognizing that the Vested Rights, including geographic scope, were established as of January 31, 1949, and based on the evidence in the Record, the Board's determination herein that (1) 650.7 acres of the HH VRA not previously subject to prior County vesting determinations is encompassed by and subject to the Vested Rights, does not constitute a substantial change to the established Vested Rights; and (2) the continuation of surface mining activities, currently located within the approximately 132 acres of the HH VRA subject to RCL 118S4, on to other areas throughout the HH VRA also would not constitute a substantial change.

G. Findings Regarding No Impermissible Intensification:

1. Based on evidence in the Record, mineral production from the HH VRA was consistent with then-present market conditions, and that production from the HH VRA within the existing RCL 118S4 mining area through to the date of these Findings reflects natural market growth and/or replacement or modernization of equipment and operations and is not the result of impermissible intensification of surface mining activities within the HH VRA.

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H. Findings Regarding a Lack of Abandonment or Waiver of Vested Rights:

1. Based on evidence in the Record, including percipient witness testimony, the Vested Rights have not been discontinued, waived, abandoned, or extinguished, and, recognizing the burden of proof would be on a person or entity seeking to prove discontinuance, waiver, abandonment or extinguishment of the Vested Rights, no clear and convincing evidence has been presented to the County, or that otherwise is in the Record, or raised during the May 2, 2023 Public Hearing, including oral testimony and presentation documents provided to the Board, that would substantiate that there was ever a knowing intent to abandon the known Vested Rights, or that any overt act had ever been undertaken to abandon the Vested Rights.

2. Therefore, no owner or predecessor-in-interest to the HH VRA has ever knowingly or intentionally abandoned the known Vested Rights and, accordingly, that said Vested Rights, encompassing the 782.7 acres of the HH VRA, have never been discontinued, waived, abandoned, or extinguished.

EXHIBITS:

Exhibit A: Resolution No. 2024-072



Jason Farin, Principal Management Analyst 3/7/2024



Aaron Gettis, Chief Deputy County Counsel 3/7/2024

2 **RESOLUTION NO. 2024-072**
3 **FINDINGS TO SUPPORT ROBERTSON'S READY MIX**
4 **VESTED RIGHTS DETERMINATION REQUEST**
5 **PAR 210273**

6 **WHEREAS**, Robertson's Ready Mix (RRM) operates an aggregate surface mining operation on
7 approximately 132 acres of land located immediately east of the Dos Lagos Golf Course and south of
8 Cajalco Road, along the Temescal Wash; and,

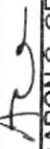
9 **WHEREAS**, RRM leases approximately 792.22 acres which encompasses the existing aggregate
10 surface mining operation; and,

11 **WHEREAS**, the County previously recognized RRM's ongoing mining operations and vested right
12 on the existing 132 acres of land, including (i) Reclamation Plan 118, substantial Conformance 1 ("RCL
13 118S1) (2013); (ii) Reclamation Plan 118, substantial conformance 2 ("RCL 118 S2") (2017), RCL 118S4
14 (2020), as well as the First and Second Amendments to the Stipulated Settlement Agreement and Judgment
15 Thereon, in Case No. RIC 387195 by the Superior Court for Riverside County, on August 28, 2013, and
16 July 26, 2016 (prior Vested Determination); and,

17 **WHEREAS**, the County as part of the prior Vested Determination, found that surface mining
18 activities undertaken during mining and reclamation, including crushing, screening, processing, trucking,
19 mining, and related activities historically ongoing, which further the existing quarry operations, including
20 a processing plant, screens, and conveyors, are within the scope of the Vested Rights; and,

21 **WHEREAS**, On December 16, 2021, RRM, as the leaseholder to approximately 782.7 acres of
22 property more particularly described in Revised Figure B-1.2, as well as Table A-1 and Supplemental
23 Tables A-1 – A-4, under lease from the landowners Cajalco Road Quarry, LLC and Corona Cajalco Road
24 Development LP (collectively "CRQ"), submitted the subject Request for Determination of Vested Rights
25 ("Request"), with written authorization from CRQ, as PAR 210273;

26 **WHEREAS**, the Request was submitted consistent with Section 2776 of the Surface Mining and
27 Reclamation Act of 1975, California Public Resources Code section 2770 *et seq.* ("SMARA") and Riverside
28 County Ordinance No. 555 Section 17; and,

FORM APPROVED COUNTY COUNSEL
BY:  AARON C. GETTIS
DATE: 3-8-24

1 **WHEREAS**, in the Request as amended, RRM asked for the County to determine that the Vested
2 Rights encompass 650.7 acres not previously subject to a County determination for a total vested area of
3 782.7 acres (“HH VRA”); and,

4 **WHEREAS**, the Request including the following submitted documents:

- 5 a. The Request, consisting of the 123-page narrative and legal standards document;
- 6 b. Required County materials, including (i) a cover letter, dated December 16, 2021; (ii) the
7 County's General Application Form; (iii) the Property Owner authorization form, signed by
8 CRQ; and (iv) a Request for Pre-Application Review;
- 9 c. Appendix A to the Request, including (i) a title history of the HH VRA; (ii) Table A-1, providing
10 all assessor's parcel numbers subject to the Request; (iii) 34 exhibits, including recorded
11 documents and a declaration by Christine Goeyvaerts, dated December 15, 2021; and (iv) and
12 index of documents. Appendix A includes at least 1,811 pages of documents relating to title.
- 13 d. Appendix B to the Request, submitted December 16, 2021, and amended January 12, 2022,
14 including (i) Table B-1, describing 54 identifiable surface mining activities, mining support
15 activities, or exploration activities; (ii) Figures B-1.1 – B-1.3, depicting the vested area as of
16 1949 and 2021; (iii) Figures B-2.1 – B-2.7, depicting the ownership history of the HH VRA
17 from 1867-2021; (iv) Figures B-3.1 – B-3.9, depicting surface mining disturbances within the
18 HH VRA and regionally; (v) Figures B-4.1 – B-4.20, depicting detailed surface mining
19 disturbances within and adjacent to the HH VRA; (vi) Figures B-5.1 – B-5.10, depicting zoning
20 designations, historic mining districts, records of survey, exploration and development
21 activities; (vii) Figures B-6.1 – B-6.7, depicting comparison between historic aerial photographs
22 and LiDAR images; and (viii), depicting historic image locations. Appendix B contains a total
23 of 68 figures.
- 24 e. Appendix C to the Request, comprising the historical information, including (i) Exhibits C-1.1
25 – C-1.10, historical documents relating to prior County approvals; (ii) Exhibits C-2.1 – C-2.22,
26 historical documents produced by government agencies, including the California State Mining
27 Bureau, California Department of Natural Resources, California Department of Conservation,
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1 United States Geological Survey, and United States Bureau of Mines, as well as other private
2 mining and engineering publications; (iii) Exhibits C-3.1 – C.114, historical newspaper and
3 periodical public; (iv) Exhibits C-4.1 – C-4.5, historical lawsuit documents and private
4 corporate records; and (v) Exhibits C-5.1 – C-5.13, historical aerial images. Appendix C contains
5 a total of 163 exhibits, including over 5,853 pages.

6 f. Appendix D, which includes a technical evaluation of historical mining activities, completed by
7 geologists of Terracon Consultants, Inc., totaling 15 pages.

8 **WHEREAS**, on September 22, 2022, RRM submitted supplemental information regarding title
9 within the HH VRA, at the request of the County, including (i) a cover letter summarizing the supplemental
10 information; (ii) a supplemental memorandum regarding vested rights abandonment; (ii) Supplemental
11 tables A-1 through A-4, detailing parcels subject to the Request; (iii) Supplemental Table A-5, removing
12 20 parcels, totaling 9.52 acres, from the Request and reserving rights to seek vesting of these parcels at a
13 future date; (iv), a revised parcel map of the property encompassed within the HH VRA; (v) revised figures
14 B-1.2, B-1.3, B-2.7, B-3.9, and B-5.9; and (vi) an additional 219 recorded deeds as exhibits regarding title
15 and ownership of the mineral estate; and,

16 **WHEREAS**, the Board of Supervisors conducted the first public hearing on February 28, 2023,
17 consistent with the requirements articulated within *Calvert v. County of Yuba* (2006) 145 Cal.App.4th 613
18 and the County's procedures in Ordinance No. 555, as well all applicable evidentiary standards, including
19 those standards articulated in *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th
20 533; and,

21 **WHEREAS**, the Board of Supervisors continued the public hearing to May 2, 2023; and,

22 **WHEREAS**, during the public hearing on May 2, 2023, RRM submitted additional documents, in
23 response to the County's staff report, including an additional thirteen (13) historical exhibits, three (3)
24 sworn, percipient witness declarations, and seven supplemental figures, as well as related PowerPoint
25 presentations in support of its testimony at the public hearing, in addition to oral testimony as part of the
26 public hearing; and,

1 **WHEREAS**, following the conclusion of the public hearing on May 2, 2023, the factual record was
2 closed, and no additional information was submitted or considered by the Board. Based on concerns
3 articulated by the Pechanga Band of Indians ("Tribe"), and with RRM's consent, the Board continued its
4 consideration of RRM's Request to February 6, 2024, with direction to RRM and the Tribe to reach an
5 agreement separate from the merits of the Vested Rights determination; and,

6 **WHEREAS**, the above identified documents, along with other documents submitted into the record
7 on or prior to May 2, 2023, and the oral testimony given by RRM, the County, and members of the public
8 on May 2, 2023 (including documents and presentations submitted concurrently therewith), comprise the
9 entire administrative record ("Record"), on which the Board's decision and these findings are based; and,

10 **WHEREAS**, on February 5, 2024, the Tribe submitted into the Record a letter changing its prior
11 stated position on the HH VRA from oppose to neutral, and both the Tribe and RRM gave public testimony
12 at the County's public hearing held on February 6, 2024; and,

13 **WHEREAS**, on February 6, 2024, the Board determined that RRM had met its burden of proof by
14 a preponderance of the evidence and had demonstrated that the Vested Rights encompass acreage requested
15 by RRM in its Request, as amended, consisting of 650.7 acres of the HH VRA not previously subject to a
16 prior County determination of the Vested Rights, and that, accordingly, the 782.7 acre area within the HH
17 VRA is subject to the Vested Rights, as identified in Revised Figure 1.2 of RRM's Request, Table A-1, and
18 Supplemental Tables A-1 – A-4, and incorporated by reference hereto; and,

19 **WHEREAS**, the Board of Supervisors determined that RRM has meet its burden, by a
20 preponderance of the evidence, and making the findings set forth herein, the Board of Supervisors analyzed
21 and considered the entirety of the Record; now, therefore,

22 **BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED** by the Board of Supervisors
23 of the County of Riverside, in regular session assembled on March 12, 2024, that:

24 A. Environmental Findings:

- 25 1. The Board's determination of vested rights is not a project for purposes of the California
26 Environmental Quality Act, California Public Resources Code Section 21000 *et seq.*
27 (CEQA). CEQA applies to discretionary activities. The determination of a vested right
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1 is not a discretionary project for purposes of CEQA because the standards that govern
2 the determination of vested rights do not provide the County with the authority or
3 discretion to condition, modify, or deny the application based on environmental
4 concerns.

5 B. Land Use Findings:

6 1. The HH VRA has a General Plan Land Use Designation of Open Space – Minerals (OS-
7 MIN), Open Space – Rural (OS-RUR), and Open Space – Water (OS-W) within the
8 Temescal Canyon Area Plan Boundary. The HH VRA is not located within a Specific
9 Plan or Community Plan. Portions of the HH VRA are within the Mineral Resources (M-
10 R), Mineral Resources and Related Manufacturing (M-R-A), and Natural Assets (N-A)
11 zones. Within these zones, surface mining and associated reclamation activities are
12 authorized uses, consistent with Ordinance No. 348. As determined from the Board of
13 Supervisors, the HH VRA is subject to Vested Rights; therefore, surface mining
14 activities and associated operations are a legal, non-conforming use, and the Board's
15 determinations herein recognize that continued surface mining activities within the HH
16 VRA, by virtue of the Vested Rights, do not require a separate conditional use or surface
17 mining permit under Ordinance No. 555, and that reclamation of any mining-related
18 disturbance created after January 1, 1976 is required to be conducted pursuant to an
19 approved reclamation plan, consistent with the requirements of SMARA. No surface
20 mining activities or ground disturbance shall occur outside of the boundaries of the
21 approximately 132 acres of RCL 118S4 until an approved Reclamation Plan has been
22 obtained.

23 2. Pursuant to Ordinance No. 555, Section 17 (as amended through Ordinance No. 555.20)
24 and SMARA Section 2776, CRQ, as landowner and mineral estate owner of the HH
25 VRA, maintains the Vested Rights to continue conducting surface mining activities and
26 therefore, a surface mining permit is not required. The Vested Rights have been
27 previously recognized by the County in various prior approvals, including but not limited
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1 to, CU 1146 (1970); Reclamation Plan 118 (1982) ("RP 118"); RCL 118S1 (2013); RCL
2 118S2 (2016); RCL 118S4 (2020); and by the County and the Superior Court for the
3 County and the Riverside in the Amended Judgements (2013, 2016) which are described
4 in the findings contained therein. The facts underlying these previous determinations and
5 findings are documented by materials reviewed and considered by the County and the
6 Board, and included in the Record, including but not limited to various documents
7 submitted by RRM detailing the existence, nature, and scope of the vested right, and
8 testimony and other materials presented before the Board at its meeting on May 2, 2023.

9 C. Findings Regarding Location and Ownership:

- 10 1. As of January 31, 1949, the Vested Rights were established on property owned, at that
11 time, by Leilamae Harlow, and as identified in the Request's Figure B-1.1. This vested
12 property comprised the entirety of Section 15 and the south half of Section 10, Township
13 4 South, Range 6 West, in Riverside County, including the mineral estate encompassing
14 rock, sand, and gravel, among other mineral materials, as well as rights to surface use
15 easements, as demonstrated by the information provided in the Request, as
16 supplemented, and accompanying exhibits, including Appendix A and Supplemental
17 Tables A-1 – A-4. RRM, as the lessee of CRQ, is the successor-in-interest to that
18 property, a portion of which comprises the HH VRA subject to this Request, and more
19 specifically identified in the Request's Revised Figure B-1.2, as well as Table A-1 and
20 Supplemental Tables A-1 – A-4, and as demonstrated by the information provided in the
21 Request, as supplemented, and accompanying exhibits.

22 D. Findings Acknowledging Previously Confirmed Vested Rights:

- 23 1. The County has previously recognized and determined that the Vested Rights exist on
24 approximately 132 acres of RRM's leasehold within the HH VRA, specifically, the area
25 encompassed within the boundaries of RCL 118S4, consistent with the County's prior
26 approvals of permits and reclamation plans for portions of CRQ's property, including
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1 CU 1146, RP 118, RCL 118S1, RCL 118S2, RCL 118S4, as well as the stipulations and
2 court judgments in the Amended Judgments.

3 E. Findings Regarding Geographic Scope and Scale of Vested Rights:

4 1. The Record demonstrates that portions of the area within the HH VRA were subject to
5 surface mining activities, including rock quarry operations, clay mines, gravel pits, haul
6 roads, and exploration activities, prior to January 31, 1949. The Record demonstrates
7 that as of January 31, 1949, there was an objective, demonstrated intent to mine the entire
8 HH VRA, based on the extent of actual surface mining activities that occurred
9 throughout property, and on documentation provided in the Record demonstrating an
10 objective intent to mine the entire property. Consistent with California law regarding the
11 establishment of a vested right to mine, the Record provides a preponderance of evidence
12 that the Vested Rights encompass the entirety of the HH VRA.

13 2. The Record further demonstrates that, subsequent to January 31, 1949, surface mining
14 activities sufficiently occurred on portions of the property, including within the HH
15 VRA, without additional County approvals being required or obtained, demonstrating
16 the continued exercise of the Vested Rights and development of the HH VRA as a legally
17 non-conforming surface mining use, further corroborating the existence of Vested
18 Rights.

19 3. Based on the forgoing facts, the Vested Rights subject to the Request include an
20 additional 650.7 acres of land within the HH VRA, which was not previously subject to
21 a County determination of vested rights and lies adjacent to but outside the boundary of
22 RCL 118-S4, as more fully described in the Request, Revised Figure B-1.2, Table A 1,
23 and Supplemental Tables A-1 – A-4. Accordingly, the total area within the HH VRA
24 that is subject to the Vested Rights is 782.7 acres.

25 F. Findings Regarding Lack of Substantial Change to Operations:

26 1. Recognizing that the Vested Rights, including geographic scope, were established as of
27 January 31, 1949, and based on the evidence in the Record, the Board's determination
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1 herein that (1) 650.7 acres of the HH VRA not previously subject to prior County vesting
2 determinations is encompassed by and subject to the Vested Rights, does not constitute
3 a substantial change to the established Vested Rights; and (2) the continuation of surface
4 mining activities, currently located within the approximately 132 acres of the HH VRA
5 subject to RCL 118S4, on to other areas throughout the HH VRA also would not
6 constitute a substantial change.

7 G. Findings Regarding No Impermissible Intensification:

8 1. Based on evidence in the Record, mineral production from the HH VRA was consistent
9 with then-present market conditions, and that production from the HH VRA within the
10 existing RCL 118S4 mining area through to the date of these Findings reflects natural
11 market growth and/or replacement or modernization of equipment and operations and is
12 not the result of impermissible intensification of surface mining activities within the HH
13 VRA.

14 H. Findings Regarding a Lack of Abandonment or Waiver of Vested Rights:

15 1. Based on evidence in the Record, including percipient witness testimony, the Vested
16 Rights have not been discontinued, waived, abandoned, or extinguished, and,
17 recognizing the burden of proof would be on a person or entity seeking to prove
18 discontinuance, waiver, abandonment or extinguishment of the Vested Rights, no clear
19 and convincing evidence has been presented to the County, or that otherwise is in the
20 Record, or raised during the May 2, 2023 Public Hearing, including oral testimony and
21 presentation documents provided to the Board, that would substantiate that there was
22 ever a knowing intent to abandon the known Vested Rights, or that any overt act had
23 ever been undertaken to abandon the Vested Rights.

24 2. Therefore, no owner or predecessor-in-interest to the HH VRA has ever knowingly or
25 intentionally abandoned the known Vested Rights and, accordingly, that said Vested
26 Rights, encompassing the 782.7 acres of the HH VRA, have never been discontinued,
27 waived, abandoned, or extinguished.

1 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the Vested Rights conferred to
2 RRM is consistent with the intent of Ordinance No. 555.

3 **BE IT FURTHER RESOLVED** by the Board of Supervisors that it has reviewed and considered
4 all documents referenced as part of the Record and has determined RRM has established a Vested Right for
5 the 782.7-acre area within the HH VRA, as identified in Revised Figure 1.2 of RRM's Request, Table A-1,
6 and Supplemental Tables A-1 – A-4, and incorporated by reference hereto.

7 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the custodians of the documents
8 upon which this decision is based are the Clerk of the Board of Supervisors and the County of Riverside
9 Planning Department and that such documents are located at 4080 Lemon Street, 12th Floor, Riverside,
10 California, 92501.

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14 ROLL CALL:

- 15 Ayes: Jeffries, Spiegel, Perez, and Gutierrez
16 Nays: None
17 Absent: None
18 Abstained: Washington

19
20
21 The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors
22 on the date therein set forth.

23 KIMBERLY A. RECTOR, Clerk of said Board

24 By: Naomy Li
25 Deputy