



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
950 MAIDU AVENUE NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-1272 www.co.nevada.ca.us/cda

PLANNING DEPARTMENT
PHONE (530) 265-1440
FAX (530) 265-1798

ENVIRONMENTAL HEALTH
PHONE (530) 265-1452
FAX (530) 265-7056

BUILDING DEPARTMENT
PHONE (530) 265-1444
FAX (530) 265-1272

CODE COMPLIANCE
PHONE (530) 265-1362
FAX (530) 265-1625

March 28, 2001

Scott A. Galati
Grattan & Galati
801 "K" Street, Penthouse Suite
Sacramento, CA 95814

RE: Extension of Time for Emperor Gold (U.S.) Corporation – Conditional Use Permit File
Number: U94-017

Dear Mr. Galati:

At their regular meeting of March 22, 2001, the Nevada County Planning Commission considered your extension request dated December 13, 2000, for an extension of time for the Conditional Use Permit application of Emperor Gold, File Number U94-017.

The Commission, by a 5-0 vote, granted the extension of time for two (2) years. The dewatering activities for the Conditional Use Permit on this project must be commenced no later than January 25, 2003 .

If you have any questions, please contact the project planner, Tod Herman, Associate Planner, at (530) 265-1257.

Very truly yours,

NEVADA COUNTY PLANNING COMMISSION
Mark Tomich, Ex-Officio Secretary

By:


JEAN JACOBS
Clerk to the Planning Commission

MT:jj

COUNTY OF NEVADA

PLANNING DEPARTMENT

Eric Rood Adm. Bldg.
950 Maidu Avenue
Nevada City, CA 95959-8617
(916) 265-1440
Fax (916) 265-1798

January 26, 1996

NOTICE OF CONDITIONAL APPROVAL USE PERMIT APPLICATION

Emperor Gold (U.S.) Corporation
P. O. Box 1836
Grass Valley, CA 95945

U94-017; EIR94-003
AP#: 06-441-03, -04, -05, & -29;
09-630-24, -27, -30 & -31

ENVIRONMENTAL ACTION: Certified EIR

You are hereby notified that the Nevada County Planning Commission, at a regular meeting held on January 25, 1996, after public hearing, did duly consider your application for the dewatering of the existing underground workings of the Idaho Maryland Gold Mine, and the subsequent underground exploration and sampling of those workings, on property located on 117 acres of contiguous property located southwest of the intersection of Brunswick Road and E. Bennett Road, including the Bohemia Mill site. A legal description of the property is on file in the Planning Department, 950 Maidu Avenue, Nevada City, California.

The Planning Commission hereby notifies you that your application for a use permit was granted, on a 4-0 vote, subject to the following mitigation measures and conditions:

The agency references are: Planning Department (PD), Department of Transportation (DOT), Environmental Health (EH), Building Department (BD), and the Northern Sierra Air Quality Management District (NSAQ).

I. GENERAL CONDITIONS

PD 1 All operations shall be conducted in accordance with the project description in Section 3.0 (Draft EIR), and as amended in the EIR Errata (Section 3.0 of the Final EIR). All other conditions required by this permit shall be considered as modifications to the project description. All mitigation measures attached to this project shall also be considered as conditions of this permit.

PD 2 Under applicable law, this use permit will "run with the land" and the entitlements and obligations will be fully assumed by any subsequent owner of the property covered by this use permit. Any party or entity acquiring the property and electing to continue with the use of the property as authorized by this use permit will be required to fully comply with all of the conditions and obligations created by the use permit, including, but not limited to, being required to post and maintain adequate security as required under MM 4.3.6 of this permit.

PD 3 Once the dewatering portion of the Exploration Phase has commenced, the operator shall have four and a half years to complete the Exploration Phase and an additional six months to complete the site clean up activities outlined in the Post Project phase (Section VIII) of this use permit. All mine dewatering shall cease at the end of the Exploration Phase (Section VII).

PD 4 Every two years, beginning from the commencement of the Site Preparation Phase, this Use Permit shall be reviewed before the Nevada County Planning Commission. The purpose of the review will be to evaluate the success of the established performance standards and of the operator in complying with these Conditions of Approval. Additionally, the review will monitor the status of the project and any deviations from the anticipated impacts described in the Final EIR. Adjustments to the monitoring program may be made in order to accommodate any such deviations.

PD 5 If the review hearings in Condition PD 4 above reveal serious violations and/or unexpected significant environmental or public health impacts that either have not or cannot be corrected, the Planning Commission shall recommend that the Board of Supervisors hold a hearing to consider revocation of the Use Permit.

NOTE: Notwithstanding any other provision, use permit revocation hearing(s) may be held any time by the Board of Supervisors pursuant to Section L-II 31.6 of the Land Use and Development Code whenever non-compliance on the part of the operator is demonstrated such that the established conditions of approval are not being followed.

PD 6 These conditions may not be changed without amending this permit except that minor adjustments to the project and conditions may be made if approved by the Planning Department staff, and if such changes do not result in a major departure from the approval either individually or cumulatively as defined in Section L-II 3.49 of the Land Use and Development Code. Staff will report all such adjustments to the Planning Commission and Community Liaison when applicable.

PD 7 The operator shall fund the County's monitoring and inspection for this project. All such fees shall be based on an at-cost basis pursuant to Section K.1 of the latest fee schedule adopted by the Board of Supervisors.

PD 8 The following is the definition of the Community Liaison with whom the Mine Operator shall be required to coordinate:

- a. At their election, and on an "as available" basis, the Bohemia Area Residents Committee (BARC) will provide the operation with the name, address, and phone number of a person designated as the "Community Liaison." This volunteer will serve both the community near the mine and the operator as the main line of communication between the two. For example, the liaison may:
 - i. Pass on BARC or community member's concerns in an orderly fashion.
 - ii. Stay informed about the project and notify BARC or community members of the current stage of the project including, as examples, temporary noisy events or the status of the monitoring results.

- iii. Review monitoring data on file at the County as necessary.
 - iv. Serve on the Review Team for various contracts administered by or requiring review by the County.
- b. The liaison will be notified concurrently with the County of any changes to the operation requiring County approval.
 - c. The operator shall allow the Community Liaison (when accompanied by County staff) to review on-site monitoring procedures and related activities. These on-site visits however, will be subject to conditions of the operator's liability or product loss insurance carriers and the necessary safety training of the liaison.
 - d. Periodic "Review Team" meetings with the County, the Community Liaison, and the operator shall be held to discuss the project's status. These meetings shall occur at a minimum on a quarterly basis, but may also be held on a more-frequent "as-needed basis." If deemed desirable by the "Review Team," the County will provide notice (at the operator's expense) to area residents of project events, status, etc. which may be of interest to such persons.

II. SUBSEQUENT PERMIT ACQUISITION

- EH 1** Valid Hazardous Waste Permits are required prior to remedial action or hazardous waste operations. If necessary, obtain a Hazardous Waste Permit from the Nevada County Department of Environmental Health prior to the start of operations.
- EH 2** A Hazardous Material Storage Permit is required prior to installing any hazardous material on site which equals or exceeds 55 gallons, 500 pounds, or 200 cubic feet of compressed gas. Obtain a valid permit(s) from the Nevada County Department of Environmental Health prior to the start of operations.
- EH 3** Bulk storage of hazardous materials, hazardous substances, hazardous wastes and/or fuels require the submittal of a Hazardous Materials Release Response Plan and Inventory (HMRRP&I) pursuant to California Health and Safety Code Chapter 6.95. Operator shall submit a HMRRP&I to the Nevada County Department of Environmental Health 30 days prior to the start of operations at this site.
- NSAQ 1** Obtain an Authority to Construct and Permit to Operate from the Northern Sierra Air Quality Management District prior to constructing anything that requires such a permit.
- MM 4.4.2** The water quality and quantity parameters associated with surface discharge resulting from the proposed project shall conform to Order No. 94-005 (for quality) and any other waste discharge requirements and standards as set forth by the California Regional Water Quality Control Board, Central Valley Region. The operator shall submit any required background documentation to CRWQCB to obtain these permits, and these permits shall be in place before dewatering commences. The operator shall also submit to the Nevada Irrigation District any discharge plans or proposals which may affect NID facilities. NID shall be treated as an affected or reviewing agency.

MM 4.4.5 As supporting documentation to assess receiving water quality, the operator shall conduct additional upstream and downstream testing within the South Fork channel, as required by the CRWQCB.

MM 4.4.6 The operator shall conduct a discharge Monitoring and Reporting Program during dewatering, as set forth by the CRWQCB. Such monitoring will include testing for metals as well as pH levels.

III. ON-SITE PREPARATION

PD 9 During the On-Site Preparation Phase, the operator may conduct the following site preparation activities:

- a. Do the necessary geotechnical work for the dewatering pond.
- b. Installation of the on-site power lines.
- c. Develop the internal road system.
- d. Begin preliminary site clearing and development of the on-site buildings and structures.

Prior to the establishment of any of these activities, the operator shall demonstrate by documentation that all appropriate mitigation monitoring has been performed. All such activities must comply with the other applicable requirements of this permit and those of the other permit issuing agencies.

PD 10 The activities in Condition PD 9 above shall be conducted in the following manner:

- a. All surface activities (PD 9 above) shall comply with those noise standards established in Policy 9.1 of the Noise Chapter of the Nevada County General Plan and shall be conducted in accordance with Mitigation Measures 4.9.2, and 4.9.3.
- b. All required permits from the CRWQCB, or waivers therefrom, shall be obtained prior to the dewatering.

PD 11 Site plan standards shall be as follows:

- a. Administration Office Parking: A minimum of 12 parking stalls (including Disabled parking) shall be provided in accordance with Article 28 of the Land Use and Development Code. Parking area shall be paved to control fugitive dust.
- b. Shop Area Parking: A minimum of 30 parking stalls shall be provided in accordance with Article 28 of the LUDC. Parking area shall be paved to control fugitive dust.
- c. Buildings: All permanent building shall be colored to blend with their respective background settings.

- d. Lighting: All exterior lighting shall be shielded and directed down to prevent direct off-site light spill. Permanent exterior lighting shall be limited to the Administration Office Area, Shop Area, Watchman's Quarters, and those areas reasonably necessary to provide safety measures during nighttime operations. Within an hour after the evening's activities, all unnecessary exterior lighting shall be turned off.
- e. Site Plan: After buildings are permanently located, a revised site plan shall be submitted to the Planning Department and kept on file.
- f. Watchman's Quarters: A watchman's quarters shall be permitted for the purposes of mine security.

BD 1 Obtain the proper permits from the Building Inspection Department for all building construction and grading activities. Such permits shall meet the minimum requirements of the Uniform Building Code and Chapter XV of the Nevada County Land Use and Development Code (Grading Ordinance).

DOT 1 Provide proof of access rights to Brunswick Road through the S.P.I. property. (Note that the "Concept Plan" as submitted with the rezoning application, Z93-004, depicts a redesigned interior road system for the S.P.I. property.)

DOT 2 The Road Improvement Fee in accordance with Nevada County Ordinance No. 1829 creating and establishing the authority for imposing and charging a road improvement fee within the unincorporated territory of Nevada County, will be levied for this development and will be based on the latest fee schedule adopted by the Board of Supervisors. (Note: Class of Use = 5; Zone = 5)

EH 4 Sewage disposal from any facility on the project site shall be in compliance with Nevada County Land Use and Development Code, Chapter X, and any subsequent revisions or amendments pertaining to the disposal of sewage in Nevada County.

MM 4.2.1 Prior to the construction of water treatment improvements to the treatment pond, the operator shall conduct a geotechnical evaluation of the pond and earthen dam structure. This evaluation should include (but not be limited to) the following:

Testing using the hollow stem-auger drilling method to bore test holes through the containment dam and into underlying materials.

A slope stability study of the containment structure based upon an evaluation of the drilled soil samples, their condition, and encountered ground water conditions within the earthen structure;

A determination of the dam's existing factor of safety under normal conditions and during a seismic event.

Recommendations for remedial measures, if necessary, to ensure the stability and integrity of the structure for the life of the project. Such measures, if found to be necessary, may include re-compaction, stabilization with additional engineered material, or excavation and caulking of the existing structure. Necessary remedial measures shall be completed concurrent with construction of treatment facilities.

MM 4.2.2 Commensurate with site grading and improvement activities, the following measures shall be taken to help prevent the loss of soil within the construction area around the shaft:

Regular spraying of water on exposed soils during the dry season from a hose or water truck to prevent the generation of dust.

Construct a brow ditch above (up-gradient) from the construction area to divert the overland flow of rainfall around construction activities.

Place straw bails below the construction site (down-gradient) to help prevent discharge of muddy runoff.

MM 4.5.1 Prior to approval of a building permit for on-site improvements, the operator shall obtain from NID any necessary permits, approvals, will-serve letters, or agreements required for the extension of treated water to areas of the site not currently served.

MM 4.5.2 Prior to the issuance of building permits for on-site structures, the operator shall submit detailed wastewater treatment plans to the County of Nevada Department of Environmental Health for review and approval. Prior to finalizing plans, operator shall work with the Department to determine site-specific soil/percolation conditions and optimum facility locations. All wastewater disposal permitting will be conducted through the Department of Environmental Health.

MM 4.5.3 The operator shall coordinate with PG&E staff to assess the technical requirements for utilizing existing primary lines. This process, although at the operator's discretion, should begin immediately considering that all electrical equipment must be in place prior to dewatering. Operator will incur the costs of connections and other equipment, such as on-site transformers.

MM 4.5.5 Concurrent with site preparation activities, all access and service roads shall be made available for use by all emergency response units, including fire suppression, medical aid, and law enforcement.

MM 4.5.6 Concurrent with site preparation activities, the operator shall provide signage that will make all project entries and on-site buildings easily identifiable by emergency service providers.

MM 4.5.9 Prior to approval of grading permits for site improvements, the operator shall designate an area of the project site to be used as a helispot (for use in medical emergencies only) for County review and approval. This area shall be cleared and void of all vegetation and loose gravel materials.

MM 4.6.1 Concurrent with final site plans for the project, the underground powder magazine shall be located in accordance with the American Table of Distance for Storage of Explosives. All use and transport of explosives will conform to applicable federal, State and local regulations, requirements, and specifications.

MM 4.6.2 Concurrent with project operations, all activities relative to site preparation, dewatering, shaft rehabilitation and mineral exploration shall be conducted in conformance with MSHA and CALOSHA regulations.

MM 4.6.4 Prior to commencement of dewatering, the operator shall establish a bond for the removal and disposal of the precipitate sludge.

NOTE: At the completion of the dewatering and exploration phase, the operator shall contract for this task if necessary. The material (if determined to be hazardous via MM 4.6.5) shall be removed and transported by a certified hazardous materials hauler and disposed of in a pre-approved facility licensed by the State.

MM 4.8.1 During site construction, the operator shall utilize the following dust control measures:

Water sprays to control dust during demolition, loading and unloading activities;

Suspend dust-producing activities during periods of high winds when dust control measures are unable to avoid visible dust plumes;

During the dry season (May-October) provide equipment and staffing for watering of unpaved haul roads, areas being graded and equipment/vehicle parking areas at least twice daily;

Daily removal of mud and dirt carried out from the site to adjacent paved roads;

Limit the speed of equipment and vehicles to 15 miles per hour while traveling on unpaved surfaces on the site; and

Earthen or other materials which may become entrained in ambient air will be sprayed or tarped as necessary to prevent fugitive emissions while in transport to or from the site.

MM 4.8.2 Concurrent with site construction operations, parking areas and access roads on-site shall be paved, graveled or treated with a dust palliative to control fugitive dust.

✓ **MM 4.9.1** Unless weather conditions (which may result in an impact upon the public health or safety) require early morning or late night construction activities, the operator shall limit site surface construction activities to daytime hours, Monday through Friday (7 a.m. to 6 p.m.).

✓ **MM 4.9.2** During initial site construction (and throughout the life of the project), the operator shall ensure that all equipment utilizing internal combustion engines shall be properly maintained and fitted with mufflers in accordance with the manufacturers recommendations.

MM 4.10.1 Prior to the construction of any outfall facilities within the stream banks of South Fork Wolf Creek, the operator shall obtain an Army Corps permit under Section 404 of the Clean Water Act as required. The operator will be required to submit all information required for such a permit, and shall be subject to all mitigation requirements set forth by the Corps.

- MM 4.10.2** Prior to the construction of any outfall facilities within the stream banks of South Fork Wolf Creek, the operator shall obtain a Streambed Alteration Agreement under Sections 1600-1603 of the California Fish and Game Code. The operator will be required to submit all information needed for such a permit, and shall be subject to all conditions (if any) set forth by the Department of Fish and Game (DFG).
- MM 4.11.1** Concurrent with final site planning and site improvement activities, disturbance to the Union Hill Mine, prospects landscape area and narrow gauge railroad bed shall be avoided by design and left intact. If, by change in design or plan, it is determined that the project will affect one or more of these sites, a qualified historical archaeologist shall be required to reevaluate the sites(s), determine the effect(s), and suggest appropriate measures to mitigate the impacts identified.
- MM 4.11.2** Should cultural or historic resources be uncovered in the course of grading operations, all work in the immediate vicinity of the uncovered material shall be halted until a qualified archaeologist can evaluate the finds and propose suitable recommendations for further action.
- MM 4.11.3** Should human remains be discovered, work must stop immediately and the county coroner must be contacted, as required by State law. If the remains are Native American, then the coroner will notify the Native American Heritage Commission.
- MM 4.11.4** Should historic mining artifacts be encountered and recovered concurrent with dewatering and exploration activities, such artifacts will undergo an evaluation to determine the material's significance. Such an evaluation will be conducted by a qualified archaeologist.
- MM 4.12.1** Concurrent with project implementation, the operator will use the minimum number of light sources and minimum wattage necessary to provide a safe working environment and security at the site. All building permits shall note the locations of the exterior light sources.
- MM 4.12.2** Concurrent with project implementation, the operator shall ensure that light sources will be mounted at the lowest feasible height in order to minimize the line of sight from surrounding properties.
- MM 4.12.3** Concurrent with project implementation, the operator shall locate and shield light sources so as to minimize the spill of light into unwanted areas. The operator shall utilize cut-off lenses, baffles or other methods to control the focus of the light sources, specifically protecting the adjacent residential areas.

IV. OFF-SITE PREPARATION

- MM 4.4.1** Prior to dewatering, the operator shall conduct an engineering study to quantify the ultimate volume capacities of downstream public and private drainage facilities. Once facility capacities are known and quantified, the operator shall:

Reduce or cease outflow into South Fork Wolf Creek during storm events to the point where the combined natural flow and discharge flow do not exceed 75% capacity of downstream drainage facilities (75% of capacity allows for a storm buffer, so that the creekshed can "bleed", or drain after discharge is throttled back). This option will require accurate monitoring of downstream volumes in order to make appropriate outflow adjustments. Monitoring of storm events will require measuring precipitation with a rain gauge to determine the amount of precipitation entering the drainage basin, monitoring water volume at several downstream locations, and visually monitoring for stream bank erosion along the length of the South Fork below the project site. Monitoring of volume will occur hourly once facility capacities reach 50%. The operator shall be responsible for parcel-specific erosion damage, if such damage is shown by the third-party consultant that mine discharge was responsible.

DOT 3 A copy of the comprehensive hydrological analysis (required in MM 4.4.1 above) shall be submitted to the Nevada County Department of Transportation upon completion of the study. A fee based on the latest adopted hourly rate will be charged for the actual time spent reviewing the analysis.

V. PRE-DEWATERING WATER SUPPLY

Monitoring Program, and Property Notices

MM 4.3.1 As mitigation for the potential well impacts, the project will require a monitoring program to establish baseline data on local wells. As the first step in this process, the operator (or consultant acceptable to the County) shall locate and collect survey data for any remaining wells within the identified study area which have not yet been logged and assigned a risk category. To identify such wells and their owners, the operator shall send a notification letter/questionnaire to the owner of each parcel within the study area to ensure 100% coverage. This notification letter/questionnaire will serve to accomplish the following:

- a) To identify any new or previously unknown wells within the study area;
- b) To inform property owners (with and without wells) as to the purpose of the data collection, and that the data may later be used to determine if a well is impacted;
- c) To provide an informational update to well owners currently participating in the operator-sponsored well monitoring program;
- d) To request permission from un-categorized well owners to allow the operator or County-approved professional to collect specific well data needed to determine the well's risk group;
- e) To solicit well owner participation in the 12-month baseline monitoring program;
- f) To inform well owners that specific well characteristics and monitoring data is very helpful for early identification of impacts .

MM 4.3.2 Based upon the authorizations received and additional well data collected, any new data shall be applied to the County's model of risk assessment and a risk category determined for that well. Once a risk category is determined and monitoring is allowed by a well owner, that well will be considered "in the monitoring program".

MM 4.3.3 At least 12 months prior to the commencement of dewatering, the operator shall be responsible for establishing and implementing a ground water monitoring program which shall be approved by the County targeted for all wells within the study area. This 12 month period will establish baseline well data for the four seasons of the year. The monitoring effort shall be conducted by a qualified professional acceptable to the County, and will consist of the following:

- a) Baseline monitoring of all identified wells will occur monthly, and will consist of measuring the static water level of each well. The 12 month monitoring time line will begin only after the notification letter/questionnaire has been sent and personal contact with the owners of all the high and moderate risk wells has been made or attempted by the operator, as described below. After or during this initial contact with well owners, an initial monitoring date and regular monitoring schedule will be established. This first monitoring date will establish the beginning of the 12 month time line for baseline data collection. Well data previously collected by the operator may be considered for inclusion into the baseline data.
- b) Prior to the first monitoring date described above, the operator shall conduct follow-up contact efforts, either in person or by telephone, to each well owner to further ensure that each owner has been given ample opportunity to participate in the monitoring program. Property owners shall be provided the results of all monitoring in a timely fashion with direction to review the results to insure that they coincide with the property owner's experience. In the event of any disagreement, the operator shall be required to retest the well.
- c) In order assess the rate of owner participation, the operator shall report back to the County prior to this first monitoring date, to evaluate the effectiveness of the letter/questionnaire and follow-up contact efforts. A qualified professional acceptable to the County shall be consulted (if necessary) to determine that the rate of well owner participation is sufficient to establish baseline data.
- d) A second follow-up contact effort shall be conducted for the remaining wells within the Western Study Group. This follow-up effort is intended to maximize participation in the monitoring program. Any new participants from the Western Study Group resulting from this follow-up effort shall be identified and shall begin participating in the program by the second monthly monitoring date. The rate of well owner participation will also be reported to a qualified professional acceptable to the County to determine that the rate of owner participation within the Western Study Group is sufficient for establishing baseline data.

- e) A third follow-up contact effort shall be conducted for the remaining wells within the entire Study Area. This follow-up effort is intended to maximize total participation in the monitoring program. Any new participants within the Study Area resulting from this follow-up shall be identified and shall be included in the program by the third monthly monitoring date. The rate of well owner participation will also be reported to a qualified professional acceptable to the County to determine that the rate of participation within the remaining areas is sufficient for establishing baseline data.

Third Party Consultant

- MM 4.3.8** Prior to the commencement of the dewatering process, a qualified third party consultant selected mutually by the County, the Community Liaison, and the operator, shall be retained (at operator's expense) to interpret the ground water monitoring results on behalf of all parties. If the three parties cannot agree on the selection of the third party consultant, the County, at its sole discretion, shall select the third party consultant. In any event, the operator shall fund a qualified third party consultant for the life of the project.

The duties of the third-party consultant are to independently interpret data, to conduct well impact analysis, to review the baseline stream conditions developed in the hydrological study required by MM 4.4.1 and DOT 3, to determine when an adverse impact has occurred, to determine size and locations of temporary systems, and to determine the difference between NID and electricity costs, as outlined in subsequent measures. Other related duties may be added as conditions and issues arise over the live of the project.

Design, Engineering, Annexation, and Contract

- MM 4.3.4** Prior to the commencement of mine dewatering, the operator shall prepare complete engineering and design plans, as well as an installation schedule, all of which shall be submitted to and accepted by Nevada Irrigation District (NID) for water main trunk line infrastructure (including individual laterals for all High and Moderate risk wells) to all properties within the Study Area, with a permanent water source to be supplied through NID facilities. Such plans will be provided for all parcels.
- PD 12** Prior to the commencement of mine dewatering, the operator shall conduct a "windshield" survey of all parcels within the Study Area to determine potential locations for temporary water storage tanks. For all parcels with High and Moderate risk wells and those parcels identified during this survey to pose siting difficulties, plans for the location and size of temporary water systems shall be completed and submitted to the County. Upon submittal, the third party consultant shall review those plans with those parcel owners to ensure the determined locations are agreeable. Any disagreement shall be settled by the third party consultant.

MM 4.3.5 Prior to commencement of dewatering, the operator shall complete the following:

- a) Successfully annex any parcel within the Study Area with a well to NID which is currently outside of NID's district boundaries; or enter into a private water supply agreement with the owner of such a parcel until annexation is complete. The operator shall be responsible for any and all costs associated with NID annexation.
- b) Enter into a conveyance agreement with NID to allow for infrastructure construction;
- c) Enter into an agreement with an engineering company, acceptable to NID, to supervise and direct a contractor to install the water trunk lines and individual residence connections. The County shall be notified of the contractor selected; and
- d) Confirm water capacity of NID systems and water availability per NID requirements as a component of any conveyance agreement.
- e) Obtain and document all necessary permits and approvals, and identify all right-of-way, variances, easements, and agreements necessary to guarantee installation and delivery of water service from NID to any and all residences in the study area.

MM 4.3.6 Prior to dewatering, the operator shall post financial assurances in a form acceptable to and to be approved of by the Nevada County Counsel and consisting of either a performance and security bond, a letter of credit, cash, certificate of deposit with a recognized financial institution, or a combination thereof, in an amount that will cover 100% of the costs, as determined by a registered civil engineer and as accepted by the County, of providing for permanent water sources to all of the properties within the study area defined in the Final EIR. At least \$100,000 of this amount shall be available for immediate use of the County to address emergency water supply needs should the operator not respond to such problems within the 24 hour period designated in MM 4.3.9. The financial security shall contain a provision (to be approved by County Counsel) that creates, in addition to the rights of the County, an independent right of action against the security deposit or bond in favor of any of the owners of the private property whose water supply may be deemed to be adversely impacted by the dewatering of the mine and obligates the operator, the surety/bonding company, or party or financial institution holding the cash deposit to honor any demand by such impacted private property owner, only in the event of non-action by the County for a period of 45 days in response to any such demand for County action by a private property owner. Non-action by the County as used herein is defined as: 1) The County failing to provide written notice to the operator demanding provision of a permanent water source to any affected property when required by conditions of approval; or 2) The County failing to continue for a successive period of 45 days to direct the operator to remedy the situation or to take initiate any claim against the financial assurances when no continuing progress is being made toward provision of a permanent water source until it is provided. The County shall maintain a log of all such contacts from which the 45 successive day period would run. Any independent right exercised hereunder would be in lieu of, rather than in addition to, any right of the County to make a claim against the financial assurance for the affected property concerned.

The amount of the financial security shall include all of the following:

- a) Installation of all necessary infrastructure and any necessary improvement to the existing system water supply system, based upon the accepted final design plans (MM 4.3.4).
- b) Estimated costs for the installation of the individual laterals to each residence within the study area.
- c) Construction costs for the moderate to high risk groups (based upon prevailing wage rates) to perform all the work associated with a) and b) above. All other risk groups shall use construction costs at a non-prevailing wage rate.
- d) Costs of providing individual meters to each residence within the study area.
- e) NID system capacity charges for each residence.
- f) Contingency for administrative costs.

Any lapse or failure to provide or maintain the security deposit or bonds shall result in the immediate suspension of the right to continue any of the use of the property as authorized under the use permit but shall not invalidate the operator's, security's or depository institution's obligation under the security provisions as required under this Mitigation Measure.

In the event that the operator is required to provide a permanent water supply to any of the private property owners under the terms of this use permit, in lieu of providing a permanent water supply the operator may, and subject to the separate and independent concurrence of the private property owner whose well or ground water is deemed adversely affected, purchase any of the affected private properties at a fair market value. Nothing in this permit shall be deemed to require the private property owners to sell their property.

PD 13

In the event the operator is required to provide a permanent water supply to any property or area pursuant to the conditions of this permit, and in the event the operator has successfully and satisfactorily provided the water source, the costs associated with that task may be subtracted from the total financial assurance amount required by MM 4.3.6 above.

Within 24 months, but not less than 6 months from completely dewatering the workings (below the 3,280 foot level), the financial assurance amount may be reviewed by the County (through a public hearing) for the purposes of reconsidering the required amount. If evidence can be provided supporting the fact that the risks have either been reduced or no longer exist, the percentage amount required by MM4.3.6 may be altered. The intent of this provision is to provide an opportunity to reconsider the necessary financial assurance amount. It may be possible to reduce the required amount at this hearing if it is demonstrated that the risks no longer warrant 100% of the total costs required by MM 4.3.6 above. In no case however, will the County consider releasing the entire requirement for the financial assurance.

- PD 14** Prior to the commencement of the dewatering, this Use Permit shall be reviewed by the Nevada County Planning Department staff and the results of the review shall be reported to the Planning Commission and the Community Liaison. The purpose of this review will be to evaluate the operator's compliance with the permit conditions of approval and the success of the established performance standards.

VI. ON-GOING WATER SUPPLY

Monitoring Program

- MM 4.3.7** Throughout the dewatering process, the operator shall continue the ground water monitoring program, and reports shall be provided to the County as follows:

Weekly intervals for wells within the high and moderate risk groups;

Twice-monthly intervals for wells in the low risk group; and

Monthly intervals for wells in the very low risk group.

Twelve months following the dewatering to the 3,280 level, monitoring will be required at quarterly intervals for the life of the project and until the mine refills (to the pre-project level) with water.

- PD 15** Should an impact occur to any residence, the monitoring sequence for the adjacent homes (from the impacted well) shall increase to a weekly interval.

Third Party Consultant

- MM 4.3.12** All well owners within the study area will be notified by the third-party consultant if other wells in the study area are showing an impact or change in yield. This condition will allow another chance for non-participating well owners to join the monitoring program, and will generally serve to inform the owner of the surrounding conditions of nearby properties.

- MM 4.3.16** All parcels within the study area that are not yet developed shall be connected to the permanent water system at the operator's expense if the well owner can establish to the third party consultant and the County that mine dewatering has adversely affected the property's ability to support a well. The operator shall make notice to properties currently without wells that the burden remains with the well owner to determine the source of impact to any future well.

Temporary Water Source and Compensation

- EH 5** In the event that any parcel within the study areas is adversely affected by the mine dewatering, potable water service shall be provided to the properties in accordance with MM 4.3.9 and MM 4.3.9A below. All water provided (on a temporary or permanent basis) for service to habitable structures shall be potable and from an approved source, in compliance with Nevada County Land Use and Development Code, Chapter VI.

MM 4.3.9 Should any well be impacted a temporary water source shall be immediately provided to the affected well owner prior to the installation of a permanent water source. The temporary water source shall be in place within and operational 24 hours after telephonic notification to the third party consultant. The operator shall be required to provide a phone number to all property owners were such notification can be accepted at all times.

Where feasible and subject to the permission of any affected property owners, any temporary water source may include the installation of a water tank on or near the affected property. In some instances, a single tank may serve more than one affected property

Any temporary water supply needed as a result of mine dewatering will be of sufficient capacity and pressure so that the daily lifestyles and average water usage of individual families will not be affected.

Any temporary water supply needed as a result of mine dewatering will be in place only as long as necessary to hook up the residence to the permanent water source.

Temporary water systems will be located, configured and sized by the third-party consultant with the concurrence of the property owner (identified within MM 4.3.8). Property owners must be immediately informed of the identified impact, and permission must be received prior to temporary system installation.

PD 16 In the event the temporary system cannot be installed within 24 hours (as outlined in the first paragraph of MM 4.3.9), a fine in the amount of \$500.00 per day (paid weekly) shall be paid to the County starting 24 hours after telephonic notification up until such time that the temporary water system is installed and operating. The County shall deposit the fine(s) into a trust account and will have the choice of utilizing the fines for either permit monitoring costs or property owner(s) compensation.

MM 4.3.9A Should an impact occur in the form of an unexpected and sudden failure of a well, the affected resident shall be provided an immediate source of water supply for the period of time prior to temporary system installation (maximum 24 hours). This immediate supply may include water delivered by truck, bottled water, alternative lodgings (or cash equivalent), at the property owner's discretion, until the temporary supply is established. The costs of all immediate and temporary water supplies and storage facilities will remain the burden of the operator. Furthermore, all water carriers contracted by the operator shall be properly insured and licensed, and certified to carry and deliver potable water as required by law.

MM 4.3.9B Upon removal of the temporary system or installation of the permanent system, the operator shall either restore the property to its original state, including the repair of any damage or scarring caused by tank installation (and/or hook-up) or water truck delivery, or, the property owner will be financially compensated, at the property owner's discretion, for such damages. If financially compensated, a mutual agreement must be reached regarding the existing condition of the property prior to tank installation.

- MM 4.3.13** Any well owner impacted by the project who requires NID service will be compensated by the project applicant for any additional costs for monthly water service. The operator shall compensate for the difference between current monthly rates (as determined by the third party consultant), and NID rates. This compensation shall continue for as long as the owner's well is impacted by the project.
- MM 4.3.14** In cases where an affected property currently utilizes NID service and well water, the operator shall compensate for the cost of additional NID water usage caused by the unavailability of supplemental well water. Water usage will be determined by the third-party consultant based upon historic water usage patterns.

Permanent Water Source

- MM 4.3.10** Installation of a permanent water source shall be initiated immediately after the well(s) have displayed a significant impact (partial or complete dewatering). Such a response will be determined as significant on a case by case basis by the third party consultant identified in MM 4.3.8. Temporary water systems shall be removed once permanent service is in place and operational. The costs associated with engineering and installing the permanent system will be the responsibility of the operator.

On the first day of impact identification to an individual residence, the operator shall coordinate with NID to finalize the service agreement application and pay the necessary hook-up fees for the affected residence. The process and payments will be completed in the quickest manner afforded by NID staff. The contractor hired to make the final connection shall be available, at the operator's expense, immediately upon NID's meter installation.

- PD 17** In the event the operator becomes responsible for providing a permanent water source to any residence (as outlined in the above mitigation measure, MM 4.3.10), the operator shall be held to an acceptable time frame for completing the project. Said time frame will be mutually agreed upon by the County, the operator, the third party consultant, and the community liaison. Should the operator fail to complete the project within this time frame, a penalty (\$1,000 per week) will be paid to the County up until such time as NID water service is hooked up and operational to all applicable residences. This payment is a penalty only and is not payment in lieu of a permanent water system or supply. The County shall deposit the fine(s) into a trust account and will have the choice of utilizing the fines for either permit monitoring costs or property owner(s) compensation.

VII. EXPLORATION PHASE

Miscellaneous Operations

- EH 6** All waste generated shall be classified by Waste Determination Methods pursuant to the California Health and Safety Code, Chapter 6.5 and the California Code of Regulations, Title 22, Sections 66261.2, 66261.3, 66261.20, and all other applicable regulations.

PD 18 The hours of operation for the miscellaneous surface activities associated with this phase of the project shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. This does not apply to the following activities as long as such activities do not result in a violation of any existing County Standards, including but not restricted to, noise impacts:

- a. activities associated with dewatering;
- b. activities associated with water treatment;
- c. indoor equipment maintenance (where the entire activities are enclosed);
- d. activities associated with project management;
- e. activities associated with the logging of rock core samples;
- f. response to life- or property-threatening emergencies; and
- g. underground activities.

However, it is recognized that the operator shall attempt to minimize incidental noise impacts during all operations.

MM 4.4.3 In the event that discharge quantities exceed those proposed within the Project Description (6 cfs), the operator shall notify the Regional Board, NCDEH, NID, and the Planning Department immediately to implement a remedial action program or other requirements as set forth by the Board.

MM 4.4.4 In the event that the quality of discharged water exceeds effluent limitations as set forth by Order 94-005 or the individual order for this project, the operator shall take action including but not limited to temporary cessation, reduction, or treatment of the discharge to acceptable levels. The operator shall also immediately notify the Regional Board, NCDEH, NID, and the Planning Department and develop/submit a remedial action program for Regional Board approval and implementation.

MM 4.5.4 Concurrent with project operation, the operator will adopt and adhere to the relevant fire prevention and hazardous material response methods as defined in the County's Fire Protection Ordinance, County Hazardous Material Ordinance and other established regulations regarding emergency response.

MM 4.6.3 Prior to any on-site disposal of timber wastes, the operator must demonstrate, through analytical testing of the timbers, that the wood is untreated and safe. This analysis (waste determination and classification) will be demonstrated to the satisfaction of the County of Nevada Department of Environmental Health. The operator shall be responsible for the hauling and disposal of the material at an appropriate disposal facility, if necessary, once a waste determination is made.

MM 4.7.1 For the duration of the project, haulage vehicles moving equipment and/or materials to and from the site will be restricted to Brunswick Road and that section of East Bennett Road between Brunswick and Millsite Road (E. Bennett entrance). The operator shall post signage on site exit points alerting drivers to designated haul routes.

- MM 4.9.2** Throughout the life of the project, the operator shall ensure that all equipment utilizing internal combustion engines shall be properly maintained and fitted with mufflers in accordance with the manufacturers recommendations.
- MM 4.11.2** Should cultural or historic resources be uncovered in the course of grading operations, all work in the immediate vicinity of the uncovered material shall be halted until a qualified archaeologist can evaluate the finds and propose suitable recommendations for further action.
- MM 4.11.3** Should human remains be discovered, work must stop immediately and the county coroner must be contacted, as required by State law. If the remains are Native American, then the coroner will notify the Native American Heritage Commission.
- MM 4.11.4** Should historic mining artifacts be encountered and recovered concurrent with dewatering and exploration activities, such artifacts will undergo an evaluation to determine the material's significance. Such an evaluation will be conducted by a qualified archaeologist.
- MM 4.12.1** Concurrent with project implementation, the operator will use the minimum number of light sources and minimum wattage necessary to provide a safe working environment and security at the site.

Underground Operations

- MM 4.3.7** Throughout the dewatering process, the operator shall continue the ground water monitoring program, and reports shall be provided to the County as follows:
- Weekly intervals for wells within the high and moderate risk groups;
- Twice-monthly intervals for wells in the low risk group; and
- Monthly intervals for wells in the very low risk group.
- Twelve months following the dewatering to the 3,280 level, monitoring will be required at quarterly intervals for the life of the project and until the mine refills with water.
- MM 4.3.15** Should water be encountered within any core drill hole during the exploration process, that drill hole shall be immediately sealed or plugged upon removal of the core material to prevent the continued flow of water. The operator shall then notify the County and the Community Liaison of said encounter.
- MM 4.4.7** During implementation of the shaft rehabilitation, timbers pressure-treated with substances which may leach toxins into future mine water shall not be used. The project applicant shall indicate the type and amount of replacement timber to the County prior to its use.

- MM 4.5.7** Prior to the commencement of project activities which require the work of personnel below ground, the project applicant shall coordinate with other local mining operations and local fire protection districts to establish and maintain a cooperative mine rescue station, per the requirements of Title 8, Article 30 of the California Code of Regulations.
- MM 4.5.8** Prior to the commencement project activities which require the work of personnel below ground, the operator shall contact the Mining and Tunneling Unit of the Division of Occupational Safety and Health or other certified entity to schedule and receive specialized safety and rescue training pursuant to the provisions of Title 8. The operator shall include and invite appropriate OHFPD and NCCFPD personnel in any scheduled training sessions. The Districts and the operator shall decide cooperatively upon the appropriate fire protection district personnel to be trained.
- MM 4.6.1** Concurrent with final site plans for the project, the underground powder magazine shall be located in accordance with the American Table of Distance for Storage of Explosives. All use and transport of explosives will conform to applicable federal, State and local regulations, requirements, and specifications.
- MM 4.6.2** Concurrent with project operations, all activities relative to site preparation, dewatering, shaft rehabilitation and mineral exploration shall be conducted in conformance with MSHA and CALOSHA regulations.
- MM 4.9.3** Concurrent with dewatering operations, the operator shall retain a consultant acceptable to the County to conduct a noise level measurement survey with the project in normal operation to ensure compliance with Nevada County noise standards. If it is determined that project noise emissions are excessive, noise control devices shall be incorporated into the project design to reduce noise impacts to a less-than-significant level.

VIII. POST PROJECT

- MM 4.6.5** At the completion of dewatering and exploration, the removal of waste sludge will be accomplished under proper permitting through the Department of Toxic Substances Control (DTSC), the Nevada County Department of Environmental Health (NCDEH) or other responsible agency. Prior to removal, the material will be analyzed (to the satisfaction of the RWQCB and NCDEH) to determine if it exhibits characteristics of hazardous waste. Based upon the analytical results and prior to off-site removal, the operator will explore the possibility of on-site (stope) disposal.
- MM 4.6.6** Prior to pond sediment removal, the operator shall apply for and appropriate any necessary hazardous material, hazardous waste, or other permits or plans as required through the authority of the NCDEH.
- PD 19** Upon completion of the project, the New Brunswick Shaft shall be safely secured to prevent further mine entry. If prior to project completion, a new application is sought to reopen the mine, this condition may be sustained until a determination is made on that application.

The applicant/operator is also responsible for compliance with applicable State Laws and County Ordinances including Article 32 of the Land Use and Development Code. In order to maintain a valid permit, Article 32 requires that you commence your project no later than January 25, 1998, and complete the dewatering and exploration and all post project activities (Section VIII of this Permit) no later than January 25, 2000. If you will not have commenced on-site construction activities (Section III of this Permit) prior to that starting date, you may apply for an extension of time prior to January 25, 1998. If you do not commence your project pursuant to Section L-II 32.1.A of the Nevada County Land Use Code by the above-referenced dates or do not request in writing an extension of time for those dates, the permit shall become null and void.

Pursuant to the requirements of the Land Use and Development Code, you are hereby notified that this permit is not valid until the expiration of ten (10) days from the date of the Planning Commission action. If the granting of the permit is appealed or submitted to the Board of Supervisors for final action, the effective date is stayed until final action by said Board. Any appeal must be submitted on the proper form which is available from the Clerk to the Board of Supervisors, Eric Rood Administrative Center, Nevada City, California 95959 (Deadline for appeal: February 5, 1996, at 5:00 p.m.).

You are advised not to commence any work on this permit until the ten-day period expires and to check with the Planning Department to determine if any appeal has been submitted.

Should you have any questions, please contact the project planner, Tod Herman, at (916) 265-1257.

NEVADA COUNTY PLANNING COMMISSION
Thomas Miller, Acting Ex-Officio Secretary

By: Deborah A. Keyser
DEBORAH A. KEYSER
Clerk to the Planning Commission

TM:dk

cc: Building Department
Department of Transportation
Environmental Health Department
Northern Sierra Air Quality Management District
Regional Water Quality Control Board (Central Valley)
Scott Galati, Esq.
BARC

NEVADA COUNTY PLANNING COMMISSION
STAFF REPORT

APPLICANT: Emperor Gold (U.S.) Corporation
SUPERVISORIAL DISTRICT: III

HEARING DATE: January 25, 1996
FILE #: U94-017

PROJECT: U94-017. Use permit application of *Emperor Gold (U.S.) Corporation* for the dewatering of the existing underground workings of the Idaho Maryland Gold Mine, and the subsequent underground exploration and sampling of those workings. Specifically, the dewatering activities will necessitate the clearing of the entire underground mine workings to a depth 3,280 feet below the shaft collar. Approximately 6 cfs (12 acre-feet/day) of water will be pumped into the existing 40 acre-foot pond on site. The estimated volume of water within the workings is 2,500 acre-feet, which will take approximately 7 months to dewater. Once the mine is dewatered, the pumping will be maintained (at an estimated average of 1.1 cfs to 2.7 cfs) in order to allow the exploration activities to continue. The retention pond water will be aerated to allow excess iron, manganese, and arsenic to precipitate. From that point, the water will either be discharged in the South Fork of Wolf Creek, or a portion may be diverted for domestic uses. The exploration activities will be conducted within the existing underground workings (the sampling will occur off-site). Diamond drilling and blasting will be conducted at or below 2,000 feet beneath the surface, and channel samples will be collected from selected areas. Bulk samples of gold-quartz mineralized rock will be shipped off-site in containers for further testing. Bulk sample size could range from 0.25 to 10 tons, with the maximum estimated tonnage of bulk samples at 70 tons. All waste rock from the exploration activities will be stored underground in the abandoned stopes. Most of the on-site exploration activities will be completed over a 20 month period. However, the New Brunswick shaft could be kept open for up to 5 years in order to continue economic evaluation. If the exploration and sampling results are encouraging to the operator, an additional permit may be sought to formally re-open the mine for production. No mining is proposed with this application.

LOCATION: The Idaho Maryland Mine project location is described in two formats: 1) where the surface activities (office, underground mine access, and the dewatering process) will be located; and 2) the extent of the underground mineral rights. Emperor Gold controls the surface rights to 117 acres of contiguous property located southwest of the intersection of Brunswick Road and East Bennett Road. This includes the 80 acre Bohemia Mill site. The Idaho Maryland subsurface mineral rights includes 2,750 contiguous acres which irregularly extends into portions of Sections 23, 24, 25, 26, and 36 of Township 16 North, Range 8 East, and Sections 19, 29, 30, and 31 of Township 16 North, Range 9 East.

FACTUAL DATA:

General Plan: Industrial
Zoning: "M1"
ZDM: #53
Lot Size: 117 ac.
APN: 06-441-03, -04, -05, -29;
09-630-24, -27, -30, -31
Sup. Dist.: III
Prev. File #: SP77-20; MSP86-16; MSP87-5; Z93-04, EIS93-042, MI91-016; MSP90-02

SERVICES:

Water: N.I.D.
Sewage: Septic
Fire: Ophir Hill Fire District
Schools: Grass Valley/NUHS
Recreation: Grass Valley

RECOMMENDED ACTIONS:

Use Permit: Approve subject to staff's recommended Mitigation Measures and Conditions of Approval.

ATTACHMENTS:

1. Project Findings of Fact
2. Use Permit Mitigation Measures and Conditions of Approval
3. Mitigation Monitoring Program

BACKGROUND

The last association the Planning Commission had with this project was the certification of the Final EIR in October. That action was appealed to the Board of Supervisors who considered the appeal last December. After the close of the public hearing, the Board determined the Final EIR was adequate - with the addition of a proposed Water Supply Plan the applicant has prepared - and upheld your Commission's determination.

Outside of the public hearing process, there have been a number of meetings involving Planning Department staff, County Counsel, members of the Bohemia Area Residents Committee (BARC), and the applicant. The purpose of these meetings has been to negotiate the conditions of approval (and the mitigation measures) through agreement with various parties. In a few cases our recommendation does not represent a consensus since there wasn't agreement on some issues. Staff will highlight those in our presentation.

PROJECT PROPOSAL

The Planning Commission will be familiar with the proposed project through its review of the specific project description section within the environmental impact report (Section 2.0 of the Draft EIR, and as revised in Section 5 - 2.0 of the Final EIR).

Essentially, the project will remove the water from the underground workings of the Idaho Maryland Mine. During this process of dewatering, the main shaft (New Brunswick Shaft) will be rehabilitated as necessary. The applicants propose to perform some exploration drilling and sampling to determine the extent of the resources. The sampling activities will occur off site at some other location. When the mine is empty, the condition of the workings will also be evaluated. The results of these activities will determine whether it will be feasible to reopen the mine at some future date, under a new use permit.

STAFF COMMENT / USE PERMIT

The last step in this process is to consider the use permit for the project. Throughout the various hearings on the EIR, a few issues have been deferred to this point. Also, ingrained within the use permit is the Remedial Water Supply Plan, something identified in the EIR as critical to an approval of this project. This is the program for insuring that no home will be left without water as a result of this project. And, coupled with the water supply plan is the need for a financial assurance to guarantee the plan will be carried out if ever needed. Last, but not least, the permit process also involves the adoption of a Mitigation Monitoring Program. Each of these items will be discussed below.

The Planning Commission should take note that the conditions of approval for this use permit are divided into eight separate categories - each representing an identifiable step in the project. These categories (or steps) are as follows: General (applicable throughout the project), Subsequent Permit(s) Acquisition, On-Site Preparation, Off-Site Preparation, Pre-Dewatering Water Supply, On-Going Water Supply, Exploration Phase (on-going project), and Post Project. To make the conditions fit neatly into these categories, the numbering format has been modified somewhat. This will make clear which conditions (and mitigation measures) are applicable to each step in the project.

Pre-project Infrastructure

Much of the focus on this project has been aimed at the potential impacts associated with the dewatering. That "potential" has resulted in a series of debates as to whether the risk warrants the installation of some of the infrastructure before the dewatering activities begin. On one side of the debate, having the main infrastructure in place (only for the high and moderate risk wells) before the dewatering would reduce the overall time to bring permanent water to those impacted residences. On the other side, everyone will be covered by the financial assurance (adequate to cover all the costs to hook homes up to permanent water) anyway and if the impact never occurs, the money spent on the infrastructure would be unnecessarily spent.

This critical debate has not yet been decided by the County, although it has been raised many times throughout the EIR process (including the appeal). The County's position has been that this will be an issue for the use permit to decide. In anticipation of this opportunity, staff has attempted to negotiate a resolution to this issue.

The applicant had shown a willingness to consider the partial installation of the infrastructure (defined as the main trunk line down E. Bennett Road serving those parcels in the high and

moderate risk groups) on the condition that a substantial "portion" of the financial assurance be released after the risk has been "substantially diminished" (defined as approximately six to twelve months after the entire workings have been dewatered). Although there are merits to this argument, staff has chosen to err on the conservative side and - at this time - recommend not to relinquish the financial assurances based, solely on the theory that all of the impacts will be known soon after the mine working have been emptied.

Because of this conservative approach, staff also cannot support the requirement for the pre-dewatering infrastructure installation. Staff believes that having an appropriate financial assurance in place (covering those costs associated with the entire study area infrastructure installation) will ensure that if any problems do occur, a solution will be available. Granted, it may not be as quick - but it would happen. This also avoids having to second-guess the definition of the terms such like "portion" and "substantially diminished."

Remedial Water Supply Plan

Assuming the use permit is approved as recommended, the Remedial Water Supply Plan will be as follows:

Prior to the commencement of mine dewatering, the complete design of the water system infrastructure, easements, and individual hook-ups needed for all homes within the established study area will be completed by the operator. Those plans will then be checked and accepted by the County and NID. Additionally, the operator will secure a list of contractors who will be ready and able to carry out the installation project.

A complete monitoring program will [again] be established [or added to]. All parcels within the study area will be notified of the approved project and given additional opportunities to sign up for the program.

The County will hire a qualified independent Consultant to review/coordinate the monitoring program and evaluate the results of the monitoring. Additionally, a variety of other assignments related to water issues will be assigned to this person.

The community will establish a contact person (or liaison) who will serve both the surrounding community and the mine operator. This liaison will help to transfer information between the operation and the community.

A financial assurance will be provided to the County to cover those cost associated with the installation of the permanent water system.

The operator will secure temporary systems and keep them on site and available for an instant response to any ground water loss. Additionally, the particulars associated with the location of these systems will be established.

All of these items will be in place before any dewatering begins. When the dewatering begins, the ground water monitoring will be closely watched by the County's consultant. Then, should a well ever become impacted, the temporary system(s) can be installed and the plans for bringing in permanent water will be in place ready to give to a construction company. Additional incentives (read: fines) have also been incorporated into the recommended conditions to ensure that the operator quickly responds.

Limits to the Plan

In addition to how this Plan works, a question has been raised as to who is actually covered by this Plan. The question has come from a few people who live beyond the defined study area. In response to this question, staff's interpretation of General Plan Policy 17.12 is that the Remedial Water Supply Plan should cover only those who in the "expert's opinion" may be impacted. In this case, the County has hired a qualified consultant (Willdan/PMC and Sierra Pacific Groundwater Consultants) to evaluate the ground water issue.

The first step of the EIR's ground water study actually addresses this question by defining the study area. The area was defined (in Section 4.3) using both the surface and subsurface features. These include the boundaries of the local drainage basin (surface features) and the location of those fault structures containing dense, impermeable barriers (subsurface features). Using that study, the County can make a qualified decision based on factual evidence. Your Commission may recall that within this study area, all the known wells (101) were placed into one of four risk groups ranging from High to Very Low. And even though "Very Low" has been determined to be highly unlikely to be impacted, those wells are still covered under this proposal. Staff would not recommend going beyond those established boundaries at this time.

Financial Guarantee of Permanent Water Supply

As stated above, staff is recommending that a financial assurance be in place to cover 100% of the costs for providing permanent water to all parcels within the study area. Mitigation Measure 4.3.6 has been modified from the version in the Final EIR to provide the structure for this financial assurance.

Staff has, however, recommended (through Condition PD 13) two opportunities for this financial assurance to be reduced. The first would be if the operator ever has to provide permanent water to any area, and only after the water has been provided, those costs associated with that water project may be returned to the operator from the original financial assurance amount. Obviously, the theory being that if the area now has water, there is no longer a need for the County to hold those costs. The second opportunity is not an absolute either. Staff is recommending reevaluation of the financial assurance amount 24 months after the entire workings have been dewatered. Going back to the EIR's ground water hydrology study, the impacts (if any) should (in theory) be realized sometime after the workings have been dewatered below the fractured rock zone (approximately 330 feet). Again, as a safety measure, two years is being recommended as a conservative time to allow for those impacts to occur. If at that time those

impacts have not yet been realized, then it may be a safe bet to assume the impacts might not ever occur. Assuming that can later be proved, staff is recommending a public hearing be held in order to discuss a partial release of the financial assurance.

Mitigation Monitoring Program

Associated with the use permit is the Mitigation Monitoring Program, established through the EIR. The purpose of this monitoring program is to identify the timing and responsibility of each mitigation measure. Attachment #2 is a draft Mitigation Monitoring Program prepared by Willdan Associates/PMC. You will note that the measures listed in the monitoring program resemble those found in the Final EIR. The many cases, the text of the mitigation measures have been clarified - resulting in changes to the wording from those found in the Final EIR. But, in those cases, the measures remain consistent with the purpose of the original mitigation, and with who and when will be responsible for the measure. Thus, the basic program still works and can be used as a matrix for the purposes of the monitoring program.

Other Issues

There is general agreement on the mitigation needed to deal with issues other than water, including light and noise. Again, staff will highlight those in our presentation.

ACTIONS FOR CONSIDERATION

Staff recommends the Planning Commission take the following actions:

- I. Prior to taking action on the project, review and consider the previously certified Final EIR and determine that the project is consistent with the project description.
- II. Pursuant to Section 15092 of the CEQA Guidelines, review and consider making the **Environmental Findings** for this project found in Attachment #1 of this staff report.
- III. Approve the Use Permit (U94-017) subject to the Mitigation Measures and Conditions of Approval found in Attachment #2 of this staff report.
- IV. Also based upon the certification of the Final EIR, and the approval of the Use Permit, adopt the Mitigation Monitoring Program found in Attachment #3 for this project complete with any changes to the Mitigation Measures resulting from the public hearing.
- V. Pursuant to Section L-II 31.5 of the Land Use and Development Code, upon approval of U94-017, make the **Use Permit Findings** found in Attachment #1 of this staff report.