WHEREAS, on November 24, 2014 a Reclamation Plan application for reclamation of a grading and mining violation on APN 008-330-011 was submitted; and

WHEREAS, the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate, including the Department of Conservation, Office of Mine Reclamation; and

WHEREAS, the applicant submitted revised plans and supplemental study information in response to agency and county comments and in support of the proposed reclamation plan. The most recent submittal was on November 23, 2015; and

WHEREAS, an Notice of Exemption was prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act; and local administrative procedures; and

WHEREAS, a duly noticed hearing was scheduled for the Planning Commission for the 4th day of December, 2015; and

WHEREAS, a staff report packet was prepared for the Planning Commission's consideration; and

WHEREAS, a public hearing was conducted on December 4, 2015 and the Planning Commission considered all information available in the record, including the staff report packet and public comments.

NOW, BE IT THEREFORE RESOLVED THAT, the Mariposa County Planning Commission does hereby approve Reclamation Plan no. 2014-131 with the amended reclamation timeline per the memo to the Planning Commission dated December 3, 2015.

BE IT FURTHER RESOLVED THAT, the Planning Commission of the County of Mariposa does hereby approve a Notice of Exemption for Reclamation Plan No. 2014-131.

BE IT FINALLY RESOLVED THAT, the Mariposa County Planning Commission's actions are based upon the findings set forth in Exhibit 1 and subject to the conditions set forth in Exhibit 2.

ON MOTION BY Commissioner Bernikoff, seconded by Commissioner Becker, this resolution is duly passed and adopted this 4th day of December 2015 by the following vote:
AYES: Becker, Bernikoff, Harris, Harter, Kennec

NOES: None

EXCUSED: None

ABSTAIN: None

Attest:

Susan Hunter
Secretary to the Mariposa County Planning Commission

[Signature]

Larry Harris, Chair
Mariposa County Planning Commission
Exhibit 1
FINDINGS for Reclamation Plan No. 2014-131

1. FINDING: The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the County’s General Plan as a whole and will not obstruct the achievement of the Plan’s purpose.

EVIDENCE: The project is to remedy a violation where a land use activity for mining was conducted that did not meet the policy and permitting requirements of the County General Plan, Zoning Ordinance, Mining Ordinance and Surface Mining and Reclamation Act (SMARA). The completion of the reclamation plan and therefore mining violation brings the property into consistency with policies, ordinances and regulations.

2. FINDING: The proposed reclamation plan will not be detrimental to the public health, safety or general welfare.

EVIDENCE: The project is required to maintain compliance with the National Pollution Discharge Elimination System Stormwater Pollution Prevention Plan, including erosion controls and revegetation, compliance with the State Department of Fish and Wildlife Streambed Alteration Agreement requirements, and County regulations including Health Department Air Pollution Control District requirements. All are designed to mitigate any detrimental impact to public health safety and general welfare. The reclamation activity reduces steep slopes through recountouring and minimizes erosion potential through revegetation of degraded slopes thereby improving the site conditions.

3. FINDING: The surface mining operation area will be reclaimed thereby eliminating a use and impact that was established without obtaining the appropriate permits within the zone.

EVIDENCE: The subject site is zoned Mountain Preserve and within the Natural Resources Land Use Classification. Mining uses are only allowed when in compliance with SMARA and approved through County application and permitting processes. Since this did not occur, the remedy of the violation brings the land back to a reclaimed state and no longer out of compliance for that activity/use.

4. FINDING: The reclamation plan will adequately provide for the protection and subsequent beneficial use of the lands.
EVIDENCE: The project site will be reclaimed and restored to a condition that is compatible with, and blends with the surrounding natural environment, topography and other resources. Disturbed areas will be reseeded and allowed to establish themselves for natural vegetation and potentially seasonal rangeland. All mined areas will be reclaimed to a usable condition.

Exhibit 2
CONDITIONS for Reclamation Plan No. 2014-131

1. All work described by and in the approved Reclamation Plan Submittals shall be completed and approved by the appropriate agency. The work shall be done in compliance with the approved project schedule, dated 11/23/15. It shall be the applicant’s responsibility to coordinate any required inspections and to provide to the Planning Department evidence of agency sign-off. The Planning Department may require the project engineer to conduct a final site inspection to verify compliance with the approved submittal.

2. Prior to commencing any activities associated with Reclamation Plan No. 2014-131 the applicant shall obtain a new (or amended) General Industrial Storm Water Permit from the Regional Water Quality Control Board to reflect updated timeframes for activity. The Storm Water Pollution Prevention Plan (SWPPP) shall be in compliance with guidelines established by the State Water Resources Control Board. The applicant shall submit the approved permit and SWPPP to the Planning Department prior to commencement of activities. Installation of silt fence is allowed immediately.

3. Prior to commencement of reclamation activities (other than silt fence installation), the streambed alteration agreement must be in completed. Submittal of a copy of the approved CDFW Agreement must be received by the Planning Department prior to commencement of activities.

4. The applicant shall be required to consult with the Mariposa County Air Pollution Control District prior commencing any activities for Reclamation Plan No. 2014-131. Verification that this condition has been met shall be required by the Planning Department prior to commencement of work for the reclamation plan.

5. The operations shall not create a public nuisance with regard to dust or noise emanating from the site.
6. The applicant shall provide financial assurances for the operation to ensure reclamation is performed. The applicant shall choose the form of the financial assurance, as allowed by SMARA, in the amount of the approved estimate of reclamation costs provided in the revised reclamation plan, and shall deposit the financial assurance with the County prior to commencement of any activity occurring on the site for this reclamation plan. The financial assurance mechanism shall be approved by County Counsel and the Planning Director prior to acceptance by the County, and shall be in effect for the duration of the operation and any additional period until reclamation is completed. The County may require adjustment of the financial assurance annually. The financial assurance shall be returned to the applicant, upon successful completion and sign-off of the reclamation activities.

7. The applicant shall be required to schedule a commencement inspection and ongoing inspections of a frequency of no less than once per quarter until completion of the reclamation activities, and no less than once a year for completion of the recommended revegetation monitoring. The inspection schedule shall be approved by the Planning Director. The inspections of the reclamation activities with the Planning Department are to ensure that the operation is in compliance with the reclamation plan and conditions of approval. Costs for inspections shall be paid by the applicant.

8. All fees associated with the processing of this application shall be paid prior to commencement of the reclamation activities. All fees associated with the inspections shall be paid prior to release of the financial assurance.

9. The reclamation operation shall, at all times, be conducted in accordance with the approved Reclamation Plan; no mining activities are approved or authorized.

10. Hours of operation for the reclamation activities shall not exceed 7 am to 6 pm, Monday through Friday and 9 am to 5 pm on Saturday and Sunday.

11. In the event that documented noise complaints are received from property owners or residents within a ½ mile radius of the site, the applicant/operator shall be required to submit a noise study/acoustical analysis prepared by a person qualified in environmental noise assessment and acoustic analysis to determine:

- Noise level measurements to adequately describe local conditions prior to events at property lines
- Noise level measurements during events at property lines
- Identification of best sound management practices for avoiding impacts to off-site properties
- Restrictions on the level of amplification of sound systems
- Mitigation measures to reduce noise to acceptable levels
The applicant/operator will be responsible for all costs associated with this requirement, including the implementation of any suggested mitigation measures made by the acoustical consultant.

12. Prior to commencement of any activities (other than silt fence installation), consultation with the American Indian Counsel of Mariposa County aka Southern Sierra Miwuk Nation, shall be required. A letter from the tribe to verifying consultation was conducted, or consult participation by County Planning staff shall be deemed verification that this condition has been met.

13. Grading, excavation, or any activity that involves ground disturbance necessary to implement the reclamation plan, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning in consultation with a representative of the American Indian Council of Mariposa County has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and American Indian Council of Mariposa County shall be notified should human remains be discovered. Representatives of the American Indian Council of Mariposa County shall be requested to be on-site during disturbance and/or removal of human remains. Should any Native American artifact or human remains be discovered, a representative of the American Indian Council of Mariposa County shall be on-site to monitor the remainder of excavation activities.

14. Optional Step. You may opt to have the Planning Department file the Notice of Exemption (NOE). This filing notifies the public that Mariposa County has determined that the California Environmental Quality Act (CEQA) does not apply to the approval of the Reclamation Plan. While filing is not required, it is advisable if you want to minimize legal exposure to your project, since the action of filing shortens the statute of limitations on appeals from 180-days to 35-days. If you opt to file, then the NOE must be posted within five days of December 4, 2015. The County Clerk’s Office requires a fee of $50.00 for the filing of the NOE for your project. If you opt to file, please submit cash or a money order made payable to the Mariposa County Clerks Office to our office for that amount within 4-days of the approval of your Reclamation Plan (the County Clerk will not accept personal checks for this fee).
15. The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner’s project is subject to that other governmental entity’s approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.