MARIPOSA COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 89-625

A RESOLUTION DENYING AN APPEAL OF THE PLANNING COMMISSION'S
ACTION ADOPTING A NEGATIVE DECLARATION FOR MINING
PERMIT/RECLAMATION PLAN 89-2, COLONY PACIFIC, APPLICANT.

WHEREAS, the County of Mariposa has adopted a Surface
Mining Ordinance implementing the provisions of the Surface
Mining and Reclamation Act of California, and

WHEREAS, the County of Mariposa has adopted an ordinance
implementing the California Environmental Quality Act, and

WHEREAS, in accordance with the County's Surface Mining
and CEQA provisions, the Planning Commission is responsible for
consideration of mining permits when a negative declaration is
utilized, and

WHEREAS, the Planning Commission adopted a negative
declaration for this application, and

WHEREAS, the Planning Commission's action on the
negative declaration was appealed by Barry Cunningham,
representing the Mariposa Downwind Association, and

WHEREAS, in accordance with the CEQA and Surface Mining
Ordinance procedure, the Mariposa County Board of Supervisors is
designated as the appeal body for environmental determinations
of the Planning Commission, and

WHEREAS, the Mariposa County Board of Supervisors
considered the appeal in a duly noticed public hearing that
provided the appellant and other parties in interest an
opportunity to present the basis for the appeal.

NOW THEREFORE, the Board of Supervisors hereby denies the appeal and upholds the adoption of a negative declaration for this project based upon the following findings:

1. The Planning Department prepared an initial study for the project based upon consultation with all affected agencies. The initial study identified potentially significant effects on the environment, however, the project was amended to avoid the effects or reduce the effects to a point where clearly no significant effects would occur.

2. The proposed negative declaration was prepared based upon the initial study and circulated to all local agencies and State agencies through the State Clearinghouse. No concerns regarding the negative declaration were identified.

3. A public review period and public hearing was held on the proposed negative declaration in accordance with the requirements of State law and County ordinance.

4. The initial study and negative declaration contains a monitoring program to ensure implementation of the identified mitigation measures in accordance with section 21082 of the Public Resources Code.

5. The record of the Planning Commission hearing reflects that no substantial evidence that the project may have a significant effect on the environment was provided.

6. The Board of Supervisors considered testimony at the
public hearing held on the appeal of the negative declaration and determined that no substantial evidence that the project may have a significant effect on the environment was provided.

7. The Board of Supervisors considered testimony that the negative declaration was inadequate for this mining exploration project because it did not address the possible future production mining projects. The Board of Supervisors determined that this exploration project was not part of a production mining project and that the nature of a future production mining project is speculative and unknown, that no meaningful analysis of impacts can be made at this time, and that if production mining is proposed in the future, further environmental review on the specific proposal will be required. Based upon these factors, the Board of Supervisors determined that the adoption of a negative declaration was appropriate.

BE IT FURTHER RESOLVED that the Board of Supervisors directs an amendment to the initial study, Section VI, No. 7, Mitigation Measure for Cultural Resources. The section shall be modified to read as follows:

"The archaeological consultant shall verify, to the satisfaction of the Planning Director, that the exploration project will not disturb any of the identified archaeological resources. If any portion of the exploration activity affects the Rhyolite Quarry Site (CA-MRP-0831/H), the site shall be sampled by excavating a maximum of six
small pits (1m x 1m) to determine site depth, age, cultural affiliation and other information which will permit evaluation of the scientific significance of this cultural resource. This partial testing of the site will retrieve much of the information available from the site and will mitigate to an acceptable level the potential partial or total loss of the site. All other cultural resource sites identified on the property will be mitigated by avoidance, as no other site will be disturbed by the proposed exploration program."

This modification to the mitigation measure is based upon input provided at the Board of Supervisors hearing by L. Kyle Napton from the Institute of Archaeological Studies, California State University, Stanislaus. Dr. Napton testified that based upon more detailed field investigation, the disturbance associated with the exploration project will not impact any of the identified archaeological resources.

PASSED AND ADOPTED this 12th day of December, 1989 by the following vote:

AYES: BAGGETT, PUNTE, ERICKSON, RADANOVICH

NOES: TABER

ABSTAINED: NONE

EXCUSED: NONE

GERTRUDE R. TABER, Chairman
Mariposa County Board of Supervisors

MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

JEFFREY G. GREEN, County Counsel