



COMMUNITY DEVELOPMENT

1594 Esmeralda Avenue, Minden, Nevada 89423

Bob Nunes
DIRECTOR

775-782-9005
775-782-9010
FAX: 775-782-9007

BN

Planning Division
Engineering Division
Building Division
Regional Transportation
Water/Sewer Utility
Road Maintenance
Code Enforcement

April 12, 2000

Mail Delivered

Gerald Bing
Bing Construction Company
P.O. Box 487
Minden, NV 89423

BY

NO
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FILED

RE: DA 99-145, Major Modification to SUP 93-32 to expand an existing materials pit and to revise the reclamation plan, 1226 Kimmerling Road, Gardnerville Ranchos

Dear Mr. Bing:

On April 11, 2000, the Douglas County Planning Commission reviewed and approved the above referenced project. The approval is subject to the following conditions, as modified by the Planning Commission (struck text was deleted, underlined text was added):

1. The applicant shall add arsenic to the list of potential pollutants currently tested for as part of the groundwater monitoring program.
2. The exterior noise level resulting from pit operations shall not exceed 65 dBA on a consistent basis in surrounding residential areas. Where there are complaints relative to noise, the County may require mitigating measures, as necessary, to reduce significant off-site impacts of noise resulting from the pit operations. These measures may include, but are not limited to, construction of a sound barrier such as a masonry block wall or an earthen berm.
3. Prior to the expansion of the pit operation, the applicant shall submit a deed restriction in the proper form to the Community Development Department, to be recorded with the Douglas County Recorder's Office. The deed restriction shall state the following:
 - A. The applicant shall dedicate as a permanent open space and conservation easement all that area as shown on Attachment 1. All development, including building and grading, shall be prohibited within the conservation easement. The easement shall be maintained so as not to create a nuisance to the surrounding neighborhood, and shall be kept free of debris.
4. The applicant shall hire a Certified Environmental Manager (CEM), or other qualified engineer, who shall perform inspections of the site on ~~an annual~~ a quarterly basis and who shall submit a report detailing the results of the inspection to the Director of the Community Development Department. The primary goal of these inspections shall be to ensure that the groundwater is not in danger of being contaminated by any

spills or leakages resulting from the pit operations. During periods of reclamation, the CEM, or other qualified engineer, shall perform inspections on a quarterly basis. The primary responsibility of the CEM during these quarterly inspections shall be to inspect any fill that has been placed in the pit for the purposes of completing the reclamation plan. The CEM shall ensure that the fill is clean and will not have an adverse effect on the groundwater, and shall submit a report of each inspection to the Director of the Community Development Department. The CEM shall inspect the first load of fill placed in the pit and shall resume quarterly inspections thereafter.

5. The applicant shall submit a final reclamation plan for restoration of the pit. The plan, at a minimum, shall include a final soils report prepared by a licensed soils engineer, a topographic map depicting the project site after completion of restoration, and a cost estimate prepared by two separate, qualified engineering firms. The applicant County shall obtain a second engineer's opinion of costs for completion of the reclamation plan. The applicant shall reimburse the County for the cost of obtaining the second estimate in an amount not to exceed \$1,000.00. ~~This~~ The final plan and estimates shall be submitted to the County no later than July 14, 2000, for review. The County shall base the amount of security required based on a review of the two estimates. The amount of security shall be 150% of the estimated cost of completion of the reclamation plan, as determined by the County. This security shall be paid prior to any expansion of the pit boundaries as proposed with this modification, or by August 14, 2000, whichever occurs first. Work on the restoration of the site shall commence no later than 180 days after the cessation of extractive operations and shall be completed within two (2) years of the date of cessation of extractive operations. If the applicant elects to begin restoration while the pit is still in operation, the amount of the security may be reduced after each five-year review, based on the amount of restoration completed.

6. At all areas where the edge of the pit boundary encroaches within 100 feet of the proposed Drayton Boulevard right-of-way, the slope of the pit shall be maintained at a natural 2 *horizontal* to 1 *vertical* slope from the top of the slope to the toe of the slope.

7. The operation shall be limited to the property as shown on Attachment 3 of the staff report. The applicant shall, during the operation of the gravel pit, establish and maintain an open space buffer zone of at least 330 feet on the north side, 355 feet on the east side, and 369 feet on the west boundaries of the subject site. The buffer zone shall be retained in its natural state and, where disturbed, shall be revegetated in such a manner as to retain the visual character of the overall buffer area. At no time shall rubble, concrete, asphalt, or other debris be stored on the subject site in such a way that the rubble or debris is visible from the project boundaries. All existing rubble and/or debris visibly located on the subject parcel at the time of approval of this amendment shall be relocated or otherwise cleaned up so that it is no longer visible from the project boundaries. The project shall be brought into compliance with this condition before any expansion of the pit boundaries as proposed with this modification, or by June 14, 2000, whichever occurs first.

8. Access to the pit shall be restricted to Kimmerling Road.

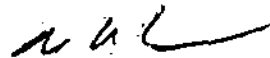
9. The applicant shall ensure that all private roads and other exposed areas are wetted or treated with an approved dust palliative, to the extent possible, so as to reduce the emanation of dust.

10. All previous conditions of approval (on file and attached) shall remain in effect, except where superseded by this amendment. Note: Superseded conditions are noted with strikethrough text.

This is the final decision regarding your Development Application for the Major Modification to a Special Use Permit. Should you be aggrieved by any portion of this decision, you have until 2:00 PM, April 25, 2000, to file the Appeal of Decision application and applicable fees with the Community Development Department

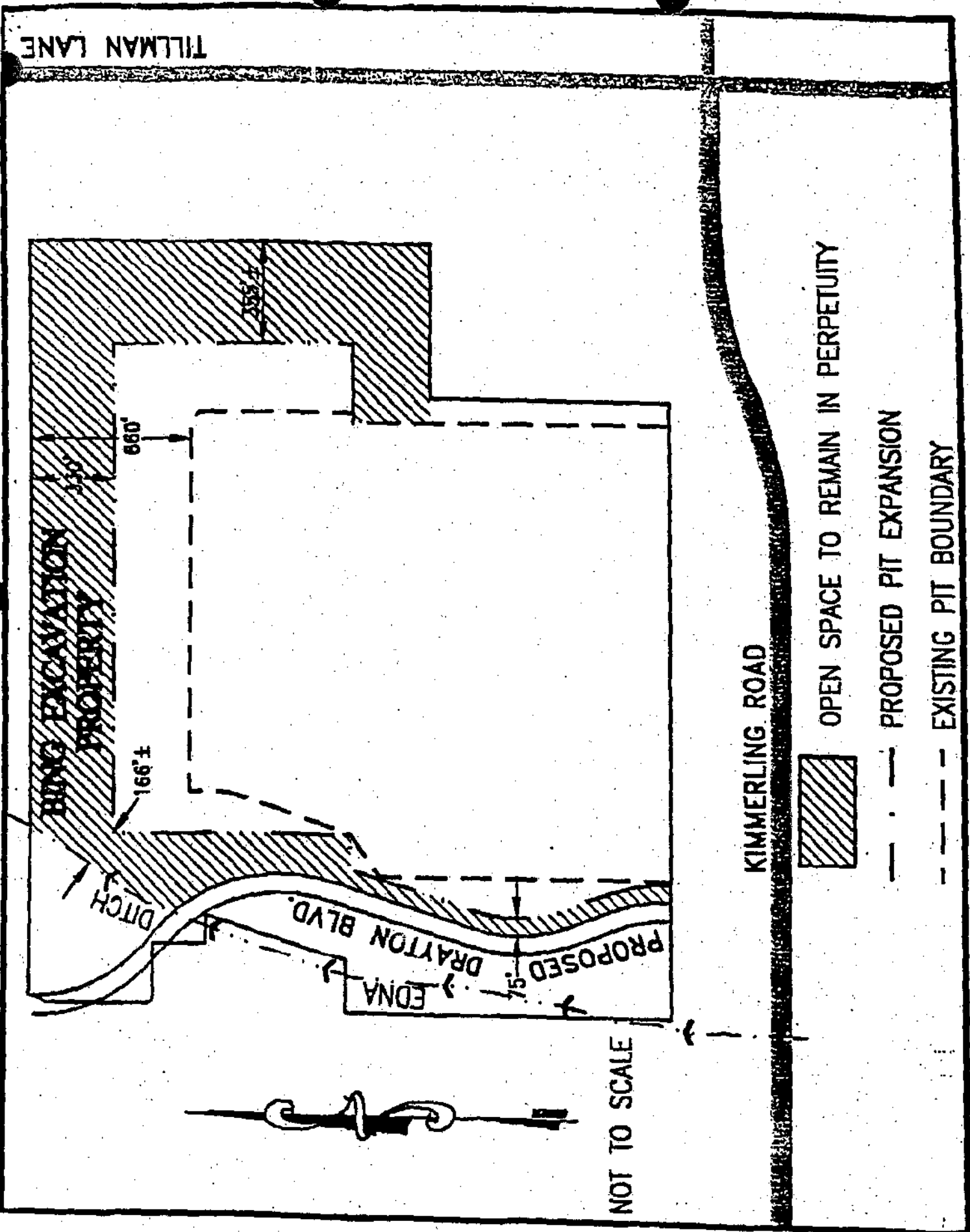
If you have any questions or comments, please feel free to contact me at (775) 782-6212.

Sincerely,



Dale M. Conner
Assistant Planner

cc Thiel Engineering Consultants, P.O. Box 70458, Reno, NV 89570
Scott Brooke, Esq., 1590 Fourth Street, Minden, NV 89423
Craig McNeil, Associate Engineer
Robert Morris, Deputy District Attorney
Kirk Streeter, Code Enforcement Officer
File ✓



TILLMAN LANE

BING EXCAVATION PROPERTY

660'

166'

DITCH

PROPOSED DRAYTON BLVD.

EDNA

75'

NOT TO SCALE

KIMMERLING ROAD

OPEN SPACE TO REMAIN IN PERPETUITY



PROPOSED PIT EXPANSION

EXISTING PIT BOUNDARY

Previous Conditions on Approval

SPECIAL USE PERMIT FOR BING CONSTRUCTION COMPANY

The Board of County Commissioners of Douglas County do hereby issue a Special Use Permit to BING CONSTRUCTION COMPANY for the operation of a sand and gravel pit, gravel crushing operation, transit mix concrete, and hot mix plant, and all necessary activities related thereto. This Special Use Permit supersedes all previously issued special use permits relating to this same property. The decision was made after holding a public hearing thereon in the County Courthouse, Minden, Nevada, at which hearing the Commissioners examined the records and files in the proceedings and received oral statements, and as a result thereof, determined it to be for the benefit of the health, convenience, safety, welfare and the promotion of the general good of the community to issue this Modification to the Special Use Permit for the BING CONSTRUCTION COMPANY, subject to the following restrictions and conditions:

Superseded by

condition #7

1. ~~OPERATION AREA. The pit operation shall be limited to the property as shown on the Attachment 1.~~

2. ~~RESTORATION PLAN. BING CONSTRUCTION COMPANY agrees to prepare and submit to the Director of the Public Works Department a completed Restoration Plan for the site. Prior to commencing any work on the Plan or hiring any consultant to perform work on the Plan, the County and BING agree that the following steps will occur:~~

Superseded by

condition #5

~~A. BING will submit a proposed scope of work for the Plan to the Public Works Director. The scope of work shall include alternatives for beneficial uses of the restored site, including, but not limited to, recreational uses, groundwater recharge uses, public or other uses, or a combination of such uses. The Director shall, within thirty (30) days, either approve the scope of work or return it to BING with instructions for alterations or additions to the scope of work. BING shall make the alterations or additions to the satisfaction of the Public Works Director and shall resubmit scope of work to the Director for approval.~~

~~B. BING and the Public Works Director shall agree upon a consultant to perform work on the Plan. If the parties cannot agree on a consultant, the County shall provide a list of suitable consultants and the parties shall choose a consultant by alternately striking names of consultants from the list. BING shall strike the first name.~~

~~The completed Plan shall be submitted to the Public Works Director no later than January 30, 1995. The Plan, at a minimum, must include alternatives for beneficial uses of the restored site, engineer's cost estimates for each~~

~~alternative, and a narrative discussion of the advantages and disadvantages of each alternative to BING and to the County. If the Public Works Director determines that the Plan complies with the scope of work and needs no further changes and also approves the engineer's cost estimates, the Plan shall be submitted to the Board of County Commissioners for their review and approval and selection of an alternative.~~

~~The engineer's cost estimate shall reflect those costs associated with each alternative in its entirety and shall be based on the most current public works practices and any applicable ordinances. Within thirty (30) days of the written notification of approval of the Plan, BING shall deliver to the County a bond or other security, which has been approved by the County as acceptable, in an amount equal to the engineer's cost estimate. BING shall ensure that the bond or security is adjusted annually to reflect changes in the western region consumer price index and shall provide County with documentation that the adjustment in the amount of the bond or security has taken place. The bond or security shall be maintained current and any lapse of the bond or security is a violation of the Special Use Permit. Prior to the submission and approval of the Plan and engineer's cost estimate, BING CONSTRUCTION COMPANY agrees to maintain a bond or other acceptable security in the amount of One Hundred Thousand Dollars (\$100,000.00), as satisfaction of its restoration bonding requirement hereunder.~~

~~BING and the County agree that BING may perform the Restoration Plan in phases and that, as each agreed upon phase is completed and accepted by the Public Works Director, the Director will release a portion of the amount of bond or security for the completed and accepted work under the Plan.~~

~~Following the approval of the Restoration Plan, BING, upon the County's request and if the approved Plan alternative calls for County use of the site, agrees to offer the entire site for dedication to the County after the completion of the Restoration Plan or, alternatively, if work under the Plan has been completed on portions of the site and the County may put that portion to use, BING agrees to dedicate the available portion when requested and the remainder upon completion of work and when requested.~~

~~Work on the selected alternative shall commence no later than 180 days after the cessation of extractive operations and shall be completed within two (2) years of the date of cessation of extractive operations.~~

3. WATER QUALITY AND QUANTITY MONITORING. As a condition to the approval of this Special Use Permit, BING CONSTRUCTION COMPANY agrees to conduct an initial, complete site, ground and surface water quality and hydrological analysis to ensure that the prior and existing pit operations

have had and are presently having no deleterious effects on groundwater quality or quantity. Additionally, a groundwater quality and hydrological monitoring program will be promulgated, implemented and continued over the course of extractive operations in the pit in order to assure that extractive operations do not create a public health or safety danger through groundwater contamination or detrimentally affect other water users. The scope of work or the proposed monitoring water quality and quantity monitoring programs for the analysis and the monitoring programs must be submitted to the Public Works Director for comment and approval by July 22, 1994 and prior to any work commencing on the analysis or monitoring programs. BING shall not commence any work in the additional excavation area until the analysis or monitoring programs have been approved and are commenced. BING, prior to commencing the water quality and hydrological analysis and program, shall also submit the proposed program to the Nevada Division of Environmental Protection and the State Engineer for comments and, if applicable, approval. All interim and final water quality and quantity analysis and monitoring reports or documents shall be provided by BING to the County. The reports or documents provided to the County are public records.

BING and the County are aware of the existence of technology which allows the extraction of sand and gravel resources substantially below the levels at which natural groundwater is encountered. Both parties are also aware that the groundwater level or elevation within the BING pit can fluctuate based on the precipitation cycles experienced in western Nevada. Both parties agree that the bottom of the subject pit is now at 4,735 feet above sea level or the actual level. Both parties agree that BING, prior to going below that level, will provide a water quality and quantity analysis proposing a lower depth to which BING proposes to extract and showing that no detrimental effects on water quality or quantity from that extraction will occur. The Board of County Commissioners, after receipt of an application from BING for modification of its special use permit to allow excavation below 4,375 feet above sea level or the actual level, shall schedule a public hearing on the application and approve or disapprove the application. Any such analysis or report may be based upon or draw upon data collected in the analysis and monitoring program carried out in the preceding paragraph, but must separately address the issue of below groundwater level extractive operations and effects on surrounding water quality and quantity dealt with in this paragraph. Despite the submission of such a report, if extractive operations are commenced below the proposed depth and it objectively appears that quality or quantity negative effects are experienced in surrounding groundwater sources, the extractive operation below the proposed depth shall be suspended until the source and cause of the problem is confirmed and an appropriate solution implemented. An appropriate solution for a water quality or water quantity problem shall be determined, if applicable, by the Nevada Division of Environmental Protection or the State Engineer, or, if

those agencies decline or the County chooses, by a qualified consultant chosen by the County and paid for by EING.

uperseded by
condition #7

4. BUFFER ZONE. ~~EING CONSTRUCTION COMPANY shall, during the operation of the gravel pit, establish and maintain an open space buffer zone of at least 600 feet on the west boundary and 650 feet on the north and east boundaries of the described property as shown on Exhibit 1. The buffer zone shall be retained in its natural state, and where disturbed, shall be revegetated in such a manner as to retain the visual character of the overall buffer area. In addition, BING shall, within 45 days of the approval of the permit, submit a gateway landscape plan to the Public Works Director for his approval. The Plan shall provide for an enhanced linear landscape area extending 100 feet east and west of the main pit entrance on Kimmerling Road. The landscape plan shall incorporate low berms, drought tolerant plant species, and a minimum of one tree per 10 linear feet (20 percent of which are to be 24 inches box size or greater). The landscaping shall be completed within sixty (60) days of approval of the Plan. Any non-resolution of the gateway landscaping shall be resolved by the Board of County Commissioners pursuant to paragraph 11.~~

~~At no time shall rubble, concrete, asphalt, or other debris be stored on the parcel in such a way that the rubble or debris shall be visible from the parcel boundaries. All existing rubble and debris visibly located on the subject parcel at the time of approval of this amendment shall be relocated or otherwise cleaned up so that it is no longer visible from the parcel boundaries.~~

5. COMPLIANCE WITH LAWS. BING warrants that it will comply with all applicable federal, state and local laws during the term of the Permit, including implementing regulations, as they are promulgated or amended. Those laws include, but are not limited to, the Uniform Fire Code, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., the Nevada Water Pollution and Air Pollution Control Law, NRS Chapter 445, and the Nevada Hazardous Waste Disposal Law, NRS § 459.400, et seq.
6. INDEMNIFICATION. BING shall defend with counsel reasonably acceptable to the County and shall indemnify and hold harmless the County, its officers, agents and employees, from and against any and all losses, liabilities, fines, penalties, costs, claims, damages, or judgments, including attorney's fees, arising out of or resulting in any way from BING CONSTRUCTION COMPANY'S operations or activities under or related to this Special Use Permit or from its failure during its operations or activities under or related to this Permit to comply with federal, state and local laws, including but not limited to, those enumerated in the preceding paragraph.
7. OVERLAY CONTRIBUTION AND ROAD DEDICATION. Transportation of all

raw materials for ancillary operations as required is permitted to the site of operations (the BING pit), as is transportation of all produced products and by-products, and water materials produced, from the site of operation (the BING pit) over County roads. Gardnerville Ranchos' roads, including Tillman Lane, Riverview Drive and Dresslerville Road, shall not be used for access to and from the BING pit, except for local deliveries of materials within the Gardnerville Ranchos. BING CONSTRUCTION COMPANY does, as a result of this approval and in recognition of the impact which delivery vehicles coming to and from the Bing pit have on Kimmerling Road, agree to contribute 1,700 tons of the required asphaltic hot-mix necessary to complete the overlay of Kimmerling Road from Highway 88 to Tillman Lane.

BING also agrees, in consideration of this approval and of the Douglas County Master Plan and in the manner shown on the attached Exhibit 1, to dedicate an eighty (80) right-of-way within a portion of the westerly buffer zone to accommodate the proposed extension of Centerville Lane (Ranchos arterial) as set forth in the Draft Transportation Element of the Master Plan and a seventy five (75) foot strip adjacent to the right-of-way. In return, County agrees that BING, as shown on the attached Exhibit 1, may excavate up to an additional sixty (60) foot area.

8. HOURS OF OPERATION: BING CONSTRUCTION COMPANY agrees to maintain the present status quo in its security fencing, operations, schedules, plant and equipment; provided, however, that the hours of operations shall be from 6 a.m. to 7:30 p.m.; provided further that the concrete batch plant shall not be subject to these restrictions unless and until the County receives information or complaints about the concrete batch plant operation and reviews that information or those complaints and the conditions of this permit in accordance with paragraph 12. The parties agree that these hours of operation are based on past experience and that, with the changing nature of adjoining areas, adjustments in the hours of operations or conditions of operations may, from time to time, be necessary.

This Permit is approved based upon existing plant and equipment capacities and in no way authorizes that special circumstances will exist for non-routine materials orders that require a large volume of product production in a short period of time. In such a circumstance, BING will notify the Douglas County Public Works Director in writing at least seven (7) full days in advance of BING's request to run plant operations outside of the routine 6 a.m. to 7:30 p.m. The Public Works Director shall approve or disapprove the request within the next two working days. The Public Works Director may approve a request to run plant operations outside of the routine hours for a period of up to, but no more than, 30 days. BING may appeal any disapproval to the Board of County Commissioners. Before beginning any operations during any non-routine hours BING must receive County approval for operations during non-routine hours.

9. PERIODIC REVIEW AND ANNUAL REPORT. Prior to the annual anniversary date of the approval of this Permit, BING CONSTRUCTION COMPANY shall provide to the Public Works Director a report of the past year's activities. The report shall include the following information:

1. The amount of material extracted from the site in the past year.
2. The locations on the site that the material was removed from (shown by map with respect to the footprint boundaries).
3. Any environmental or other regulatory actions taken by federal, state, or local agencies and the disposition of those actions.
4. The current status of the operation (i.e., a description of the equipment and plants that are being operated and where on the site the operation is occurring).

Superseded by
condition #4

~~The County shall hire a Certified Environmental Manager who shall perform inspections of the site on a quarterly basis and who shall make all reports to the Public Works Director. BING agrees to pay for the inspections in an amount of up to, but not exceeding, \$2,500.00 per year. The Certified Environmental Manager shall either bill BING directly or bill the County, which shall then forward the bill to BING. In either case, BING shall pay each billing in a prompt and timely manner.~~

Every fifth year after the approval, the Public Works Director shall bring the Permit before the Board of County Commissioners for its review of compliance with and continuation of the Permit.

10. ASSIGNMENT OR TRANSFER. This Special Use Permit shall not be assigned or transferred in any manner without BING CONSTRUCTION COMPANY first obtaining the written consent of the Douglas County Commissioners.
11. REVOCAION. Failure of BING CONSTRUCTION COMPANY to comply with any of the terms of and to obtain all approvals required by this Special Use Permit shall be grounds for the immediate revocation or other appropriate action of the Special Use Permit by the Douglas County Board of County Commissioners. The Board may, from time to time, review any information or complaints received, review and adjust the conditions of the permit, and review BING CONSTRUCTION COMPANY's compliance with the conditions.
12. PROCEDURE FOR NOISE, DUST, OR DEBRIS COMPLAINTS. Noise, dust, or debris complaints shall be filed with or made to the Public Works Director. The Public Works Director shall investigate the complaint and shall, within fifteen (15) working days of receiving the complaint, render a decision upholding, denying, or otherwise disposing of the complaint, which may include actions to be taken by BING to alleviate the complaint. The Director may hold

a hearing prior to rendering a decision. If the Director decides to hold a hearing, the hearing shall be held within a reasonable time and the decision shall then be rendered, either orally or in writing, within fifteen (15) working days of the completion of the hearing. BING may appeal the decision to the Board of County Commissioners within ten (10) working days of the decision being rendered. The Board may hear the matter based upon the record below and render its decision within forty five (45) days of the hearing. The parties agree that a noise study based on CNL procedures and standards may be required from BING by the County.