

DEPARTMENT OF PUBLIC WORKS

People serving people.

Robert Beaumont

DIRECTOR

July 16, 2013

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RE: San Rafael Rock Quarry Surface Mining and Quarrying Permit (Q-72-03, CA Mine #91-21-0008) Amendment to Allow Asphalt Grindings Importation and Reuse

Dear Board Members:

Accounting

Airport

Building Maintenance

Capital Projects

Certified Unified Program Agency (CUPA)

Communications Maintenance

County Garage

Disability Access

Engineering & Survey

Flood Control & Water Resources

Land Development

Purchasing

Real Estate

Reprographic Services

Road Maintenance

Stormwater Program

Transportation & Traffic Operations

Waste Management

RECOMMENDATION: 1) Conduct a public hearing to receive comment, and, 2) after hearing public testimony, take action on the resolution to approve the San Rafael Rock Quarry Surface Mining and Quarrying Permit #Q-72-03, Amendment #2, allowing importation and reuse of asphalt grindings.

SUMMARY: Before your Board is the decision to approve a narrow amendment to the San Rafael Rock Quarry (SRRQ or Quarry) Surface Mining and Quarry Permit. The Quarry has proposed to import asphalt grindings from paving projects located only within Marin County, and then to fully reuse the asphaltic grindings in the production of asphalt concrete at the existing on site asphalt concrete batch plant. The existing amended Surface Mining and Quarry Permit currently prohibits such asphalt concrete grindings importation, although grindings had historically been imported to the Quarry. The proposed change to the permit condition does not affect any other permit conditions or restrictions such as the 250 daily truck trip restriction on Point San Pedro Road, dust control requirements, or air emissions limitations. Staff recommends your Board adopt the resolution amending the Permit to allow the importation and reuse of asphalt grindings. The proposed action will not have a significant effect on the environment, and a CEQA Categorical Exemption has been prepared for the recommended action.

DISCUSSION:
Background/History

San Rafael Rock Quarry property and project site are wholly within unincorporated County of Marin and are located on a promontory point in San Francisco Bay known as Point San Pedro. The site is comprised of marshlands, an existing and separate brick manufacturing facility, a hill approximately 250 feet high known as South Hill, a quarry bowl that has been

excavated to approximately 300 feet below sea level, a rock crushing and segregation processing facility, an asphalt concrete production plant, docks, and various office and residential buildings. The site is bounded to the north by Point San Pedro Road and the Peacock Gap Neighborhood, Marin Bay Park Neighborhood and McNear's Beach County Park to the northeast, and residences to the west located in the City of San Rafael. San Francisco Bay and Point San Pedro Road encircle approximately 290 acres of the property. The subject property is located at 1000 Point San Pedro Road, San Rafael, and is further identified as Assessor's Parcels 184-010-09, -15, -16, -51, -52.

Various quarry operators have quarried and conducted other related activities continuously on the site since the 1870's, when the McNear family first began operating a brickyard. In 1939, the Basalt Rock Company began hard rock quarrying at the site. San Rafael Rock Quarry, Inc. acquired the property and has operated the San Rafael Rock Quarry since 1986. The San Rafael Rock Quarry (SRRQ) is a subsidiary of the Dutra group; the acronym 'SRRQ' or 'Quarry' in this staff report refers to both the owner of the property and to the physical Quarry site.

The property was originally zoned M-2:B-2 Heavy Industrial, Limited Agricultural, in 1941 (quarrying was an allowed use in the zone). The County adopted a surface mining ordinance in 1971 and issued a Quarry Permit (Q-72-03) for the operation in 1972. The State enacted the Surface Mining and Reclamation Act (SMARA) in 1975, requiring mining operations to have a permit to quarry and a reclamation plan. The Quarry property was also designated by the California Division of Mines and Geology as a regionally significant mineral zone pursuant to SMARA. Basalt Rock Company submitted a reclamation plan to the County in 1976 (the 1976 Reclamation Plan was never approved by the County). Also in 1976, a request to move the Hutchinson Quarry asphalt batch plant to San Rafael was determined to be an allowed use by Marin County Counsel.

The County amended the Countywide Plan in 1981, which incorporated the Peacock Gap Neighborhood Plan, and subsequently rezoned the property to Residential Multiple Planned Commercial (RMPC) in 1982, resulting in the existing quarry becoming a legal non-conforming use (the new zoning does not permit mining operations, but existing activities are 'grandfathered' in). An amended reclamation plan (ARP82) was approved by the County in 1982. In 1992 the Marin County Planning Department Director determined that processing recycling concrete and asphalt concrete are within the provisions of the 1972 Quarry Permit (attached).

Following a legal action by various parties, and a lengthy environmental review process conducted by the County that began in 2005, on October 27, 2009, your Board certified the Combined Final EIR to amend both the Surface Mining and Quarrying Permit and the reclamation plan. On September 28, 2010, your Board approved San Rafael Rock Quarry Surface Mining and Quarrying Permit (Quarry Permit) Amendment # 1 Conditions of Approval and an amended reclamation plan. The Quarry Permit conditions of approval do not currently allow importation of asphalt concrete.

Quarry Proposal

A roadway is built in several layers: pavement, base, and sometimes subbase. The pavement is the surface layer, and for Marin County, is usually made of asphalt concrete. Asphalt concrete is made up of crushed rock and an oil based binder. When roads are resurfaced or reconstructed, a grinding or milling machine usually is used to grind the asphalt surface and prepare it for the new asphalt layer. The grindings, made of small rock and oil binder from the old road surface, are captured by the machine and

usually conveyed into a dump truck. The material is then sent to be recycled as road base material or as new asphalt concrete, or is sent to a landfill.

It is this used asphalt material, or 'grindings', which is proposed to be imported by truck to the Quarry. Once at the Quarry site it would be unloaded, stockpiled and then screened prior to reuse as raw feed material in making new asphalt concrete at the existing Quarry asphalt batch plant. Depending on grinding particle size and asphalt mix design, grindings may also be processed through existing on site crushing equipment. A feed hopper and conveyor similar to existing on site equipment will be used to deliver the grindings to the asphalt batch plant. All imported asphalt grindings will be recycled into asphalt concrete pavement. The grindings are added in varying amounts, typically, currently, about 15% by weight, but changes in paving standards and methods are allowing up to 25% to 40%. No grindings material is to be left on site at the conclusion of mining operations, so there is no change to the reclamation plan. Because of the binder oil that already exists in the grindings, less oil is needed to make new asphalt concrete. The new asphalt product produced is also called Reclaimed Asphalt Pavement (RAP). Grindings can also be used as granular base or subbase material.

Dutra's Richmond batch plant currently imports grindings from Bay Area construction projects. When the Richmond plant is used to produce asphalt concrete, compared to the proposed use at San Rafael batch plant, additional truck trips are generated because all raw rock aggregate at Richmond is imported from the San Rafael Rock Quarry. Other, regional, non-Dutra asphalt concrete batch plants also import grindings.

Analysis

The primary products currently produced at the Quarry include crushed rock, concrete aggregate, sand, asphaltic concrete and rip rap products that are used for road, levee, and other infrastructure construction. The Quarry proposes to amend the Quarry Permit to facilitate continued and more economical asphalt concrete batch plant operations. The Quarry Permit sets conditions and limitations on permissible hours for various operations; limits on the number of truck trips accessing the facility, truck routes, and the times at which trucks may arrive and leave the facility; and conditions on air emissions, including dust, greenhouse gases and criteria air pollutants.

Truck Trips

There is no proposed change to the maximum of 250 truck trips per day (125 rock/aggregate/asphalt concrete trucks into the quarry and 125 trucks leaving the quarry) restriction on Point San Pedro Road. The Combined FEIR found that 250 truck trips was not a significant environmental impact. It should be noted that the truck trip limitation creates an operations tradeoff between aggregate shipments by truck and asphalt concrete (AC) shipments, and total daily asphalt concrete production is limited to approximately 3,125 tons.

Air Emissions

The Quarry has a Bay Area Air Quality Management District (BAAQMD) Permit to Operate for the asphalt batch plant that regulates total emission and required air pollution control devices. The Air Quality section of the EIR analyzed air emission from the Quarry at full operation with the asphalt batch plant operating at the annual maximum permitted capacity. The propose amendment therefore does not have a significant effect on air quality as total asphalt production is already capped and regulated.

The California Air Resources Board (ARB) promulgates regulations to achieve emission reductions from mobile diesel sources. Specific statewide regulations designed to further reduce diesel particulate matter (PM) emissions is ongoing and extensive. The EIR also previously analyzed the potential air quality environmental effects from the proposed Quarry truck trips and found the potential impact to be less than significant. Note that any asphalt production resulting from the San Rafael batch plant instead of the Richmond batch plant is a net reduction in regional (Bay Area wide) air emission because it eliminates the additional truck traffic need to transport raw material from San Rafael to Richmond.

Regulatory Climate

The State of California last year adopted AB 812, which requires Caltrans, on or before January 1, 2014, to establish specifications for use of reclaimed asphalt pavement (RAP) of up to 40% for hot mix asphalt. The purpose is to conserve and protect resources by encouraging the recycling of solid waste. Besides hot mix asphalt, RAP can also be used as aggregate base, subbase and shoulders, and fill for utility trenches.

The Federal Highway Administration (FHWA) supports and promotes the use of recycled highway materials in pavement construction in an effort to preserve the natural environment, reduce waste, and provide a cost effective material for constructing highways. In fact, the primary objective is to encourage the use of recycled materials in the construction of highways to the maximum economical and practical extent possible with equal or improved performance. As part of the FHWA recycled materials policy, the FHWA actively promotes asphalt pavement recycling and technology.

The use of recycled aggregate can save money for local governments and other purchasers, create additional business opportunities, save energy when recycling is done on site, conserve diminishing resources of urban aggregates, and help local governments meet the diversion goals of AB 939 (County requirements for solid waste diversion from landfills through waste reduction or recycling).

Proposed Amendment Limitation, Monitoring & Inspection

Should your Board approve the Permit amendment, staff would continue to conduct all of the existing monitoring and inspections on truck traffic, truck trips, and other Permit conditions as we do today. In addition, we would require the Quarry to provide weekly grinding truck counts, and in the Quarry's annual summary, a yearly truck count of all grinding importation and end of year on-site grindings stockpile quantity. The Quarry would be required to keep on file, and be available for inspection, information indicating that the grindings importation came only from Marin County projects.

Although there are no anticipated new or significant impacts from the proposed grindings reuse, because it is a change from current Quarry operations, staff is proposing that the amendment is valid for an approximately two year period (October 1, 2015), with a report to the Board near the end of the trial period providing relevant information on the Quarry Permit amendment implementation. It would be up to the Board at that time whether or not to approve any continuing resolution.

Grindings are proposed to be reused in the production of asphalt concrete during the life of the Quarry operations. However, should the Quarry cease to produce asphalt concrete from the site, then the proposed Quarry Permit amendment would also require the Quarry to stop grindings importation. Also proposed as part of the Quarry Permit amendment is that grindings importation ceases one year prior to the mining operation termination date, and that the maximum on site grindings stockpile be no greater than

38,200 tons (based on 25% RAP and 6 year average asphalt production prior to 2004). These last two provisions are to minimize the possibility that grindings management is needed as part of site reclamation.

California Environmental Quality Review (CEQA)

The current approved amendment Surface Mining and Quarry Permit, and Amended Reclamation Plan, recently completed a 5-year long exhaustive environmental and public review process. On March 25, 2008 your Board conducted a public hearing in two parts to receive separate testimony for each of the two projects addressed in the Combined Draft EIR. The Combined Final EIR and a Notice of Availability of the Combined Final EIR for review and comment were distributed on January 29, 2009 to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies and special districts, EIR commenters, and other interested groups and individuals. On August 25, 2009, your Board held the San Rafael Rock Quarry (SRRQ) Combined Final EIR certification hearing on the Amended Quarry Permit (AQP) project. The public testimony on the AQP project was concluded at the August 25 hearing (no action for Combined Final EIR certification was taken) and the hearing on the Amended Reclamation Plan 2004 (ARP04) project and consideration for certification of the Combined Final EIR was continued to October 27, 2009. On October 27, 2009, your Board conducted a public hearing on the ARP04 project and at the conclusion of public testimony the hearing was closed and the Board certified the Combined Final EIR. The Final EIR responded to over 500 comments and had 98 findings of adverse environmental impacts that were mitigated. On September 28, 2010, your Board approved San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment # 1 Conditions of Approval and an amended reclamation plan.

Current CEQA Action

The San Rafael Rock Quarry Amended Reclamation Plan and Amended Surface Mining and Quarrying Permit Combined Final EIR reflects the County's independent judgment and analysis, and underwent rigorous preparation and processing in full compliance with CEQA State EIR Guidelines, and County Environmental Review Procedures. Substantial opportunity for public participation in the EIR process and review and comment on the EIR documents was provided which meets and exceeds the requirements of CEQA and County Environmental Review Procedures. The Combined Final EIR provides adequate information and analysis to make an informed decision on the environmental effects and take action on current proposed Surface Mining and Quarrying Permit Amendment No. 2. Based on the information provided and the scope of activities, the project represents activities that do not result in significant environmental impacts and is considered a minor alteration to existing structures or facilities not expanding existing use, and therefore is considered a Class 1 Categorical Exemption (CEQA Guidelines Section 15301).

Further, the proposed modification is also exempt from CEQA under the 14 California Code of Regulations, section 15061(b)(3), the so called "common sense" exemption. This section is based on the idea that CEQA applies jurisdictionally to activities which have the potential for causing environmental effects. Where an activity has no possibility of causing a significant effect, the activity will not be subject to CEQA.

Should your Board approve the amendment today, staff will file a Notice of Exemption with the County Clerk and provide a public posting of same.

Public Comment & Other Quarry Information

The County sent direct mail notices on the proposed Board hearing to approximately 740 property addresses using as a guide 2,500 feet outward from the Quarry's boundary along Point San Pedro Road, and extending the noticing along the Point San Pedro Road to approximately Andy's Market at Loch Lomond. An initial notice was sent on June 18, 2013, and follow up notice on the rescheduled hearing date was sent to the same property addresses on July 1, 2013, after the hearing was rescheduled to allow staff to review public comment.

The County received a letter from Edgcomb Law Group representing the Point San Pedro Road Coalition (attached). The letter objects to the Quarry's application on the grounds that a previous court order enjoined the quarry from importing asphalt, that it is an expansion of use, and a Categorical Exemption determination by the County fails to comply with CEQA. The County's response is that the 2004 Court order was superseded by the preparation and certification of the EIR, subsequent approval of the amendment Surface Mining and Quarrying permit, and a motion by the Court to dissolve the injunction. Also, the proposed amendment allows a use that is not an expansion of the nonconforming use and such use, with restrictions, will have no potential for significant environmental effects. Lastly, as noted in the previous staff report section, the County has complied with CEQA, subject to the Board approval, by issuing a Notice of Exemption.

San Rafael Rock Quarry Correspondence

The Quarry provided a graphic representation (attached) comparing truck miles needed to deliver asphalt from either Richmond or SRRQ asphalt batch plants owned by the Quarry to four Marin County paving projects. The high number of truck miles resulting from Richmond plant asphalt is primarily because raw material is imported from the San Rafael Rock Quarry to Richmond to produce asphalt. The Quarry's law firm, Farella Braun + Martel also provided their option on the merits of the Edgcomb Law Group's request to reject the proposed permit amendment (attached). The Quarry's manager also provided a letter (attached) further supporting the environmental benefits of recycling asphalt grindings and the changes in the industry towards more use of recycled asphalt pavements.

Miscellaneous other correspondence was received prior to the staff report submission deadline, reiterating similar reasons, both for and against approval, and is attached to the Board's packet.

CONCLUSION: Specifically before your Board is the consideration to amend the Surface Mining and Quarrying Permit No. 72-03. No action is needed on the reclamation plan. The proposed resolution and Permit amendment changes to conditions of approval allow importation of asphalt grindings from Marin County projects only, and make a few other changes to conditions of approval to recognize that loaded trucks will be traveling to and from the Quarry along Point San Pedro Road. Staff recommends your Board approve the attached resolution approving the San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment #2.

FISCAL IMPACT: The quarry inspection and monitoring costs are fully funded by the Quarry. No additional net county costs will result from the recommended action.

REVIEWED BY:	<input checked="" type="checkbox"/>	County Administrator	<input type="checkbox"/>	N/A
	<input type="checkbox"/>	Department of Finance	<input checked="" type="checkbox"/>	N/A
	<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
	<input type="checkbox"/>	Human Resources	<input checked="" type="checkbox"/>	N/A

Respectfully submitted,



Eric Steger
Assistant Director

C: Aimi Dutra, San Rafael Rock Quarry
Point San Pedro Road Coalition (Box 449, 369 "B" Third Street, San Rafael, CA
94901)
Brian Crawford, CDA
Office of Mine Reclamation

Attachments:

- 1) San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment #1, approved on September 28, 2010
- 2) Resolution Approving Permit Amendment #2, including Exhibit A
- 3) Application for Permit Amendment and Submittal from SRRQ
- 4) Marin County Planning Department letter to SRRQ, February 20, 1992
- 5) Edgcomb Law Group letter, July 1, 2013
- 6) Farella Braun + Martel LLP letter, July 3, 2013
- 7) Dutra letter from Aaron Johnson, July 8, 2013
- 8) 'Truck Miles Comparison' Graph from SRRQ
- 9) Proposed CEQA Notice of Exemption
- 10) Miscellaneous emails and other comments from the public

(The above documents have been provided only in packets for the Board of Supervisors. Copies of the documents are available for review at the Department of Public Works Room 304, Civic Center, San Rafael, from 8:00 a.m. to 4:00 p.m. daily.)

EXHIBIT 2

Marin County Surface Mining and Quarrying Permit Permit # Q-72-03, Amendment #1 Conditions of Approval Including Amended Reclamation Plan San Rafael Rock Quarry (CA Mine #91-21-0008)

This Permit is issued pursuant to Marin County Code Section 23.06. This Permit is intended to regulate the control of surface mining and quarrying operations and to insure that all lands affected by such operations shall be reclaimed according to the State Surface Mining and Reclamation Act (SMARA) and local ordinances.

Project Location

San Rafael Rock Quarry
1000 Point San Pedro Road
San Rafael, CA

Assessor Parcel Numbers (dry land in **bold**):

184-010-**09, -15, -16** -18, -19, -20, -44, -45, -47, -51, and **-52**

Dry land covers approximately 272 acres.

General Plan Designations: City-Center Corridor; Bayfront Corridor, Mineral Resource Area

Zoning: RMPC (Residential/Commercial Multiple Planned)

Definitions

“Permittee” means any person, partnership, corporation or public agency engaged in surface mining or quarrying and shall be defined as both the owner of the property, and the operator of the facility. All references herein to “Permittee” shall be defined to include the “permittee, or successor(s) in interest”.

“Operation” means all of the premises, facilities, roads and equipment used in the process of producing the mining or quarrying products, from the designed strip mine or quarry area or removing the overburden for the purpose of determining the location, quality or quantity of a natural deposit.

“Overburden” means all the earth and other materials, consolidated or unconsolidated, which lie above a natural deposit of mineral or useful rock, and shall also mean such earth and other material after removal from their natural state in the process of surface mining.

“(Northeast, Northwest, Southeast, Southwest) Quadrants” means the geographic division of the Quarry property as labeled and shown in Figure 1 of the 1982 Amended Reclamation Plan.

“Reclamation” means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses and creates no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Permit Format

Where Permit conditions of approval are derived from an Environmental Impact Report mitigation measure, the particular mitigation measure or measures are identified by parentheses and italics.

Quarry Plan Submittals

Except as amended by this Permit and these Conditions of Approval the Amended Reclamation Plan is comprised of:

- San Rafael Rock Quarry Amended Reclamation Plan 2004 (Volume 1) dated October 12, 2004 (three ring binder)
- San Rafael Rock Quarry Amended Reclamation Plan 2004 (Volume 2 - Appendices) dated October 12, 2004 (three ring binder)
- San Rafael Rock Quarry Amended Reclamation Plan 2004 Implementation Plan sheets containing sheets E1 thru E6, G1 thru G4, RV1 thru RV4, and CS1 thru CS5 (Size D sheets), dated ‘Revised 2004’,
- Supplemental Amended Reclamation Plan information letter dated December 14, 2004 from CSW/Stuber-Stroeh Engineering Group, Inc. including ledger size drawings revising Sheets E2, E3, E5, and RV1 thru RV4
- Supplemental Geotechnical Data Report by ENGEQ, Inc. dated April 11, 2005
- Supplemental Information for Section 2.B.5.i – Maintenance, San Rafael Rock Quarry, Amended Reclamation Plan 2004 (October 12, 2004), Revised on March 24, 2005

General Quarry Operations

1. This Permit is granted for the surface mining and quarrying operations, and reclamation activities, consisting of the following:

- a. Mining and excavation, including removal of overburden, in accordance with the approved reclamation plan.

- b. On site processing of aggregate materials obtained from on site including, rock crushing, sorting, screening, conveying and storage/stockpiling.
 - c. Barge loading operations for materials obtained on site including conveyor and direct truck loading of barges, and barge unloading of dredged San Francisco Bay sand from barges for asphalt production.
 - d. The operation of an asphalt concrete batch plant using on-site aggregate materials and production of asphaltic concrete.
 - e. Access to and from the site by truck, and the loading of commercial and inter-facility trucks on site with rock, asphalt and processed aggregate materials quarried from the site.
 - f. Maintenance activities including repair, replacement and failure preventative measures on facilities, fixed plant, vehicles, vessels, and stationary and mobile equipment operating at the site.
 - g. Structures, facilities, equipment and other accessory uses and appurtenances including, but not limited to rock crushers, conveyor belts, asphalt batch plant, barging facilities, water supply ponds, water recycling ponds, scale house, truck wash racks, above ground fuel tanks, air pollution control equipment, administration offices, maintenance buildings and sheds as shown in the 2006 existing conditions aerial topography and map dated December 19, 2006, on record at the Marin County Department of Public Works. This is the last County required aerial map submittal prior to publishing the Notice of Preparation for the amended quarry permit EIR.
 - h. Reclamation, revegetation, reclamation monitoring, and biological studies at the quarry site per the approved reclamation plan and this Permit.
2. Mining shall not occur in the Northwest Quadrant. Mining shall not occur in the Northeast Quadrant except to the extent that rock is encountered when establishing the Quarry Bowl bench at the edge of the future flooded San Francisco Bay inlet. In no event shall mining occur beyond 100 feet north of the boundary line between the Northeast Quadrant and the Southeast Quadrant. Mining shall not occur on the non-land (on the bay side of the San Francisco Bay shoreline) portions of the Quarry lands. Quarrying on South Hill shall not be beyond what was described in the 1982 Amended Reclamation Plan.
3. The Permittee shall not import onto the Quarry property gravel, used asphalt concrete or concrete for recycling, or dredged non-sand material.
4. Pond fines, if produced in the future, shall not be placed in the Northeast or Northwest Quadrants.

5. Maximum annual production shall be limited to the fluctuating 1982 baseline level of production, i.e., a 5-year rolling average of no more than 1,414,667 tons per calendar year, and a maximum level of production of 1,697,600 tons in any one calendar year. (*Mitigation Measures P4.2-6c, P4.2-7d, C4.2-9b & P4.6-6b*)

a. Applicant shall keep a weekly operations production log, to the satisfaction of the Director of Public Works, which shall include the amount of product produced from all operations, the amount of product kept on-site, the amount of product removed from the Quarry site by barge and the amount of product removed from the Quarry site by truck. The log shall remain at the project site and be made available within 24 hours of a written request for such log from the Director of Public Works.

6. No equipment changes or other modifications to the plant, including but not limited to all crushers, screens and conveyors, shall be effected so as to increase plant capacity above existing conditions or limits set forth in BAAQMD permits at time of Permit issuance without Permittee obtaining County approval first. The Permittee shall not undertake operational or construction related activity which is not explicitly described in these conditions or applicable Exhibits without first contacting the Public Works Director to determine if said activity requires a modification or amendment to the Permit. A written description and/or map may be required by the Public Works Director prior to rendering a decision.

7. All Quarry operations and reclamation activity shall comply with the applicable Combined EIR mitigation measures.

8. This permit shall be kept on the site and must be shown to any representative of the Department of Public Works or any law enforcement officer on request.

General Reclamation Plan

9. As a condition to this Permit, and as further described below regarding a Conforming Amended Reclamation Plan, Permittee shall revise the 2004 Amended Reclamation Plan submittal to incorporate the following:

a. Add the same lands shown in the 1982 Amended Reclamation Plan, Figure 4, in the Northwest Quadrant labeled as 'preserve in natural state' (southerly and adjacent to kiln) as lands to be preserved in the 2004 Amended Reclamation Plan.

b. The toe of the 'surcharge berm' shown in the Northwest Quadrant of the 2004 Amended Reclamation Plan shall be no closer than 100 feet from the edge of the marsh area (edge of wetland delineation).

c. The 'surcharge berm' shown in the Northwest Quadrant shall be no higher than elevation 25 feet. McNear's Brickyard material storage or use

cannot occur on top of the surcharge berm above a surcharge berm grade of elevation 15 feet.

d. Phase 1 Reclamation plans shall be revised to: 1) provide an option to remove the new berm construction in the Northeast Quadrant (“Northeast Berm 1”), 2) not begin reclamation grading activity, except for erosion and sediment control, in the Northeast Quadrant for the first 18 months following approval of the Permit and amended reclamation plan, 3) relocate the top soil stockpile fill area “F” under Phase 1 of the proposed project, to avoid potentially adverse effects to the Caretaker’s Residence, and 4) schedule marsh restoration for the first phase of reclamation work, but after the marsh restoration plan has been completed, approved and necessary permits obtained from resource agencies. Sheet G1 of the 2004 Amended Reclamation Plan shall be revised to reflect changes and to provide two sets of plans, one with and one without the “Northeast Berm1”.

e. Phase 2 Reclamation plans shall be revised the Northwest quadrant surcharge berm maximum elevation to no greater than elevation 25 feet. Sheet G2 of the 2004 Amended Reclamation Plan shall be revised to reflect changes.

f. In order to preserve visual and sound screening between the mining and plant operations and adjacent residences, reclamation plans shall be revised so that the northern and easternmost hill/berm adjacent to the quarry bowl are maintained as a barrier until the later stage of reclamation or the last 5 years of the current approved amended reclamation plan. Sheets G1 through G4 of the 2004 Amended Reclamation Plan shall be revised to reflect changes.

g. Phase 4 Reclamation plans shall be revised to complete South Hill mining during this phase. Plans shall show amount of overburden or topsoil proposed as cover over final bedrock surface elevation. The Phase 1 Reclamation options in these conditions shall be reflected in two sets of Phase 4 plans. Final contour elevations shall be clearly labeled. Final South Hill contours shall be approximately no lower than those in the 1982 Amended Reclamation Plan. Provide at least two north-south cross sections across the quarry bowl and one cross section across the marsh/brickyard area, starting from the edge of property near Point San Pedro Road across the quarry to the Bay shoreline. Provide at least one east-west cross section through the quarry bowl and surcharge berm area. Show geologic conditions along the same cross sections. Indicate amount of backfill over rock on South Hill. Sheet G4 of the 2004 Amended Reclamation Plan shall be revised to reflect changes.

h. All Northeast Quadrant grading activities are limited to work and activities needed for geotechnical soil stabilization, erosion control and

successful revegetation of the area as approved by the Public Works Director. Grading activity that furthers the development beyond what is needed to readily adapt the area for alternative land uses is not approved under this Permit.

i. The four phase reclamation plan timeline shall be modified so that the ending date corresponds to the end of the Combined EIR analysis period date.

j. The erosion control and revegetation sheets shall be revised as needed to conform to the changes in this condition.

10. South Hill mining and quarrying shall be limited to no more than 75% of annual production for the first, second and third full calendar year, 50% of production the fourth year and 25% of production the fifth year after Permit approval; and thereafter a maximum of 141,467 tons per year, each year, until the quarry bowl depth shown in the 2004 Amended Reclamation Plan is reached or until year 2022. Excepting from this condition is the year that construction of the new ramp/road into the quarry bowl intersects with the existing ramp/road, in which case South Hill production shall not exceed 75% annual production for that single year. There are no South Hill annual production limits once the proposed bowl depth is reached or after calendar year 2022. The first three years of South Hill production reductions may be exchanged subject to prior approval by the Public Works Director. Annual production is defined as the rock/aggregate production provided to the State Office of Mine Reclamation annual operations report (excepting overburden sold as a result of a public emergency).

a. Materials shall be tested to ensure that they do not exceed hazardous waste standards prior to disposing excess overburden, pond fines or other mining wastes from other areas of the property in the Quarry Bowl.

b. The South Hill and Quarry Bowl production shall be provided in the Annual report to the County.

11. *Greenhouse Gas (GHG)* - The Permittee shall revise the amended reclamation plan, and include in the Conforming Amended Reclamation Plan described below, to add the following submittal requirement in the future post-reclamation development plan (*Mitigation Measure R4.2-5*):

a. A detail inventory of Greenhouse Gas (GHG) emissions associated with post-reclamation development, and

b. How the post reclamation development will incorporate measures to reduce GHG emissions consistent with Countywide (General) Plan policies and other relevant and applicable County, state and federal standards, in effect at the time of the Development Plan submittal.

12. Within 60 days of Permit approval, Permittee shall submit a statement of impact of reclamation on the future mining pursuant to Public Resource Code (PRC) Section 2772(c)(9).

13. Within 60 days of Permit approval, Permittee shall, to the satisfaction of the State Office of Mine Reclamation (OMR), revise the amended reclamation plan to give due consideration of the degree and type of present and probable future exposure of the public to the site (CCR Title 14, Section 3502(b)(2)).

14. Within 60 days of Permit approval, Permittee shall revise the amended reclamation plan to incorporate the State Office of Mine Reclamation (OMR) "Resoiling and Revegetation" comments contained in OMR's December 14, 2009 comment letter to the County.

15. *Conforming Amended Reclamation Plan:* Within 60 days of Permit approval, the Permittee shall submit a conforming reclamation plan incorporating these condition and approvals granted to the Permittee. The Public Works Director shall review the plan for conformance with all aspects of the County's approval. The Public Works Director may return the plan to the Permittee to correct any deficiencies, as determined by the Public Works Director at his sole direction. Thereafter, the Permittee shall have 30 days to resubmit the reclamation plan incorporating the comments and requested changes.

16. *Submittal of Financial Assurances Cost Estimate:* Within 60 days of Permit approval, Permittee shall submit a revised financial assurance (FA) cost estimate in conformance with the requirements of Surface Mining and Reclamation Act (SMARA) and, including but not limited to:

- a. A preliminary cost estimate to provide continuous funding of the operations and maintenance of the deep water quality equipment of the future harbor shall be included in the FA cost estimate.
- b. The FA cost estimate shall be amended at the time that the deep water quality engineering and economic report is completed and accepted by the County.
- c. Shall include all phases of reclamation over the entire Quarry property.

17. *Submittal of Financial Assurances:* The Permittee shall guarantee timely performance of reclamation requirements of the Marin County Surface Mining Ordinance and these conditions of approval by providing a mechanism for financial assurance of reclamation as described in, and in accordance with, the Surface Mining and Reclamation Act (SMARA) and the Marin County Surface Mining Ordinance. The mechanism shall be of sufficient value to cover the full costs of reclamation in any specific year for which it is calculated, and may take any form acceptable as determined by the County within the requirements of SMARA.

18. Financial assurance shall renew automatically and shall not expire or be terminated without 90-days advance written notice being provided to the County Department of Public Works. Marin County may adjust the amount of the security on an annual basis to account for additional lands disturbed or reclaimed, inflation, or revised cost estimates. The financial assurance shall reference the name of the mining site, and the County permit number.

19. The County may pursue redemption of the FA securities if: 1) the final reclamation does not meet the performance standards, 2) satisfactory progress is not made towards completing the reclamation in a timely manner, or 3) the operator is financially incapable of carrying out the reclamation

20. *Acceptance of Responsibility:* Within 60 days of Permit approval, the Permittee shall provide a written statement from the person submitting the conforming reclamation plan that they accept responsibility for reclaiming the mined lands in accordance with the reclamation plan.

21. *Grading Permit:* For each phase of reclamation, Permittee shall submit an application for Excavation, Grading or Filling, with plans, to the Department of Public Works prior to each phase of reclamation and which will be subject to review and approval by the Director of Public Works.

a. Reclamation grading shall be limited to a 10 week work period in any one calendar year. A reclamation phase may occur over multiple years.

b. Permittee shall submit the application at least 120 days in advance of the anticipated start of grading.

c. The Permittee shall provide a geotechnical evaluation and report on the pond fine to soil mixing ratio needed to comply with the California Surface Mining and Reclamation Act (SMARA) reclamation performance standards. Further, the geotechnical evaluation shall also examine the most efficient method and location to reclaim the pond fines which further reduces potential impacts to the environment and minimizes the amount of material imported into the NE Quadrant. The evaluation is subject to the Public Works Director's review and approval. The Permittee shall also fund an independent geotechnical review and site assessment (peer review) by the County on the submitted report.

22. *Interim Management Plan (Idle Mine):* In the event that the permitted operation is curtailed for a period of one year or more, by more than 90% of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at future date, the Permittee shall file and implement an interim management plan in accordance with the provisions of SMARA.

23. All other parts of the reclamation plan are to be completed concurrently with the grading or as soon as practicable after completion of the grading specified in the reclamation plan (MCC 23.60.050 (6)).

24. Within ninety (90) days of termination of actual rock or mineral production, all structures, metal, lumber, tanks, or other debris or materials resulting from the operation are to be removed (MCC 23.06.050).

Specific Reclamation Limitations on Mining Area, Depth and Slopes

25. Mining, excavation and reclamation shall only occur as specified in the approved reclamation plan (Conforming Amended Reclamation Plan and any subsequent approved amendments). Nothing in the Permit conditions contained herein allows the Permittee to excavate beyond or below approved excavation contours.

26. All final slopes on approved reclamation plan shall meet the following criteria, unless subsequent geotechnical analysis indicate modifications are required to maintain slope integrity:

a. Within the quarry pit, the average (toe to top) slope inclination shall not exceed 60 degrees for a maximum vertical height of 350 feet, as depicted on Figure 15 of the ENGEO Supplemental Geotechnical Data Report, Proposed Changes to Mining Plan, San Rafael Rock Quarry, Marin County California, April 11, 2005 (ENGEO Supplemental Report).

b. Minimum 30-foot-wide safety benches shall be constructed at a maximum of 90-foot vertical intervals.

c. In general, the inclination of inter-bench faces should be maintained at less than 75 degrees where possible. The recommended safety bench spacing and width are depicted in ENGEO Supplemental Report Figure 15. Locally, inter-bench face inclinations will be influenced by splitting along pre-existing rock discontinuities, but overhanging faces should be avoided whenever possible.

27. No stockpiling or related reclamation or mining activity shall occur within 100 feet of the marsh areas (as defined by Biological Recommendations Under the Amended Reclamation Plan of 2004 for the San Rafael Rock Quarry, LSA, October 8, 2004, Potentially Jurisdictional Wetlands and Other Waters, Figure 2, or other subsequent and resource agency approved study/determination), or within 50 feet of the outer property boundary in the NE Quadrant, except where pond fines are found in the NE Quadrant at the time the Permit is issued.

Expiration of Permit Upon Conclusion of Complete Reclamation

28. This Permit shall expire when reclamation is complete. "Complete" reclamation is defined as that point in time when all mining has ceased, the

requirements of the approved reclamation plan have been met, including revegetation maintenance and monitoring, long term financial arrangements for harbor water quality maintenance are established, and the final financial assurance required by SMARA is returned to the Permittee.

29. All conditions of this Permit shall remain in effect until the Reclamation Plan is deemed “complete” by the County or the State, even though the operational aspects of mining have been terminated. A valid financial assurance (FA) shall be maintained on file until the County determines that all reclamation has been successfully carried out in compliance with the reclamation plan and Permit conditions.

30. The San Rafael Rock Quarry Combined EIR certified on October 27, 2009, analyzed potential impacts and the environment through year 2024. The term of the amended reclamation plan approval will be through December 31, 2024.

a. This permit may continue to be valid beyond 2024 insofar as quarrying and mining operations have ceased, and final Phase 4 reclamation is in progress per the approved reclamation plan and is substantially complete. Such activities may include vegetation management, marsh management, erosion and sediment control, historic structure preservation, and harbor and water quality management. However, continued quarry operations beyond 2024 would be considered a substantial extension of the termination date of mining operations as set out in the approved reclamation plan. In order for quarry operations, including but not limited to, crushing, trucking product, asphalt plant operation and barging, to continue beyond 2024, an application to amend the reclamation plan termination date, including continued mining operations if so desired, shall be filed at least 3 years before the termination date of the amended reclamation plan (no later than December 31, 2021).

31. Three years prior to the end of quarrying operations, Permittee shall submit a development plan for subsequent use of the quarry property.

a. Neither approval of this permit nor approval of the amended reclamation plan constitute approval of post reclamation land uses, regardless of the generalized land uses depicted in submittals, reclamation plans or the Combined FEIR. Pursuant to the Surface Mining and Reclamation Act (SMARA), the purpose of a reclamation plan is to assure that adverse environmental effects are prevented or minimize and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses. The proposed mix of land uses and intensities shall be reviewed and considered by the appropriate jurisdiction in the future, at the time a development plan is filed by the property owner as part of the required land use and environmental review entitlements process.

Days and Hours of Operations & Reclamation

32. Except for declared public emergencies, as described below, site quarry operations or reclamation shall exclude Sundays and State Holidays, and the hours of operations for quarry and reclamation operations shall be limited to:

Activity	Days of Week	Hours of Operations
Mining, Quarrying, Excavation, Drilling, Crushing Plant, Primary Crusher, Secondary Crusher, Aggregate Processing and Handling, and Asphalt Batch Plant	Mon. – Fri.	7 a.m. to 8 p.m.
Maintenance Activities (excluding maintenance activity with no off site noise at nearby residences)	Mon. – Fri.	Same as above (Mining, etc.)
	Sat.	Up to 10 Sat. per cal. yr. 7 a.m. to 5 p.m.
Reclamation Grading Activity in the N.E., N.W. and S.W. Quadrants	Mon. - Fri.	<i>Apr. 15 thru Oct. 15 only, up to 10 weeks</i> 7 a.m. to 5 p.m.
Material Haul Trucks Entering or Departing Quarry	Mon. – Fri.	7 a.m. to 5 p.m.
Barge Loading (truck or conveyor) Operations 'Winter', Nov.1 thru Mar. 31 ²	Mon. – Thu.	7 a.m. to 10 p.m.
	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per cal. yr. ² 7 a.m. to 10 p.m.
	Sat.	Up to 26 Sat. per cal. yr. ² , 7 a.m. to 10 p.m. only when combined with Friday work until 10 p.m.
Barge Loading (truck or conveyor) Operations 'Summer', Apr. 1 thru Oct. 31 ²	Mon. – Thu.	7 a.m. to 9 p.m. ¹
	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per cal. yr. ² 7 a.m. to 9 p.m. ¹
	Sat.	Up to 26 Sat. per cal. yr. ² , 7 a.m. to 9 p.m. only when combined with Friday work until 9 p.m. ¹
Blasting	Mon. – Fri.	11:30 a.m. to 1:30 p.m. max. 3 times per week
Quarry Office Use	Mon. – Sun.	No Restrictions

¹ In limited circumstances, if barge loading or trimming is not completed by 9 p.m., loading/trimming may continue until completed, but in no case shall barge loading/trimming occur later than 10 p.m. The Permittee shall maintain records of loading that occurs between 9 and 10 p.m. and shall make those records available to the community.

² The reference to “per cal. yr.” means that no more than a total of 26 such exceptions shall be exercised per calendar year, not 26 such exceptions per season. (*Mitigation Measures P4.1-9, P4.2-6c, P4.2-7a, P4.2-7d, C4.2-9b & P4.6-6b*)

a. The Permittee shall provide 36 hours advance notification of any of the above operations occurring later than 7 p.m. Fridays or on Saturdays to the Director of Public Works and by posting the date and activity type on a publically accessible web site.

b. The Permittee shall attempt to schedule any of the permitted 10 days of Saturday noise producing maintenance to be scheduled on the same days when weekend barge loading operations occur.

33. *Declared Public Emergency:* The hours and days of operations limitations, as well as truck trip per day limitation and trucking hours, may be suspended when there is a public emergency. A public emergency exists only when there is need to prevent or respond to a landslide, levee failure, structural failure, or other imminent harm from an earthquake, flood or other natural disaster, and when the emergency has been declared by an authorized local, state, or federal government agency. Any suspension shall last only as long as is necessary to deliver by truck or barge the material necessary for correcting the adverse conditions constituting the emergency. The public emergency suspension shall not increase, nor will there be any adjustment, regarding the 5 year annual average production (Condition 5). The suspension shall not be approval to increase plant capacity from those permitted.

Public Emergency Procedures

a. Within five (5) calendar days following Permittee’s determination to suspend aforementioned operations limitations, the public emergency shall have been declared by an authorized local, state, or federal government agency;

b. Within 24 hours after invoking the suspension under this paragraph, the Permittee shall send written notice to Marin County Director of Public Works in this matter and post on its website an explanation of the location of the public emergency and sufficient facts regarding the suspension to allow all parties to evaluate if the suspension is necessary and appropriate;

c. If the Marin County Director of Public Works determines at any time, based on the facts and notice provided in the preceding paragraph and/or from any other information the Director may obtain, that any suspension invoked by the Permittee is not being invoked as a result of a declared local, state or federal emergency, the Director may order termination of that suspension by written notice to the Permittee and the Permittee shall immediately comply with that written notice.

d. Within 24 hours after the suspension is lifted, or the emergency declaration by the authorized local, state, or federal agency is no longer in effect, the Permittee shall send written notice to the Marin County Director of Public Works, and post on its website, the total hours of operation and number of truck-trips that occurred during the suspension.

34. Reclamation grading activities shall be limited to an 8-10 week period during each dry season, but shall not commence prior to April 15 nor active grading extend beyond October 15th. Erosion control measures may continue to be implemented after October 15th. (*Mitigation Measure R4.6-5a*)

a. Each year by May 1 and not later than 30 days prior to the commencement of reclamation activities, the Permittee shall inform by mail all residences on Marin Bay Park Court, Heritage Drive, and San Marino Drive, and the public at large by web site posting, of the start date, nature of the work and expected duration of the 8-10 week period during which reclamation grading activities will occur that calendar year. (*Mitigation Measure R4.6-3d*)

35. *Lighting*: Permittee shall restrict and minimize lighting for night operations. Where lighting is necessary, Permittee shall utilize light shades, directional lighting, and other measures so as to minimize off site glare at residences adjacent to property.

Trucking

36. The Permittee shall limit daily truck traffic hauling aggregate, asphaltic concrete, rock and other quarry product from the Quarry to 250 one-way truck trips per day (125 in and 125 out). (*Mitigation Measures P4.6-6a & P4.2-7a*)

a. The Permittee shall keep daily written records of truck trips in and from site and shall provide said records to the Department of Public Works upon request. Records shall include date, load weight or bill of lading, and time of departure, as well as daily number of inter-facility trucks and destination of non inter-facility trucks. Records of truck trips shall include in-bound trucks not used for rock and aggregate transport, e.g. asphalt batch plant oil, and diesel loads. Records shall be kept a minimum of one year and an annual calendar year tabulation shall be provided in an Annual Report.

37. All loaded trucks shall be required to pass over a material shakedown area before exiting the Quarry.

38. All trucks leaving the Quarry shall be washed down, including the undercarriage, prior to entering Point San Pedro Road (except trucks transporting asphalt). The wash down and adjoining areas shall be paved to minimize tracking of dust and dirt. Point San Pedro Road shall be swept by a sweeper truck two times per day by the Quarry, except on rain days, when sweeping is not required. Sweeping is subject to the approval of the City of San Rafael within City jurisdiction.

This condition applies as well to Phase 4 reclamation for any loaded trucks.
(*Mitigation Measure R4.2-1c, R4.2-1d, R4.2-2a & P4.2-6a*)

39. The access road leading between the scale house and Point San Pedro Road shall be paved.

40. The Permittee shall require all inter-facility trucks (those trucks transporting material from the Quarry to other facilities under ownership or control of the Permittee, its parent company or subsidiaries) to cover or tarp the load in order to prevent or reduce dust emissions.

41. Any material shipment from the Quarry to Dutra's currently proposed Haystack Landing facility in Petaluma shall be by barge only, provided that the facility is approved by the County of Sonoma with a barge unloading component and the barge unloading component is constructed.

42. Within 12 months of Permit approval the Permittee shall require that all trucks leaving the Quarry loaded with aggregate or asphalt materials shall have their loads covered by tarp or other means to prevent fugitive dust. Upon Permit approval, the Permittee shall notify their customers and post this requirement on a web site. Permittee shall incorporate this requirement in all applicable third party contracts or agreements. Aggregate materials shall have the same meaning as California Vehicle Section 23114.

43. The Permittee shall provide a pull out area onsite after exiting the truck scales for truckers to check their load and/or tarp their load.

44. Trucks leaving the Quarry shall be metered by the Permittee at a minimum of 2 minute intervals during peak traffic periods. The peaks periods shall be approximately 2 hours long in the a.m. peak, and 1 hour long in the noon time and p.m. peaks, as determined by the Public Works Director.

45. Permittee shall install and maintain a conspicuous sign onsite near all exits from the Quarry that states the following: "TRUCKS SHALL NOT USE NORTH SAN PEDRO ROAD." Such prohibition shall not apply in the event of temporary closure or blockage of Point San Pedro Road. In such case, Permittee shall immediately notify the Department of Public Works of trucks from the Quarry using North San Pedro Road.

46. Permittee shall be responsible for cleaning up material spills on Point San Pedro Road from loaded trucks leaving the Quarry.

47. The Permittee shall routinely advise in writing, but no less than once per calendar year, and shall train all Quarry employees, Permittee leased truck operators and inter-facility truck drivers of the following trucking 'rules of the road'. The Permittee shall implement a progressive discipline policy on violating the

trucking rules. Drivers who repeatedly violate trucking rules shall be prohibited from hauling materials from the Quarry by the Permittee. Independent truck drivers shall be provided with written 'rules of the road', either through their company or individually, and are to be held to the same requirements. If an independent truck driver is found to repeatedly violate trucking rules, they too shall be prohibited by the Permittee from driving loaded trucks from the Quarry. Sign(s) notifying drivers of these requirements shall be posted onsite in the vicinity of the scale house location. The following minimum trucking rules apply:

- a. Drivers shall keep their vehicles within prescribed legal speed limits at all times.
- b. Trucks are not permitted to park and stage along Point San Pedro Road (which is particularly an issue in the early morning hours before the Quarry gates are opened).
- c. Trucks are not permitted to enter the Quarry before business hours.
- d. Trucks are not permitted to convoy on Point San Pedro Road.
- e. Drivers shall avoid using 'jake brakes' on Point San Pedro Road except in emergencies.
- f. All material spills on public roads shall be reported to the Quarry immediately.
- g. Truck drivers and the trucking equipment shall comply with all federal, state, regional and local laws and ordinances.

48. The Permittee shall assign an employee with job duties as a 'Truck Marshall' to, on a daily basis, periodically inspect trucks travelling on Point San Pedro Road and departing the Quarry site for compliance with these applicable Permit conditions and trucking rules of the road. The Truck Marshall shall keep written records of inspections and any warning or action taken against a truck driver violating the Permit conditions or trucking 'rules'. The records shall be provided to the Department of Public Works upon request. The records shall be kept at least one year.

49. To reimburse the County and City of San Rafael for extra wear and tear to roads caused by the Quarry truck traffic, the Permittee shall annually (the remaining year after Permit approval shall be prorated based on allowed trucking days) obligate in kind materials (asphalt concrete and/or aggregate) with a total market value of \$100,000. The annual unused obligations shall accumulate from calendar year to calendar year, i.e., if all or part of the material was not used by the local jurisdictions in a calendar year, then the obligation would be added to the following year's obligation and made available to the County or City. Annual unused

obligations shall accrue up to a maximum of \$300,000. The Quarry shall annually report obligation used and unused in an annual report to the County. The County shall track the obligations and expenditures. The County shall work with the City of San Rafael to equitably use the materials, but the County shall retain final authority on use of the materials on Point San Pedro Road, or alternatively:

- a. The Public Works Director may substitute the following instead of an annual asphaltic concrete requirement for Point San Pedro Road described above. Upon 3 month notice by the Public Works Director, the Permittee shall provide as much as 12,000 tons of open grade asphaltic concrete for a project to repave Point San Pedro Road. Truck trips due to trucks delivering asphalt for this project shall not count against the daily truck trip limit (refer to Condition 36). Grindings from the Point San Pedro Road project shall be delivered to the Permittee quarry property and accepted at no cost to County or contractor (no tipping cost). If the project occurs later than December 31, 2011, the maximum tonnage shall be adjusted based on the ENR Bay Area Caltrans asphaltic oil index.

Air Quality

50. The Permittee shall use a minimum blend 20 percent biodiesel and 80 percent conventional diesel (B-20) biodiesel fuel in all on-site quarry rolling stock. To further reduce emissions from off-road diesel equipment, the applicant shall fuel on-site diesel-powered mobile equipment used in operations or reclamation activities with a minimum 80 percent biodiesel blend (B-80) or use other equipment and/or fuel that achieves the same reduction in particulate (PM-10) emissions. The applicant shall also use Purinoxtm, or another County or BAAQMD approved additive, or other measures to reduce NOx and PM-10 emissions to the maximum extent feasible given current technologies. This condition applies to all reclamation phases, including Phase 4 (last phase) reclamation. Permittee shall provide records in the annual report or upon request by the County documenting compliance with this condition. *(Mitigation Measures R4.2-1a, R4.2-1d, R4.2-1g, R4.2-2a, R4.2-3a R4.2-3b, P4.2-6a, P4.2-7b & C4.2-9a)*

51. The Permittee shall operate a fleet of non-road diesel equipment to USEPA Tier 3 or higher standards, including for Phase 4 reclamation. The Permittee shall upgrade its tug boat fleet operating at the SRRQ to Tier 2 standards within one year of Permit approval. *(Mitigation Measures R4.2-1b, R4.2-1d, R4.2-2a, & P4.2-6a)*

52. The Permittee shall continue to use existing emission reduction practices, including use of alternative fuels, use of low-emission diesel equipment, and dust abatement measures (as found in other Permit conditions). *(Mitigation Measures R4.2-1d & P4.2-6a P4.2-6b P4.2-7c & C4.2-9a)*

53. Within one year of Permit issuance, the Permittee shall prepare and implement a Greenhouse Gas (GHG) Reduction Plan. The plan will include a complete inventory of reclamation-related GHG emissions and will demonstrate how the Quarry will reduce or offset remaining un-mitigated GHG emissions as identified

in the Combined EIR. The plan will prioritize emission reduction through energy conservation and other measures; and for those emissions that cannot be reduced, the plan shall specify how emissions will be offset. Offsets may take the form of installation of on-site alternative energy generation facilities (such as solar power) or off-site compensation, such as monetary contribution to a project that sequesters carbon. Examples of such projects include wetland restoration, purchase of carbon credits verified by the California Climate Action Registry, and reforestation. On-site offsets will be given higher priority than off-site offsets, and offsets with co-benefits, such as reduction of particulate emissions within the vicinity of the Quarry, and restoration of habitat for special status species, will be given higher priority. The plan must demonstrate how, at a minimum, the Quarry will reduce reclamation-related, non-biogenic GHG emissions consistent with the Marin County Greenhouse Gas Reduction Plan and Countywide Plan Update policies: the plan must demonstrate how reclamation-related emissions are reduced or offset, such that total emissions are 15% below the emissions associated with Amended Reclamation Plan 1982 (ARP82), or no more than 2,489 tons of eCO₂. The plan will include an implementation schedule. The plan will be submitted to the Marin County Public Works Department for review and approval. The Greenhouse Gas Reduction (GHG) Plan shall also include an inventory of operations-related GHG emissions and a plan to reduce these emissions by 15 percent. In addition, the initial emissions inventory prepared as part of the plan will be reported to the California Climate Action Registry or a successor organization as a baseline inventory, and the Quarry will conduct and report additional inventories annually. (*Mitigation Measures R4.2-3c & P4.2-7e*)

54. The Permittee shall implement the following dust abatement measures identified by BAAQMD as feasible dust control, during all reclamation grading activities or operations, including through the end of Phase 4 reclamation (*Mitigation Measures R4.2-1e, R4.2-2b P4.2-6b P4.2-7c & C4.2-9a*):

- a. Cover all trucks hauling soil, sand, and other loose materials as a part of reclamation activities, or require such trucks to maintain at least two feet of freeboard between the top of the material and top of truck.
- b. Pave, apply water at a minimum three times daily in dry weather, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at the Quarry;
- c. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at the Quarry;
- d. Hydroseed, apply non-toxic soil stabilizers, or water to inactive reclamation areas (previously graded areas inactive for ten days or more);
- e. Limit traffic speeds on unpaved roads to 15 miles per hour;

- f. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - g. Replant vegetation in disturbed areas as soon as the growing season dictates. Install wind breaks or plant trees/vegetative wind breaks at the windward sides of the reclamation areas until such time as the vegetation is established;
 - h. Suspend reclamation-related excavation and grading activities when wind (as instantaneous gusts) exceeds 25 miles per hour in the area being graded as measured by a hand held anemometer; and
 - i. Limit the area subject to reclamation-related excavation, grading and other construction activity at any one time.
55. The Permittee shall implement the following additional dust abatement measures:
- a. Initial clearing of areas to be mined, including removal and stockpiling of topsoil, shall be accompanied by surface watering to control dust generation.
 - b. Stockpiles of crushed rock shall be kept moist or shall be watered before loading.
 - c. Minimize drop heights while loading/unloading aggregate to the maximum extent feasible.
 - d. The operator of a facility/operation shall not cause or allow any visible fugitive dust plume from exceeding 100 feet in any direction from any mining or grading activity, equipment, storage pile, or disturbed surface area. Blasting is exempt from this condition (reference South Coast Air Quality Management District Rules).
56. The Permittee shall keep all off-road equipment well-tuned and regularly serviced to minimize exhaust emissions, and shall establish a regular and frequent check-up and service/maintenance program for all operating equipment at the Quarry. Permittee shall provide documentation to the County in an annual report (*Mitigation Measures R4.2-1f, R4.2-3b, P4.2-6b, P4.2-7c & C4.2-9c*)
57. Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than 5 minutes, unless such idling is necessary for proper operation of the vehicle. (*Mitigation Measures R4.2-1h R4.2-3b P4.2-6b P4.2-7c & C4.2-9c*)

58. The Permittee will limit on-site mining operations on days on which reclamation grading activities are performed concurrently such that total criteria air pollutants emissions from the site are not increased above BAAQMD significance thresholds. To ensure the effectiveness of this measure, the Permittee will be required to maintain daily records and report to the BAAQMD and the County Public Works Department a record of reclamation and operations activities, with an estimate of emissions from each, at the end of each annual season of reclamation activities. The baseline for combined emissions is the current level of emissions for mining operations as shown in the Combined FEIR Table 4.2-13.1 plus the baseline emissions for the reclamation grading phase, as shown in Tables 4.2-10 and 4.2-11 of the Combined EIR. The limit for combined emissions from mining and reclamation will therefore be the sum of the current emissions levels from mining operations, the baseline emission levels for reclamation grading, and the BAAQMD's threshold values for criteria pollutants, as shown in the Combined FEIR Table 4.2-10.1 for all reclamation phases. (*Mitigation Measures R4.2-1j, P4.2-6b, P4.2-7c & C4.2-9c*)

59. If the Permit conditional mitigation measures do not reduce emissions to below threshold values, the Permittee shall acquire BAAQMD off-site emission offset credits in sufficient quantity to reduce criteria air pollutant emissions from reclamation grading only to levels below BAAQMD significance levels. (*Mitigation Measures RR4.2-1i, P4.2-6b, P4.2-7c & C4.2-9c*)

60. The Permittee shall suspend excavation, grading, hauling, and/or unloading soil and rock (except within the quarry bowl) activities when wind gusts exceed 25 mph, as measured at the top of the quarry bowl. Wind speed shall be determined when an on-site anemometer registers at least two wind gusts in excess of 25 miles per hour within a consecutive 30-minute period.

61. New onsite diesel equipment, or new or used replacement of onsite diesel equipment purchase after Permit approval shall meet or exceed EPA 2003 emission standards for diesel particulate matter (DPM) reduction controls. The Permittee shall provide a report, on an annual basis, to the County when heavy equipment changes occur on-site which identifies and describes the additional or new replacement equipment with regard to emission standards.

62. Within 4 months of Permit approval, Permittee shall provide a public forum to consult with residents along Point San Pedro Road on purchase of a vacuum sweeper truck, the primary concerns being dust collection efficiency and sweeper noise level. Within an additional 5 months (9 months total) Permittee shall implement use of a vacuum truck street sweeper on Point San Pedro Road (currently broom sweeper). Point San Pedro Road shall be swept to remove aggregate and road dust two times per day during business hours by the Quarry when trucking from the Quarry occurs, except on rain days, when sweeping is not required. Sweeping is subject to the approval of the City of San Rafael within City jurisdiction.

63. Permittee shall maintain all quarry-operated equipment in accordance with manufacturers' recommendations to reduce exhaust emissions from heavy equipment and haul trucks.
64. All non road diesel trucks and road diesel trucks shall meet or exceed federal and State emission regulations and requirements.
65. The Permittee shall maintain all required erosion control measures and stormwater management plans, and shall keep current and comply with all permits required by the Regional Water Quality Control Board. This condition applies through the end of reclamation (Phase 4). (*Mitigation Measures R4.2-1c, R4.2-1d, R4.2-2a & P4.2-6a*)
66. The Permittee shall maintain all dust abatement devices and air pollution control devices, and shall keep current and comply with all permits required by the Bay Area Air Quality Management district (BAAQMD). This condition applies through the end of reclamation (Phase 4). (*Mitigation Measures R4.2-1c, R4.2-1d, R4.2-2a P4.2-6a & C4.2-9a*)
67. Copies of all BAAQMD permits for the Quarry property shall be provided to the Department of Public Works. The Permittee shall document compliance with BAAQMD permits as part of the Annual Report.
68. Recordkeeping: The Permittee shall keep the following records on-site for 3 years and make such records available to the Public Works Director upon request:
- a. Watering and sweeping schedule for on site quarry operations or reclamation;
 - b. Days when reclamation or other operations were suspended due to high winds (greater than 25 mph) or days when work was suspended because of visible dust plumes greater then 100 feet;
 - c. Days of non-toxic dust suppressant application other than water;
 - d. Annual use of Purinox or similar additive; and
 - e. Quarry operations engine hours curtailed when reclamation equipment is in use and engine hours and equipment type of reclamation equipment used.
69. Permittee shall fund an on-going air quality monitoring program by the County to measure ambient air quality in the vicinity of the Quarry. The monitoring shall focus on measuring respirable particulate matter (PM-10 & PM-2.5) and determining metals content of particulate matter using BAAQMD and State monitoring standards. The monitoring program shall be funded sufficiently before reclamation activities

begin in the Northeast Quadrant. The air monitoring program will be operational for two full consecutive years. Thereafter, at the discretion of the Public Works Director, the continuous monitoring program may be suspended should long term monitoring results document that the Quarry operations or reclamation activities do not cause exceedences of state and federal air quality standards, or should the program be suspended, the Public Works Director may recommence the air monitoring program. Monitoring shall occur when reclamation grading activity occurs in the Northeast Quadrant. A one year continuous monitoring program shall be implemented should state or federal ambient air quality standards change.

Noise

70. Noise levels due to Quarry operations or reclamation, measured at the residential receptor property line, shall be limited to: 60 dBA day/night Ldn, 70 dBA maximum (sound level measurement made with “slow” meter response) and 65 dBA impulsive (sound level measurement made with “fast” meter response).

71. Within 30 days of permit issuance, the Permittee shall provide the County with the name and telephone number of the individual empowered to manage operational noise from the quarry. The individual’s name, telephone number, and responsibility for noise management shall be posted at the project site in a location easily visible to the public and on the Quarry’s web site. The individual shall record all noise complaints received and actions taken in response, and submit this record to the County upon request and annually at the time of the Annual Report.

72. The Permittee shall implementation of the following noise abatement measures to reduce the annoyance impact of reclamation activity noise (*Mitigation Measures R4.6-3c, R4.6-5b R4.7-1b*):

- a. The applicant shall limit all reclamation grading activities in the NE Quadrant or berm construction in NW Quadrant to 7:00 a.m. to 5:00 p.m. Monday through Friday.
- b. Equipment and trucks used for all construction and reclamation activities shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds).
- c. All construction equipment powered by internal combustion engines shall be properly muffled and maintained;
- d. Unnecessary idling of internal combustion engines shall be prohibited.

73. The Permittee shall retrofit all rolling vehicles with backup alarms at the quarry with broadband backup alarms. Broadband alarms reduce nuisance noise effects by being directional (unlike conventional backup alarms), by being 5 dBA

quieter than conventional back-up alarms, and by generating noise that has a less intrusive tonal quality. (*Mitigation Measure R4.6-3a, R4.7-1a*)

74. The Permittee shall implement the following noise reduction program which shall be maintained in good operating condition:

- a. Enclose the conveyor systems at the Quarry crushing and processing plant including barge loading, primary, and secondary conveyors.
- b. Screens and secondary crushers shall have sound curtains with sound deadening materials installed between the equipment and residences.
- c. Enclosed transfer points along the conveyor system where material transfers from one belt to another by means of a hopper. The enclosures shall incorporate sound deadening materials.
- d. Permittee shall line all unenclosed hoppers and chutes on the conveyor at which aggregate materials fall onto a metal surface with a sound deadening material such as heavy neoprene, rubber or HDPE.
- e. Permittee shall implement the above noise reduction program as a phased program over 3 years from Permit approval. The noise reduction program shall include a barge loading noise reduction component to be included in the phasing plan. Proposed plans and phasing shall be prepared by a qualified acoustical engineer and then provided to the Public Works Director within 6 months of Permit issuance for review and approval. The phasing goal is to have the noisiest equipment, relative to nearby residences, retrofitted in the first 12 months following plan approval. The applicant shall have a qualified acoustical engineer inspect the site and equipment and submit a verification of compliance with these conditions after each phase.

75. The flat deck barge fleet associated with Permittee quarry operations shall be fully converted to concrete deck barges within three years. At least two steel deck barges shall be converted per 500,000 tons of annual (calendar) quarry production. Within three years of Permit approval, only non metallic flat deck barges, i.e. concrete deck barges, shall be permitted to be loaded at the Quarry site.

- a. Upon Permit approval, only concrete surface flat deck barges shall be loaded later than 8 p.m.
- b. Non-concrete surface flat deck barges from contracted third parties may be used in a declared public emergency.

76. Engines on all equipment used for surface mining operations shall be equipped with manufacturer-recommend mufflers, and no muffler or exhaust system

shall be equipped with a cutout, bypass, or similar device intended to thwart quieting.

77. Permittee shall fund an on-going noise monitoring program by the County to measure ambient and Quarry noise levels in the vicinity of the Quarry. Noise monitoring shall occur at the property line annually at the start of each season of reclamation work in the Northeast Quadrant and shall last the entire period of Northeast Quadrant activity. The noise monitoring program i.e., number of stations station locations, and other operational monitoring characteristics, shall be as required by the Public Works Director and performed by an acoustical consultant retained by the County. If the Permit noise levels are not met, the Permittee will have 15 days to correct the problem. If after 15 days the problem has not been corrected, the Permittee will only be allowed to operate compliant equipment, which will meet the permitted noise levels.

Blasting

78. Blasting shall be limited to an annual (calendar year) average of two times per week (104 times per year) and a maximum of three times per week. (Mitigation Measures P4.1-9, P4.2-6c, P4.2-7a, P4.2-7d, C4.2-9b & P4.6-6b)

79. Blasting shall be limited to the hours of 11:30 a.m. to 1:30 p.m. Monday through Friday. No blasting is to occur on State holidays or weekends.

80. The Permittee shall provide 36 hours advance notification of blasting to local residents and to the County of Marin by posting the date and approximate time of scheduled blasts on a publically accessible web site.

81. The Permittee shall design blasts to maintain a minimum scaled distance of 52.8 ft/lb^{1/2}, as defined in the REVEY Associates, Inc. report in Appendix J of the Combine FEIR, Volume III: Appendices. The Permittee shall provide the County with a blast report providing charge weight, delay, and other information needed to confirm compliance with these conditions, with 24 hours following each blast.

82. All charges should be confined with clean crushed stone of height equal to or greater than 25 charge diameters, as defined on Page 21 of the REVEY Associates, Inc. report in Appendix J of the Combine FEIR, Volume III: Appendices.

83. All charges should be confined with rock burden equal to or greater than 25 charge diameters, as defined on Page 21 of the REVEY Associates, Inc. report in Appendix J of the Combine FEIR, Volume III: Appendices.

84. Air-overpressure measured near residential home should never exceed 133 dBL, as measured with 2-Hz monitoring equipment.

85. Blasting vibration beyond the Quarry property boundary shall be limited to a maximum peak velocity of 0.25 inches per second.

86. All blast monitoring of ground motion and air-overpressure effects done by either Permittee personnel or third-party service providers should be done in full conformance with ISEE guidelines provided in Attachment I of the REVEY Associates, Inc. report in Appendix J of the Combine FEIR, Volume III: Appendices. *(All above in Blasting section, Mitigation Measures P4.7-7a, P4.7-7b)*

87. No blasting shall take place when wind velocity equals or exceeds 25 miles per hour. The wind speed shall be measured at the top of the quarry bowl.

88. No blasting shall take place on days when 'Spare the Air Days' declared by Bay Area Air Quality Management District are in effect, provided the BAAQMD gives at least 48 hours notice.

89. Within 60 days of Permit approval Permittee shall prepare and provide to the County a graph showing distance (ft.) to nearest off site residence and charge weight per delay (lb) using the scale factor and detonation delay of individual charges of 8 milliseconds or greater.

90. Permittee shall fund an on-going blasting seismic and air overpressure monitoring program of up to 3 stations, as determined by the Marin County Public Works Director.

Biological Resources

91. The Permittee shall implement amended reclamation plan "Standards for Preserving Sensitive Habitat Areas." Implementation of these standards will protect specific areas of oak woodland and native grassland. *(Mitigation Measure R4.3-2a)*

92. The Permittee shall submit to the Marin County Department of Public Works a revised 'conforming reclamation plan' that includes the preservation of the small hill near the kilns, consistent with ARP82. Any plans for future alteration of the small hill for post-reclamation development may be proposed as part of the Development Plan, due to be submitted three years prior to the cessation of mining. The conforming reclamation plans shall continue to preserved areas originally described, including portions of South Hill, the Grassy Knoll, and the marsh areas *(Mitigation Measures R4.3-2b R4.3-3a, R4.3-4a, R4.3-4b)*

93. Prior to each reclamation phase and during the planning for post-reclamation development, presence/absence surveys for special-status plants will be conducted by an independent qualified botanist within areas to be disturbed. *(Mitigation Measure R4.3-3b)*

- a. Surveys will be conducted in accordance with CNPS and CDFG rare plant survey guidelines.

b. Surveys will be conducted prior to the start of each phase of reclamation activities, during the flowering period when the species is most readily identifiable (June – October).

c. The results of the surveys will be filed with the County; if the presence of any of these species is confirmed, a copy of the survey results will be forwarded to CDFG, and following Permit condition will be implemented.

d. In the event that special-status plants are proven absent, then no additional mitigation is necessary.

94. In the event that special-status plant populations are found during the surveys conducted pursuant to the above condition, the Permittee will avoid disturbance to the species by establishing a visible buffer zone of not less than 25 feet prior to construction or by relocating reclamation activities, if feasible, to avoid disturbance. Where necessary reclamation activities cannot be altered to avoid disturbance, the applicant shall relocate affected special-plant populations and/or restore similar habitat in another location: *(Mitigation Measure R4.3-c)*

a. Protection of special status species will be coordinated by a qualified biologist.

b. Disturbance or mortality of special status plant habitat and species shall be avoided as a priority. If a qualified biologist determines that restoration would provide equivalent or more effective mitigation, special-status plant habitat and/or sensitive plant communities may instead be restored on-site at a 2:1 ratio in areas that are to remain as post-reclamation open space, such as the Grassy Knoll or within the salt marshes.

c. Special-status plants and/or seeds will be salvaged from areas of disturbance and moved to restoration areas on or off the site; if this is not feasible, an alternate source of seed or plant material will be selected by a qualified biologist.

d. A five-year restoration mitigation and monitoring program will be developed and implemented. Appropriate performance standards will include, but are not limited to: a 75 percent survival rate of restoration plantings or plant cover; absence of invasive plant species (any species listed on the California Invasive Plant Council's California Invasive Plant Inventory); and a functioning, self-sustaining plant community at the end of five years.
(Mitigation Measure R4.3-c)

95. The Permittee will implement the following measures in order to minimize damage to protected trees that are to be preserved on-site: *(Mitigation Measure R4.3-4c)*

- a. Prior to the start of any clearing, stockpiling, excavation, grading, compaction, paving, change in ground elevation, or construction, preserved trees that occur adjacent to project construction areas shall be identified as preserved and clearly delineated by constructing short post and plank walls, or other protective fencing material, at the dripline of each tree.
- b. The delineation markers shall remain in place for the duration of the work.
- c. Where reclamation activities would encroach upon the dripline of a preserved tree, special construction techniques will be required to allow the roots of remaining trees within the project site to breathe and obtain water (examples include, but are not limited to, use of hand equipment for tunnels and trenching, and/or allowance of only one pass through a tree's dripline).
- d. Tree wells or other techniques may be used.
- e. The following shall not occur within the dripline of any retained tree: parking; storage of vehicles, equipment, machinery, stockpiles of excavated soils, or construction materials; or dumping of oils or chemicals.
- f. If a tree within a preserved area is damaged or destroyed, the applicant shall replace the tree at a ratio of 2:1 with trees of the same species. Tree replacement shall be performed by a certified arborist. *(Mitigation Measure R4.3-4c)*

96. All pruning activities of preserved trees shall be performed by a certified arborist. No more than 25 percent of a tree's canopy shall be removed during pruning activities of retained trees. *(Mitigation Measure R4.3-4d)*

97. The Permittee shall develop and implement a five-year monitoring program for any required replacement plantings, as specified in Combined EIR Mitigation Measure R4.3-4c. The performance standards for tree replacement include all of the following: 75 percent survival rate of restoration plantings; absence of invasive plant species (any species listed on the California Invasive Plant Council's California Invasive Plant Inventory); and self-sustaining trees at the end of five years. If these criteria are not met, the applicant shall re-plant and success shall again be assessed after five years. *(Mitigation Measure R4.3-4e)*

98. All jurisdictional wetland areas to be avoided shall be protected by setbacks throughout site reclamation and post-reclamation development consistent with the Baylands Corridor designation of the site in the 2007 Countywide Plan:

- a. Setbacks for the NW Quadrant marshes shall be consistent with the requirements of the Baylands Corridor designation for the site. During reclamation activities, no temporary or permanent reclamation stockpiles,

berms, or other features shall be placed within 100 feet of the NW Quadrant marshes. Buffers shall be included as part of post-reclamation development design in the vicinity of the NW Quadrant marshes and shall be a minimum of 100 feet in width.

b. Setbacks for seeps and seasonal wetlands shall be a minimum of 50 feet.

c. Areas that are avoided and provided with setbacks will be further protected by Best Management Practices (BMPs), as described in the Combine EIR Mitigation Measure R4.3-5d. Such measures include the installation of silt fencing, straw wattles or other appropriate erosion and sediment control methods or devices along roads and at the 100 foot setback limits. Such BMPs shall also be employed if and when reclamation grading and post-reclamation development requires work within the setbacks as described above, between the feature and the activity. (*Mitigation Measure R4.3-5a, C4.3-18a, R4.3-5b, & 4.3-12a*)

99. All necessary jurisdictional wetland permits and approvals of appropriate regulatory agencies shall be obtained prior to each relevant phase of reclamation. Copies of the permits or approvals shall be provided to the Department of Public Works. (*Mitigation Measure R4.3-5c*)

100. The Permittee shall conduct reclamation activities in a manner that avoids erosion and sedimentation of wetland areas, through implementation of standard BMPs to maintain water quality and control erosion and sedimentation during construction as required by compliance with the General National Pollution Discharge Elimination System (NPDES) Permit for Construction Activities and as established by mitigation measures set forth in the Combined EIR and this Permit.

101. Water quality and Best Management Practice mitigation measures include, but not limited to, installing silt fencing between jurisdictional waters and project related activities, locating fueling stations away from potentially jurisdictional features, and otherwise isolating construction work areas from any identified jurisdictional features. In addition, BMPs identified in the Long-term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS) (Corps, 2001) shall be implemented to prevent degradation of water quality resulting from dredging activities within open waters. These BMPs include: silt fencing and gunderbooms or other appropriate methods for keeping dredged materials from leaving the project site. (*Mitigation Measure R4.3-5d*)

102. The Permittee shall revise the amended reclamation plan to include as a standard for guiding development of the Development Plan that post-reclamation residential, commercial, and mixed use development, except as otherwise permitted by BCDC, shall not occur within the 100 foot shoreline band subject to BCDC

jurisdiction. This revision shall be provided at the time of the Conforming Amended Reclamation Plan. *(Mitigation Measure R4.3-5e)*

103. Prior to open-water construction activities, the Permittee shall obtain the necessary permits from the US Army Corps of Engineers (USACE) and other regulatory agencies. Open-water construction will not begin prior to obtaining necessary permits. Copies of the permits or approvals shall be provided to the Department of Public Works. *(Mitigation Measure R4.3-6a)*

104. All open-water construction activities shall adhere to the guidelines of the then-current version of the LTMS. *(Mitigation Measure R4.3-6b)*

105. To minimize wetland disturbance, the construction of the connecting channel from the Main Quarry Bowl to the Bay, and removal or installation of rip-rap along the Bay shoreline, will either operate from dry land or from water-based equipment such as barges, scows, derrick barges, and tugs. *(Mitigation Measure R4.3-6c)*

106. Permittee shall include surveys for California red-legged frog (CRLF) in its "Standards for Preserving Sensitive Habitat Areas," to be conducted prior to filing for grading permits for each reclamation phase, as well as undefined setbacks to be established in the site's Development Plan. *(Mitigation Measure R4.3-8a)*

107. The Permittee shall conduct reclamation and post-reclamation development activities in and around the process water ponds in the NW and SW Quadrants in a manner that avoids take of California red-legged frog (CRLF) through surveys to determine whether the species is present, and, if so, to reduce the risk of take of individuals of the species, as specified below. The Permittee shall conduct quarry operations in a manner that avoids take of CRLF. Specifically, the following measures shall be implemented *(Mitigation Measures R4.3-8b, P4.3-13)*:

a. The Permittee shall retain a qualified biologist to conduct a habitat assessment for CRLF according to U.S. Fish and Wildlife Service (USFWS) guidelines prior to filing for grading permits for Reclamation Phase 1 or prior to any site disturbing activity within 300 feet of the ponds or fresh water marsh. The habitat assessment shall be submitted to USFWS for review. If, following the review of the habitat assessment, USFWS recommends protocol-level field surveys, then the project sponsor shall conduct protocol-level field surveys for CRLF within aquatic habitat that provides potential breeding habitat (the process water ponds in the NW and SW Quadrants) on the project site. The Permittee shall provide the County with the results of the habitat assessment, USFWS review, and protocol level surveys, if required, prior to any site disturbing activity within 300 feet of the subject areas.

b. If no CRLF are found during the habitat assessment and/or protocol level surveys associated with Phase 1 reclamation activities then the project proponent shall consult with USFWS as to the necessity of conducting further

assessments or surveys for Phases 2 through 4 and/or for post-reclamation development.

c. If, as a result of the habitat assessment and/or protocol level surveys, CRLF are found on the project site, the project applicant shall initiate informal consultation with the USFWS to determine the need for formal consultation and preparation of a Biological Assessment and Biological Opinion (required by the federal Endangered Species Act). Specific measures to protect CRLF shall be determined in consultation with USFWS and may include, but are not limited to, the following measures, which are derived from the USFWS Programmatic Biological Opinion (PBO) for impacts to CRLF. The PBO summarizes typical project effects and provides generic preventive measures designed to substantially reduce the risk of incidental “take” of CRLF within the project area:

i. The name and credentials of a biologist qualified to act as construction monitor shall be submitted to USFWS for approval at least 15 days prior to commencement of work.

ii. A qualified biologist shall conduct pre-construction surveys within aquatic habitat by two weeks prior to the onset of construction activities. Surveys shall be completed for all life cycle stages of CRLF (e.g., egg masses, tadpole, juveniles, and adults) that may occur within the project area. If adult CRLF, tadpoles or eggs are found within the construction disturbance zone, the approved biologist shall contact USFWS to determine if moving any of these life-stages is appropriate. If USFWS approves moving the animals, the approved biologist shall be allowed sufficient time to move them from the construction sites before work activities begin. If no frogs are detected during these surveys, construction-related activities may proceed without further requirements for the protection of individuals, although habitat protection measures (i.e., avoidance of intermittent drainages and riparian habitat) shall still be observed.

iii. Exclusionary fencing, such as silt fences, shall be installed around the process ponds and around all construction areas that are within 100 feet of or adjacent to potential CRLF habitat. Once fencing is in place, it shall be maintained by the proponent until completion of construction within or adjacent to the enclosure.

iv. Prior to commencement of any earthmoving activities, the monitoring biologist shall train all construction personnel and work crews on the sensitivity and identification of the CRLF and the penalties for the “take” of this species. In addition, visual materials shall be provided to assist in identifying the species. Training sessions

will be repeated for all new employees before they access the project site and periodically throughout project construction.

v. The monitoring biologist will demarcate construction avoidance areas in the field and monitor construction activities within 300 feet of aquatic habitat for CRLF. The demarcation shall remain on-site until all initial vegetation clearing and habitat disturbance is completed.

vi. All fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 100 feet from any riparian habitat or water.

108. The Permittee shall conduct quarry operations, reclamation and post-reclamation development activities on site, and in and around the process water ponds in the NW Quadrant, in a manner that avoids take of northwestern pond turtle through surveys to determine whether the species is present, and, if so, to limit activities as specified below. Specifically, prior to any site disturbing activity within 300 feet of the NW Quadrant process water ponds or filing for Phase 1 reclamation grading permits, a qualified biologist who is permitted by CDFG to move turtles and their nests shall perform northwestern pond turtle (WPT) surveys within suitable habitat in and around the process ponds in the NW Quadrant. Surveys and subsequent actions shall include the following (*Mitigation Measures R4.3-9, P4.3-14*):

a. Surveys shall be conducted for nests as well as individuals.

b. If WPT are found during initial surveys a qualified biologist shall be present when project-related activities within or adjacent to suitable aquatic habitat for northwestern pond turtle are occurring and will be responsible for temporarily relocating adult WPT that move into work areas.

c. No work within the process ponds or on their banks will proceed until the work area is determined to be free of WPT or their nests.

d. If a nest is located within the process pond area and may be impacted by reclamation activities, it shall be caged to exclude predators and monitored closely until the eggs hatch. Hatchlings shall be moved to an appropriate facility and reared until they are large enough to survive in the wild. They shall then be released into appropriate suitable habitat. All aspects of these activities shall be conducted by a qualified biologist in consultation with CDFG.

e. A report shall be prepared by a qualified biologist documenting the presence/absence of WPT at SRRQ, as well as the measures taken to protect them if present, and submitted to the County and to CDFG.

f. If no turtles are found during surveys associated with Phase 1 reclamation activities the project proponent shall consult with CDFG regarding the need for further future surveys.

109. The Permittee shall conduct quarry operations or reclamation activities involving tree removal and building demolition in a manner that avoids disturbance or mortality of bats, through surveys to determine whether bats are present, and, if so, to limit reclamation activities as specified below. Specifically, the applicant shall take the following measures to avoid direct mortality of roosting special-status bats and disturbance of maternity roosts or winter hibernacula (*Mitigation Measures R4.3-10, P4.3-16*):

- a. A qualified bat biologist, acceptable to the CDFG, shall conduct surveys of all potential bat habitats within 500 feet of reclamation activities prior to initiation of such activities, including surveying trees slated for removal as a result of quarrying activity. Potentially suitable habitat shall be located visually. Bat emergence counts shall be made at dusk as the bats depart from any suitable habitat. In addition, an acoustic detector shall be used to determine any areas of bat activity. At least four nighttime emergence counts shall be undertaken on nights that are warm enough for bats to be active. The bat biologist shall determine the type of each active roost (i.e., maternity, winter hibernaculum, day or night).
- b. Removal of trees or demolition of buildings showing evidence of bat activity will occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 for winter hibernacula and between August 15 and April 15 for maternity roosts). If active day or night roosts are found the bat biologist shall take actions to make such roosts unsuitable habitat prior to tree removal or building demolition.
- c. A no-disturbance buffer shall be created around active bat roosts being used for maternity or hibernation purposes at a distance to be determined in consultation with CDFG. Bat roosts initiated during construction are presumed to be unaffected, and no buffer is necessary. However, "take" of individuals, including harming, harassing, or killing, will be prohibited.
- d. If pre-construction surveys indicate that roosts are inactive or potential habitat is unoccupied during the reclamation, construction or mining periods, no further mitigation is required. Trees and buildings that have been determined to be unoccupied by special status bats and that are located outside the no-disturbance buffer for active roosts may be removed or demolished.

e. If known bat roosting habitat is to be destroyed during tree removal or building demolition activities, artificial bat roosts shall be constructed at least two weeks prior to such disturbance in an undisturbed area of the property, at least 200 feet from any ongoing or future activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

f. Prior to quarry-related tree removal a report shall be submitted to the County that details the survey results and any actions taken to protect special-status bats. Any special-status bat sightings shall also be submitted to the CNDDB.

110. The Permittee shall implement nesting raptor surveys described as part of the "Standards for Preserving Sensitive Habitat Areas in the amended reclamation plan. (*Mitigation Measure R4.3-11a*)

111. The Permittee shall conduct quarry operations and reclamation activities, including vegetation removal as well as variability in quarrying activity levels on South Hill in a manner that avoids direct losses of nests, eggs, and nestlings and indirect impacts to avian breeding success. Specifically (*Mitigation Measures R4.3-11b, P4.3-15*):

a. During the breeding bird season (January 1 through August 31) a qualified biologist will survey sites for nesting raptors and passerine birds not more than 14 days prior to any ground-disturbing or vegetation removal (including trees, shrubs, and grassland vegetation) activity. In addition, vegetation on South Hill will be surveyed if quarrying activities on South Hill cease for a period of more than one week during breeding bird season.

b. If reclamation activities occur only during the non-breeding season between September 1 and December 31, no surveys will be required.

c. Surveys shall also be conducted during breeding season in those areas of the project site that a qualified biologist determines may have nesting special status bird species present that could potentially be impacted by indirect noise impacts of operations such as truck traffic or blasting at that time.

d. Results of the surveys will be forwarded to the County and CDFG (as appropriate) and avoidance procedures will be adopted, if necessary, on a case-by-case basis. Avoidance procedures shall be reviewed and approved by CDFG. Depending on the species involved, these may include construction buffer areas (up to several hundred feet in the case of raptors) or seasonal restriction or avoidance of activities. Vegetation of any kind identified as supporting active nests will not be removed until nestlings have fledged. If survey results are positive for nesting birds, vegetation removal or mining on South Hill will not occur until submittal and review of reports and

implementation of any necessary avoidance measures. Special-status bird sightings shall also be submitted to the CNDDDB.

112. The Permittee shall submit revisions to the amended reclamation plan that include a standard for post-reclamation development (to be submitted three years prior to cessation of mining activities or by December 31, 2021, whichever is earlier) that requires the applicant to conduct post-reclamation development activities in a manner that avoids harassment, disturbance, and mortality of nesting birds and other wildlife that inhabit the SRRQ marshes. The standard will include development of a Marsh Wildlife and Habitat Protection Plan, to be prepared as a part of the Development Plan, and subject to review and approval by the Marin County Community Development Agency, the California Department of Fish and Game, and the U.S. Fish and Wildlife Service. Components of the plan will include, but not be limited to, the following:

a. In accordance with the policies set forth in the 2007 Marin Countywide Plan the project development footprint will maintain a set back of at least 100 feet from marsh habitat on the project site.

b. Cyclone fencing with vinyl slats for screening shall be installed at the setback distance between the marshes and all residential or commercial development. Appropriate native vegetation will be planted both inside and outside of the fence to provide further screening. The fence will be designed specifically to provide a barrier to exclude cats, dogs, and other household pets from marsh areas and will also provide a visual screen between marsh wildlife and human activity.

c. To minimize the potentially-adverse effect of night lighting on the adjacent salt marsh habitat the following will be utilized: street lighting only at intersections, low-intensity street lamps and low elevation lighting poles, and internal silvering of the globe or external opaque reflectors to direct light away from marsh habitat. In addition, private sources of illumination around homes shall also be directed and/or shaded to minimize glare into the marsh.

d. An education program for residents will be developed including posted interpretive signs and informational materials regarding the sensitivity of the marsh habitat, the dangers of unleashed domestic animals in this area, and discouragement of the practice of feeding feral cats. (*Mitigation Measure R4.3-12b*)

113. The Permittee shall prepare a Marsh Restoration plan and implement the recommendations as soon as practicable, and in any case, shall complete the tidal marsh restoration prior to completion of Phase 1 reclamation. This mitigation measure will be implemented through the following:

- a. The Permittee shall develop and submit a Marsh Restoration Plan to the County and other applicable resource agencies within 1 year of approval of the amended quarry permit. The Plan will include, but not be limited to, the following elements:
 - i. A baseline study of existing marsh conditions, including topography, a complete analysis of current hydrology, vegetation, and wildlife that will be used to inform subsequent marsh restoration planning.
 - ii. A thorough analysis of the potential effects of tidal restoration on adjacent infrastructure and existing marsh vegetation.
 - iii. Development of a suite of restoration alternatives, with tidal restoration as the preferred alternative, providing constraints do not preclude this course of action.
 - iv. Feasible goals for marsh restoration with quantifiable objectives that can be measured over time to determine whether goals are being met.
 - v. A detailed plan for marsh restoration, including, if necessary to achieve objectives, plans for excavation of new channels, addition of new culverts, setbacks, buffers, etc.
 - vi. A maintenance schedule for any mechanical devices or features, such as tide gates, specified in the plan.
 - vii. A monitoring plan to determine optimum inundation levels for the marshes. This would include measurements of hydrology, sediment accretion, and changes in vegetation over time.
 - viii. A schedule for annual monitoring reports, which shall be submitted to the Department of Public Works, as well as all permitting agencies as required. (*Mitigation Measure C4.3-18b*)

Geology/Geotechnical/Seismicity

Design

114. The Permittee shall include the recommendations made in the Supplemental Geotechnical Data Report Proposed Changes to Mining Plan by ENGEO, Incorporated dated April 11, 2005 as part of the quarry design and submittal of the Conforming Amended Reclamation Plan. These recommendations include conducting supplemental geotechnical pit observations, groundwater monitoring, and slope monitoring which shall be conducted by a California Certified Engineering Geologist or Registered Professional Geotechnical Engineer with oversight by the State Office of Mine Reclamation. In addition, the average slope inclination (toe to

top) shall not exceed 60 degrees for a maximum vertical height of 350 feet, a minimum of 30-foot-wide benches shall be constructed at maximum 90-foot intervals, and inter-bench face inclinations shall not exceed 75 degrees. (*Mitigation Measure R4.4-1 & R4.4-3b*)

115. The quarry access ramp placement required to deepen the quarry shall be configured to minimize excavation at the south face and create a buttressing effect to the slopes at the south side of the quarry.

116. Quarry pit design shall consider the potential effect of large-scale horizontal curvature of pit walls on slope stability. In general, convex-inward horizontal curves in quarry slopes should be avoided. Concave inward-sloped offer some degree of increased confinement by “arching” of the rock mass between discontinuities, and effectively decrease the area of free face available for kinematically possible failure geometries. Convex-inward slopes can actually contribute to potential instability, since lateral confinement is reduced and the area of the kinematically-available free face is effectively increased.

Monitoring

117. Mine quarry highwalls and the South Hill cut slope shall be periodically observed, mapped, and evaluated by a qualified engineering geologist and/or geotechnical engineer to determine if there are any rock structures or conditions that adversely impact or otherwise contradict the assumptions of the slope stability analyses provided with the 2004 Amended Reclamation Plan. In addition, the observations during mining would be to identify possible adverse rock structure as excavations proceed, so that the quarry operations can avoid undesirable slope failures in critical improvements such as access ramps or quarry brow improvements. At least annually, as part of the required SMARA mine inspection, the mine highwalls and South Hill cut slope shall be evaluated by a qualified engineering geologist and/or geotechnical engineer. If an adverse condition occurs, additional geotechnical studies shall be undertaken and slope modifications made to ensure stability of the final mine slopes. Copies of all evaluation reports shall be provided to the Department of Public Works as part of the Annual Report.

118. Piezometers shall be installed within a year following approval of the Permit around the margins of the quarry pit to allow periodic monitoring of ground water elevations to demonstrate that the assumptions in the slope stability analysis about pore water pressures are valid. The actual configuration of the piezometer array should be determined based on the final proposed pit configuration and on proposed planning of quarry operations to allow optimum placement of instruments and to avoid conflicts with future operations. Ground water level monitoring shall be done at least quarterly. Copies of all monitoring data and reports shall be provided to the Department of Public Works at least annually.

119. A network of survey monitoring points shall be established around the quarry pit and on benches to allow for measurement of any movement in the highwalls.

These monitoring points shall be surveyed initially at a monthly interval. The Quarry geotechnical engineer shall periodically evaluate whether additional survey points are necessary, and determine if more or less frequent survey monitoring is needed (reference page 77, ENGEO Supplemental Report). Results of this survey monitoring shall be reported to the Department of Public Works as part of the Annual Report.

120. The south face quarry access ramp shall be constructed to provide for a buttressing effect on the Wedge 1 failure area and any similarly unstable areas. Additional remedial grading and placement of engineered fill materials may be necessary to provide this buttressing effect. Any fill placed for structural support shall be designed, inspected, and tested by a qualified geotechnical or soils engineer. An engineer's report on placement and compaction of any engineered soils shall be provided to the Department of Public Works for review.

121. The periodic geotechnical inspections recommended above shall include evaluation of mining faces for potentially unstable blocks. Localized face failures are an expected part of surface mining, and the location and potential size of unstable blocks can be evaluated during periodic inspections as mining proceeds. If it appears that a critical facility such as the access ramp could be threatened by a potential block failure, the geotechnical engineer shall recommend appropriate correction action such as the installation of rock bolts, or local modification of mining excavations to increase stability.

122. The large-scale stability of the quarry walls shall be periodically evaluated by the geotechnical engineer based on the results of monitoring of slope performance, groundwater levels, and geotechnical inspection of mining exposures. If unacceptable slope performance is detected, it will be possible to implement several possible mitigation measures as described below. The actual recommended mitigation measures shall be based on site-specific evaluations:

- a. Mitigation measures shall be employed if adverse groundwater conditions are encountered (unacceptably high pore pressures or excessive seepage, etc.) Mitigation measures could include horizontal drains, extraction wells, slurry walls, etc.
- b. If unacceptable levels of mining-concurrent slope deformation are encountered, mining activities shall be modified to improve stability. At the quarry brow, stockpiles of products, quarry waste piles or areas of overburden can be excavated and moved to reduce driving forces. In the pit, bench configurations can be modified by "stepping out" or increasing bench width, effectively flattening the mining slope angle.

123. At the south quarry brow, it is anticipated that the final slopes will locally expose quarry fills and areas of native soils and weathered rock. The anticipated extent of soils and weaker materials in the proposed face is presented in Figure 13

of the ENGEO Supplemental Report. ENGEO Supplemental Report Figure 14 presents options for mitigation, including construction of a sheet pile wall or an engineered fill buttress. Both options would allow the quarry limits depicted in the Quarry's mining plan to be preserved. The Quarry shall select an appropriate method based on conditions actually encountered at the time of construction. The Quarry shall provide the engineering evaluation and method chosen to the Department of Public Works for review prior to implementation.

Future Geologic/Geotechnical Studies

124. A thorough re-evaluation of excavated slopes shall be performed near the conclusion of the mining operations, but no later than three years from mining cessation, so that the proposed post-reclamation conversion to secondary uses can be re-evaluated based on revealed conditions with a comprehensive re-evaluation of quarry slope stability based on the results of on-site geotechnical pit observations made during mining, groundwater monitoring, slope monitoring, and a program of laboratory testing of on-site materials. An appropriate testing program shall, as a minimum, include unconfined compressions tests, triaxial testing, and direct shear tests of joint surfaces. The re-evaluation shall be provided to the Department of Public Works.

125. The additional studies recommended in the condition above and the ENGEO Supplemental Report will include a study to determine how the site may be developed following reclamation in order to avoid or mitigate to less than significant impacts related to soil and slope stability. At the time the study is prepared, there will be a greater understanding of the bedrock stability and the properties and performance of the Quarry walls. A comprehensive re-evaluation of slope stability shall be performed based on results from geotechnical observations throughout the mining period, groundwater monitoring, slope monitoring, and laboratory testing of on-site materials which would include compression tests and shear tests of joint surfaces.

- a. The design-level, site-specific geotechnical investigation shall be prepared by a California licensed Geotechnical Engineer or Certified Engineering Geologist and include review of the supplemental geotechnical evaluations and monitoring conducted throughout the history of mining activities. The investigation shall include final grading recommendations, mitigation of any identified compressible or liquefiable soils, slope stability analyses, calculation of factors of safety, and structural foundation recommendations to ensure that post-reclamation development will be in accordance with the then-current requirements of the California Building Code and the Marin County Building and Safety Division or City of San Rafael Building Code. These recommendations shall be incorporated into the final design plans for post-reclamation development. (*Mitigation Measure R4.4-3c*)
- b. A qualified Geotechnical Engineer or Certified Engineering Geologist shall prepare a revised geologic map of the Quarry Pit and South Hill, and

provide supplemental recommendations, if any, for implementation of the proposed reclamation plan. The study shall confirm that the final mine slopes are stable and suitable for the proposed post-reclamation land use. As necessary, the study shall provide recommendations for any geotechnical investigation and/or analysis needed to demonstrate the stability of the slopes is suitable for any proposed post-reclamation end land use(s). The study shall be provided to the County. If determined by the County or engineering geologist, supplemental rock slope engineering recommendations shall be provided to maintain acceptable factors of safety for proposed adjacent land uses.

c. If the design-level, site-specific geotechnical investigation determines that achievement of factors of safety adequate for the intended post-reclamation uses are infeasible in some or all of the reclaimed Quarry, the report shall specify appropriate alternative post-reclamation uses or limitations on the planned use. An amended reclamation plan shall be submitted to the County as required under State law and/or the Marin County Code. (*Mitigation Measure R4.4-3d*)

d. The location of secondary use structures and critical facilities such as lifeline roads and utilities with respect to the top finished pit reclamation slopes shall be based on the results of the recommended detailed post-mining studies

126. The Permittee shall incorporate into the reclamation grading and construction specifications provisions requiring that all phases of reclamation construction implement best management practices (BMPs) to reduce and eliminate soil erosion and loss of topsoil. The Permittee shall implement these BMPs, and the Permittee shall be responsible for the inspection and maintenance of the BMPs through all phases of reclamation. (*Mitigation Measure R4.4-2b*)

127. The proposed reclamation grading and other earthwork activities included in the amended reclamation plan shall be designed such that all potential development areas would be located on either bedrock or consolidated engineered fill, with known and predictable strengths and stability. (*Mitigation Measure R4.4-3a*)

Water Quality

128. Within 6 months, the Permittee shall provide a Stormwater Management Plan and Stormwater Pollution Prevention Plan, both of which will be implemented as part of the projects. The Permittee shall include as part of the Stormwater Pollution Prevention Plan (SWPPP) and Stormwater Management Plan, a monitoring and maintenance element that would require scheduled periodic monitoring of BMP performance and condition. At a minimum, stormwater and erosion control BMPs shall be monitored after major storms, prior to the first rain event, and midway through large storm events extending over several days. Temporary BMPs (e.g., fiber rolls) shall be monitored for performance and immediately replaced if

necessary. Performance and failure of BMPs shall be described in the annual report to the RWQCB as required under the SWPPP. Monitoring and maintenance shall be conducted by an erosion control specialist contracted by the applicant. Monitoring and maintenance reports shall be filed with the Permittee and available to the County on request. *(Mitigation Measures R4.4-2a, R4.5-2a & R4.5-2b)*

129. Within one year of Permit approval, the Permittee shall submit an engineering and economic report for construction, operation and future maintenance of a mechanical mixing or aeration system, or another engineered approach, which will result in avoidance or elimination of a stratified water column within the Main Quarry Bowl after it is flooded. The report will be conducted by qualified limnologists and water quality engineers. The system design will be at a schematic level and will be stamped by a California professional engineer, and will include calculations that demonstrate that the system will maintain water quality objectives established in the San Francisco Bay Regional Water Quality Control Board's Basin Plan. The report will include an analysis of operating and maintenance costs for the system, as well as predicted energy requirements and greenhouse gas emissions, and a plan for minimizing both of these; estimate the funds needed to construct and operate in perpetuity the system to meet water quality objectives and what the financial assurance amount should be for the reclamation plan financial assurances; and will identify funding sources to ensure continued operation of the system after reclamation. The need for, and design of a mechanical mixing or aeration system shall be subject to further study and review as part of the post reclamation development plan, which shall be submitted at least three years prior to cessation of mining. *(Mitigation Measure R4.3-7, R4.5-6)*

130. Prior to implementation of the last phase of reclamation (Phase 4), the Permittee shall model effects of the maximum expected tsunami, seiche event, and anticipated sea level rise, considering the latest climate change information, and county policies and regulations in effect at the time, and proposed adequate setback and final contour elevations in a report to the County. If changes to the approved reclamation plan are needed, a revised Phase 4 reclamation plan shall be submitted to the County for review and approval prior to implementation. *(Mitigation Measure R4.5-8)*

131. The Permittee shall submit a revised amended reclamation plan that includes standards for preventing polluted stormwater runoff from entering the Main Quarry Bowl after it is flooded. The standards will be used to guide development of the post reclamation Development Plan, due to be submitted three years prior to the anticipated completion of mining. *(Mitigation Measure R4.5-10)*

132. Permittee shall abide by all standards and monitoring requirements of its State of California Regional Water Quality Control Board (RWQCB) discharge permit, including monitoring by a State of California certified sampling laboratory of all specified constituents and subsequent correction of any problems indicated by sampling results in excess of specified water quality standards; or any subsequent

requirements of the Regional Water Quality Control Board that may be implemented to augment or supersede the requirements.

133. The Permittee shall maintain all erosion control measures and keep current and comply with all permits required by the RWQCB. Copies of all RWQCB permits for the Quarry property shall be provided to the Department of Public Works.

Revegetation

134. Within 60 days of Permit approval, Permittee shall revise the amended reclamation plan (ARP04) to incorporate the State Office of Mine Reclamation (OMR) "Resoiling and Revegetation" comments contained in OMR's December 14, 2009 comment letter to the County. The revisions shall be included in the Conforming Amended Reclamation Plan submitted to the County.

135. In areas to be reclaimed by secondary development uses, temporary Type I, II, or III vegetation shall be installed as soon as reclamation grading is complete.

Hazardous Materials/ Public Health

136. Permittee shall maintain and periodically updated a Hazardous Material Business Plan that contains operator information, a hazardous material inventory, site maps, and an Emergency Response Action Plan. (*Mitigation Measure R4.8-1a, R4.8-1b, & P4.8-3a*)

137. The Permittee shall prepare and maintain a blasting plan that describes how the Quarry will consistently comply with applicable blasting regulations and standards of practice. The blasting plan will contain a complete description of clearing and guarding procedures; descriptions of how explosives will be safely transported, stored, and used at the site in accordance with applicable regulations; evacuation, security and fire prevention procedures; blasting equipment list, and procedures for notification of nearby receptors in the event of an accident or emergency involving explosives. The blasting plan shall incorporate the recommendations contained in the REVEY Associates, Inc. report in Appendix J of the Combine FEIR, Volume III: Appendices (pp. 23-24). The blasting plan shall be prepared and submitted within six months of approval of the Permit. The plan will be subject to review and approval by the County Department of Public Works. (*Mitigation Measure P4.8-3b*)

138. A potable water supply and adequate toilet facilities shall be provided for employees according to requirements of the Marin County Environmental Health Division.

139. *Reporting Accidents:* The Permittee shall immediately notify the Public Works Director by telephone, FAX, and/or voice mail of any incidents such as fires, explosions, spills, land or slope failures, or other conditions at the site, which could pose a hazard to life or property outside the Permit or Quarry area. Upon request of any County agency, the Permittee shall provide a written report of any incident within

seven calendar days, which shall include, but not be limited to, a description of the facts of the incidents, the corrective measures used, and the steps taken to prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other governmental entity for reporting incidents.

Cultural Resources

140. In the event that any human remains, artifacts, or other indicators of prehistoric or historic use of the parcel are encountered during quarrying, site preparation, construction, or reclamation activities on any part of the project site, all work at the vicinity of the discovered site shall stop and the project sponsor shall contact the Marin County Environmental Coordinator immediately. If human remains are encountered, the County Coroner must also be contacted. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written evaluation to the Community Development Agency Director advancing appropriate conditions to protect the site and the resources discovered. State law designates procedures should human remains be encountered. If the remains are deemed to be Native American and prehistoric, the Coroner must contact the Native American Heritage Commission so that a "Most Likely Descendant" can be designated. No work at the site may recommence without approval of the Community Development Agency Director. (*Mitigation Measures R4.12-1a, & P4.12-9*)

141. The following applies to the last Phase of reclamation (Phase 4). The Permittee shall retain the services of a qualified archaeological consultant who has expertise in California prehistory to review reclamation grading plans and identify areas of potential concern, including previously undisturbed or minimally disturbed areas. The archeological consultant shall monitor all ground-disturbing or vegetation removal activities in identified areas of concern during mining or construction to ensure that any previously undiscovered cultural resources are properly identified and preserved or otherwise mitigated in accordance with prevailing professional standards and Public Resources Code §21083.2. If an intact archaeological deposit is encountered, all soil-disturbing activities in the vicinity of the deposit will cease. The archaeological monitor will be empowered to redirect crews and heavy equipment until the deposit is evaluated. The monitor will immediately notify the Marin County Department of Public Works of the encountered archaeological deposit. The monitor will, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, present the findings of this assessment to Marin County. If Marin County, in consultation with the archaeological monitor, determines that a significant archaeological resource is present and that the resource could be adversely affected by the proposed project, the Permittee shall take steps to:

- a. Redesign the project to avoid any adverse effects on the significant archaeological resource; or
- b. Develop and implement an archaeological data recovery program

(ADRP) (unless the archaeologist determines that the resource is of greater interpretive than research significance and that interpretive use of the resource is feasible). If the circumstances warrant an archaeological data recovery program, an ADRP will be conducted that will preserve and recover important archeological data from the find, to the extent that adverse effects will be avoided. The project archaeologist will consult with Marin County to determine the scope of the ADRP. The archaeologist will prepare a draft ADRP that will be submitted to Marin County and the state Office of Historic Preservation for review and approval. The ADRP will identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain (i.e., the ADRP will identify the scientific/historical research questions that are applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions). Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods will not be applied to portions of the archaeological resources if nondestructive methods are practical. *(Mitigation Measure R4.12-1b)*

142. The Permittee shall relocate the top soil stockpile fill area "F" under Phase 1 of the proposed project, to avoid potentially adverse effects to the Caretaker's Residence. The fill area could be relocated either to the east or to the west of this potentially eligible historic resource, or split into two smaller stockpiles, to avoid the resource. *(Mitigation Measures R4.12-3a & R4.12-5b)*

143. Prior to commencement of Phase 1 reclamation grading, the Permittee shall submit a detailed plan to the Marin County Department of Public Works detailing stockpiles and haul routes, and protection of historic resources. The plan will clearly show how the Caretaker's Residence and other potentially eligible historic resources will be protected and preserved. *(Mitigation Measures R4.12-3b & R4.12-5b)*

144. The Permittee shall relocate and/or redesign the surcharge berm proposed under Phase 2 of the proposed project, to avoid potentially adverse impacts to the Boarding House and Office structures. The north-south leg of the berm could be narrowed to avoid these resources, allowing more fill to occur on the east-west portion of the berm. To ensure adherence to this mitigation measure, prior to commencement of Phase 2 reclamation grading, the applicant shall submit a detailed plan to the Marin County Department of Public Works detailing the precise location of the surcharge berm, as well as areas that will be used to support construction of the berm. The plan will clearly show how the Boarding House and Office structures and other potentially eligible historic resources will be protected and preserved. *(Mitigation Measures R4.12-4a, & R4.12-5b)*

145. If relocation or alteration of the surcharge berm will affect the geotechnical properties of the site required for intended post-reclamation development, the

Permittee shall revise the conceptual design for the NW Quadrant Reclamation Plan accordingly. *(Mitigation Measure R4.12-4b)*

146. The Permittee shall redesign the reclamation activities in the SW and NW Quadrants under Phase 3 of the proposed project to avoid potentially adverse impacts to the former c. 1935 U.S. Army Signal House. The southernmost limits of the reclamation activity area could be reduced by approximately 100 feet to avoid this historic resource, potentially allowing more reclamation activities to occur on the northern, eastern, or western portions of SW-3. *(Mitigation Measures R4.1-1b, R4.1-2, & R4.12-5a)*

147. Prior to commencement of Phase 3 reclamation grading, the Permittee shall submit a detailed plan to the Marin County Department of Public Works detailing reclamation grading activities. The plan will clearly show and describe how the affected potentially historic resources, including the c 1935 U.S. Army Signal House, the Caretaker's residence, and the McNear's Brickyard Boarding House and Office structures, as well as any other potentially eligible historic resources will be protected and preserved. *(Mitigation Measure R4.12-5c)*

148. The Permittee shall revise the applicable portion of ARP04 to specify preservation of the following four historic resources: 1) c. 1902 Cookhouse, 2) c. 1902 Drysheds, 3) c. 1902 Hoffman Kiln #1, 4) c. 1904 Hoffman Kiln #2, and 5) c. 1910s Worker's Shed. The neighborhood commercial uses proposed for the NW Quadrant shall be constructed to provide a sufficient setback to allow these structures to visually 'read' as a working brickyard, with all original components of the brickmaking industry intact. *(Mitigation Measures R4.1-1a, R4.1-2, R4.1-1b, R4.12-6a, & R4.12-6b)*

Quarry Monitoring and Reporting

149. Within 60 days of Permit approval, the Permittee shall provide, in a form approved by the Public Works Director, three (3) copies, in binders, of all Exhibits to this Permit, and a mitigation, monitoring and reporting program plan to implement all required mitigation and monitoring programs and studies. In addition, the binders shall include all permits issued by or applied for from any other agencies.

150. Within 30 days of Permit approval, the Permittee shall contact the California Department of Mines and Geology, Office of Mine Reclamation, to determine what additional information is required by that agency given the County's approval of the project. The requested information shall then be provided in a timely manner with a copy to the County.

151. *Annual Report:* The Permittee shall furnish the Director of Public Works with an annual report by February 1st of each year describing how all conditions and mitigation measures of this permit are being implemented, any problems with such implementation and the resolution of such problems compliance with these conditions.

- a. With each report, the Permittee shall provide a topographic map at the same scale as the approved mining and reclamation plans, and if a different scale, a topographic map 1 inch to 200 feet.
- b. With each report the Permittee shall also provide an annotated map showing current progress of mining and reclamation and with information on drainage, erosion and sedimentation control facilities installed, and 'as-built' plans of revegetation areas.
- c. The report shall summarize air quality, noise, and biological monitoring data that has been collected over the preceding year.
- d. The report shall document conformance with the adopted Mitigation, Monitoring and Reporting Program (MMRP).
- e. The report shall specify planned biological surveys, reports, protective measures or mitigation that the Permittee intends to undertake in the upcoming year.
- f. The report shall contain information prescribed elsewhere in these permit conditions.
- g. The Permittee shall certify the accuracy of this report.

152. Permittee shall consult with the California Department of Fish and Game and US Fish and Wildlife Service in preparation of final mitigation plans for habitat preservation and enhancement. The methods, results, and recommendations of the field surveys shall be approved by the Public Works Director, and successful implementation shall be completed by the Permittee prior to site disturbance, or prior to final reclamation, as the case may be. Monitoring shall be performed by a qualified third party professional, who shall submit a report as part of the Permittee's Annual Report.

153. Permittee shall maintain a public web site where information and notices regarding this Permit, applicable condition noticing and the Permittee's operations will be posted as applicable.

154. Upon reasonable notice, Permittee hereby authorizes the County, or its designee, to enter and inspect the Quarry site for compliance with these permit conditions and/or the Marin County Code.

County and Consultant Work, Compliance Monitoring and Enforcement

155. Annual inspection, review of reports or plans required under these Permit conditions or approval, monitoring and enforcement costs, and fees shall be paid by the Permittee in order to cover all actual costs incurred by the County, including but

not limited to materials, staff time and consultant costs, for the inspection, monitoring and enforcement of the applicable Permit conditions and reclamation plan inspections. Where monitoring service of a qualified professional is required or needed by the County, additional monitoring fees may be levied on the Permittee to cover such costs. The County may request advance deposits prior to starting the work.

a. Within 45 days of Permit approval, Permittee shall deposit \$100,000 in a deposit account for monitoring. Said deposit will be used by County agencies to cover staff costs and/or County-initiated consultant contracts associated with these Permit conditions. As funds are drawn down the County may request additional funds in order to maintain an adequate fund balance. Standard accounting practices shall be employed by the County to account for the funds.

b. All phases of operations and reclamation shall conform with the adopted Mitigation, Monitoring and Reporting Program (MMRP), and the County of Marin will verify compliance with each of the required mitigation. Pursuant to the MMRP, the Permittee shall bear all cost associated with the management of the MMRP, including direct County staff costs. In the event County staff cannot absorb the task of managing the MMRP, an independent contractor will be hired by the County at the expense of the Permittee to carry out the responsibilities for managing the MMRP.

156. The County retains the right to hire its own consultants to evaluate any work undertaken by the Quarry or Quarry consultants under contract with the Quarry. Prior to the County engaging any independent consultants or contractors which will be paid for by the Permittee pursuant to the conditions of this Permit, the County shall confer with the Permittee regarding the scope and necessity of the work to be contracted for, as well as the costs of such work. County staff shall prepare a detailed proposed scope of work for services proposed to be provided by any consultant. These proposed contracts and scopes of work shall be provided to Permittee prior to retaining any consultant. The Permittee shall have the opportunity to review and comment on all such consultant contracts. Any decisions made by County staff may be appealed to the Board of Supervisors per the appeal procedures contained in the Marin County Ordinance Code then in effect.

Permit or Monitoring Modifications

157. Prior to undertaking any operational or construction related activity which is not expressly described in these conditions or approved Conformation Amended Reclamation Plan, the Permittee shall contact the Department of Public Works to determine if such activity requires a modification of this Permit.

a. The Public Works Director may, at his/her discretion, require that the Permittee file a written description of the proposed activity prior to rendering a decision whether a permit or monitoring modification is required. If a permit

or monitoring modification is required, such modification shall be subject to the then applicable standards for permit modification in the Marin County Code and the environmental review required by CEQA. Such permit or monitoring modifications shall be accompanied by a fee to process the request and reimburse the County staff time, as determined by the Public Works Director.

158. The Public Works Director may in his/her discretion extend the time limits for compliance with permit conditions if the Permittee demonstrates that it has diligently attempted to meet the deadline specified. The monitoring programs and plans submittals required by the Permit conditions herein may also be reasonably modified at the discretion of the Public Works Director after consultation with the resource agency with applicable expertise.

159. The County and all other permitting agencies shall have the option of referring any and all subsequent permit modification application requests of the Permittee to an independent and qualified consultant for review and evaluation of issues beyond the expertise or manpower of staff. The costs for all such consultant work shall be borne by the Permittee and are independent of the fees paid for staff processing of a permit application or review.

Community Relations

160. At least twice annually, or more frequently as determined by the Public Works Director, the Permittee shall hold a local community forum to review and discuss Quarry operations and reclamation, and answer questions from the public in attendance. The meeting announcement shall be made at least 30 days in advance of the meeting and posted on a web site, provided to the Public Works Director, and provided to local community organizations.

Mining Operation or Reclamation Not in Compliance with Permit

161. If the Director of Public Works determines, based upon an inspection or otherwise confirmed by credible evidence, that the surface mining operation or reclamation activity is not in compliance with this Permit, approved reclamation plan, County of Marin Code or State law, the Director may notify the Permittee of that violation by personal service or certified mail. If the violation extends beyond 5 days after the date of the Director's notification, the Director may issue an order by personal service or certified mail requiring the Permittee to comply with this Permit, County of Marin Code or State law.

a. Any order issued under this section shall specify which aspects of the surface mine's activities, operations or reclamation are inconsistent with this Permit, County of Marin Code or State law, shall specify a time for compliance which the Director determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

b. If the Permittee violates or fails to comply with an order issued under this section after the order's effective date, the Permittee shall be subject to an order of the Director imposing an administrative penalty of not more than five thousand dollars (\$5,000) per day, per violation, assessed from the original date of noncompliance with this Permit, County of Marin Code or State law. The penalty may be imposed administratively by the Director.

c. In determining the amount of the administrative penalty, Director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require.

d. Orders setting administrative penalties shall become a final order and effective upon issuance thereof and payment shall be made to the County of Marin within 30 days, unless the Permittee appeals to the Board of Supervisors for review.

e. Within 15 days of the issuance of an order or orders setting administrative penalties the Permittee may appeal to the Board of Supervisors for review of the order(s). If no appeal is requested from the Director of Public Works Order(s), such shall be deemed a failure to exhaust administrative remedies and a waiver of any further administrative and legal rights.

f. If an appeal is requested, the Board of Supervisors may, after hearing the appeal, affirm, modify, or set aside, in whole or in part, by its own order, any order of the Director of Public Works.

g. The Permittee aggrieved by a final order of the Board of Supervisors may obtain review of the order by filing in the superior court a petition for writ of mandate within the statutory time following the issuance of the final order. If the Permittee does not petition for a writ of mandate within the statutory time limits, a final order of the Board of Supervisors shall not be subject to review by any Court or Agency.

h. The remedies and civil penalties provided by this section shall be in addition to any other remedies and penalties provided by law.

162. A current set of Permit conditions, approved reclamation plan and associated exhibits and reports shall be retained at the Quarry site.

Revocation (ref. MCC 23.06.070)

163. In the event any Permittee holding a permit hereunder fails, neglects or refuses to fulfill any of the requirements or any of the conditions of the permit or violates any other applicable law or ordinance, or conducts or carries on the

operation in such a manner as to materially affect adversely the health welfare or safety of persons residing or working in the neighborhood of the property wherein the operations is being conducted, or conducts or carries on an operation so that it is materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Director of Public Works may revoke or suspend the permit. No permit shall be revoked or suspended until a hearing is held by the Board of Supervisors.

Correspondence from Other Agencies/Jurisdictions

164. Copies of all violations or abatement notices, or requests for reports or information related to this Permit and its authorized uses by federal, state or local jurisdictions/agencies, shall be provided to the Public Works Director within 30 days of the Permittee's receipt of said notices or requests. Within 30 days of any subsequent modification of another agency's permit or submission of an application for any permit to another agency, the applicable materials shall be submitted to the Public Works Director.

Change of Ownership Notice

165. Permittee, property owner and their authorized agents, and any other person in control of the property, individually or collectively, are responsible for the observation and compliance with all the provisions of this permit and the Marin County Surface Mining Ordinance. Said responsibility shall run with the land under permit as a covenant. Successive owners, heirs, and assigns of this real property are bound to comply with all the requirements of these conditions. Prior to any lease, sale, transfer, or conveyance of any portion of the real property that is the subject of the Quarry, the owner shall provide a copy of the adopted conditions to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

166. At least 10 calendar days prior to the effective date of change of property ownership, or of lessee(s), or operator(s) of the permitted use, there shall be filed, as an initial notice with the Public Works Director, the name(s), address(es), and telephone/FAX number(s) of the new owner(s), lessee(s) or operator(s), and company officer(s). A final statement that a transfer of ownership has occurred shall be provided to the Public Works Director within 15 calendar days of said transfer. Said statement shall include any changes in name(s), address(es), and telephone/FAX number(s) of the new owner(s), lessee(s), or operator(s), and company officer(s) from the initial notice. Said statement shall be accompanied by a letter from the new property owner(s), lessee(s), and/or operator(s) acknowledging and agreeing to comply with all conditions of this Permit. Said statement shall specify the effective date and time of the transfer.

Severability

167. If any of the conditions of this permit are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth.

168. If any condition(s) is invalidated by a court of law, and said invalidation would change the findings and/or mitigation measures associated with the approval of this Permit, the project may be reviewed, at the discretion of the Board of Supervisors, and substitute feasible condition(s)/mitigation measures may be imposed to adequately address the subject matter of the invalidated condition(s).

Permittee Defense Costs

169. As a condition of permit issuance and use of this permit, including adjustment, modification or renewal of the permit, the Permittee agrees to:

- a. Defend, at the Permittee's sole expense, any action brought against the County by a third party challenging either its decision to issue this Permit or the manner in which the County is interpreting or enforcing the conditions of the Permit; and
- b. Indemnify the County against any settlements, awards, or judgments, including attorney's fees, arising out of or resulting from any such action.

170. Upon demand from the County, the Permittee shall reimburse the County for any court costs and or attorney's fees which the County may be required by a court to pay as a result of any such action the Permittee defended or of which it had control of the defense. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relive the Permittee of its obligations under this condition.

Duty to Defend & Indemnity

171. As a condition of permit issuance and use of this permit, including adjustment, modification or renewal of the permit, the Permittee agrees to defend, indemnify and hold harmless the County, its agents, officers and employees, from any claim, action or proceeding against the County, to challenge any portions of the EIR certification, permit or reclamation plan process or approval; In addition to damages, indemnification includes reimbursing the County for staff and consultants cost, court costs, and attorney's fees (including claims for private Attorney General fees).

172. Neither the issuance of a permit hereunder nor compliance with the conditions thereof shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property, nor shall the issuance of any permit hereunder serve to impose any liability upon the County of Marin, its officers or employees for injury or damage to persons or property.

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 2013-__

**A RESOLUTION APPROVING THE SAN RAFAEL ROCK QUARRY
SURFACE MINING AND QUARRYING PERMIT #Q-72-03, AMENDMENT #2
(CA Mine #91-21-0008)**

**1000 POINT SAN PEDRO ROAD, SAN RAFAEL
ASSESSOR'S PARCELS 184-010-52 ET AL.**

SECTION 1: SURFACE MINING AND QUARRY PERMIT AMENDMENT #2 FINDINGS

- I. WHEREAS on October 27, 2009, the Marin County Board of Supervisors adopted Resolution No. 2009-126 which certified the Combined Final EIR for the San Rafael Rock Quarry Amended Surface Mining and Quarry Permit and Amended Reclamation Plan projects as adequate for purposes of taking an action on the San Rafael Rock Quarry application; and
- II. WHEREAS on September 28, 2010, the Marin County Board of Supervisors adopted Resolution 2010-93 approving the San Rafael Rock Quarry Surface Mining and Quarrying Permit #Q-72-03, Amendment #1 and Amended Reclamation Plan; and
- III. WHEREAS on June 18, 2013, prior notice of a public hearing was sent to property owners within two thousand five hundred feet of the perimeter of land affected and also posted on the County web site, and subsequently, a second public notice was sent to the same property owners on July 1, 2013 noticing the rescheduled hearing date; and
- IV. WHEREAS on July 16, 2013, the Marin County Board of Supervisors conducted a public hearing to consider the San Rafael Rock Quarry Surface Mining and Quarry Permit Amendment #2 and accepted public testimony; and
- V. WHEREAS, prior to taking action, the Marin County Board of Supervisors has reviewed and considered, among other items: (1) information, data and technical reports provided by the San Rafael Rock Quarry for the Surface Mining and Quarrying Permit amendment; (2) the staff report; (3) California Environmental Quality Act (CEQA) and the Notice of Exemption; and (4) all oral and written public testimony received and the administrative record;

**SECTION 2: RESOLUTION APPROVING THE SAN RAFAEL ROCK QUARRY AMENDED
SURFACE MINING AND QUARRY PERMIT, SUBJECT TO CONDITIONS OF
APPROVAL**

NOW, THEREFORE BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts a resolution which approves the San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment #2, subject to the Conditions of Approval contained in "Exhibit A" of this resolution. "Exhibit A" is attached to this resolution and incorporated herein by reference.

BE IT FURTHER RESOLVED that San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment #2 shall expire on October 1, 2015 unless the Board of Supervisors acts to extend the amendment.

SECTION 3: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 16th day of July 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

Clerk to the Board

Exhibit A

San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment No 2 Changes

- b. On site processing of aggregate materials obtained from on site including, rock crushing, sorting, screening, conveying and storage/stockpiling, and-off site asphalt concrete grindings from only Marin County construction projects. Quarry grindings stockpiles shall not exceed 38,200 tons.
 - c. Barge loading operations for materials obtained on site including conveyor and direct truck loading of barges, and barge unloading of dredged San Francisco Bay sand from barges for asphalt production.
 - d. The operation of an asphalt concrete batch plant using on-site aggregate materials and off-site Marin County sourced asphalt grindings, and production of asphaltic concrete.
 - e. Access to and from the site by truck, and the loading of commercial and inter-facility trucks on site with rock, asphalt and processed aggregate materials quarried from the site.
 - f. Maintenance activities including repair, replacement and failure preventative measures on facilities, fixed plant, vehicles, vessels, and stationary and mobile equipment operating at the site.
 - g. Structures, facilities, equipment and other accessory uses and appurtenances including, but not limited to rock crushers, conveyor belts, asphalt batch plant, barging facilities, water supply ponds, water recycling ponds, scale house, truck wash racks, above ground fuel tanks, air pollution control equipment, administration offices, maintenance buildings and sheds as shown in the 2006 existing conditions aerial topography and map dated December 19, 2006, on record at the Marin County Department of Public Works. This is the last County required aerial map submittal prior to publishing the Notice of Preparation for the amended quarry permit EIR.
 - h. Reclamation, revegetation, reclamation monitoring, and biological studies at the quarry site per the approved reclamation plan and this Permit.
2. Mining shall not occur in the Northwest Quadrant. Mining shall not occur in the Northeast Quadrant except to the extent that rock is encountered when establishing the Quarry Bowl bench at the edge of the future flooded San Francisco Bay inlet. In no event shall mining occur beyond 100 feet north of the boundary line between the Northeast Quadrant and the Southeast Quadrant. Mining shall not occur on the non-land (on the bay side of the San Francisco Bay shoreline) portions of the Quarry lands. Quarrying on South Hill shall not be beyond what was described in the 1982 Amended Reclamation Plan.
 3. The Permittee shall not import onto the Quarry property gravel used ~~asphalt concrete~~ or concrete for recycling, or dredged non-sand material.
 4. Pond fines, if produced in the future, shall not be placed in the Northeast or Northwest Quadrants.

San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment No 2 Changes

requirements of the approved reclamation plan have been met, including revegetation maintenance and monitoring, long term financial arrangements for harbor water quality maintenance are established, and the final financial assurance required by SMARA is returned to the Permittee.

29. All conditions of this Permit shall remain in effect until the Reclamation Plan is deemed "complete" by the County or the State, even though the operational aspects of mining have been terminated. A valid financial assurance (FA) shall be maintained on file until the County determines that all reclamation has been successfully carried out in compliance with the reclamation plan and Permit conditions.

30. The San Rafael Rock Quarry Combined EIR certified on October 27, 2009, analyzed potential impacts and the environment through year 2024. The term of the amended reclamation plan approval will be through December 31, 2024.

a. This permit may continue to be valid beyond 2024 insofar as quarrying and mining operations have ceased, and final Phase 4 reclamation is in progress per the approved reclamation plan and is substantially complete. Such activities may include vegetation management, marsh management, erosion and sediment control, historic structure preservation, and harbor and water quality management. However, continued quarry operations beyond 2024 would be considered a substantial extension of the termination date of mining operations as set out in the approved reclamation plan. In order for quarry operations, including but not limited to, crushing, trucking product, asphalt plant operation and barging, to continue beyond 2024, an application to amend the reclamation plan termination date, including continued mining operations if so desired, shall be filed at least 3 years before the termination date of the amended reclamation plan (no later than December 31, 2021).

b. Importation of asphalt grindings from Marin County construction projects shall terminate 1 year prior to termination of surface mining operation, or upon the end of the asphalt concrete batch plant use, whichever occurs first.

31. Three years prior to the end of quarrying operations, Permittee shall submit a development plan for subsequent use of the quarry property.

a. Neither approval of this permit nor approval of the amended reclamation plan constitute approval of post reclamation land uses, regardless of the generalized land uses depicted in submittals, reclamation plans or the Combined FEIR. Pursuant to the Surface Mining and Reclamation Act (SMARA), the purpose of a reclamation plan is to assure that adverse environmental effects are prevented or minimize and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses. The proposed mix of land uses and intensities shall be reviewed and considered by the appropriate jurisdiction in the future, at the time a development plan is filed by the property owner as part of the required land use and environmental review entitlements process.

Exhibit A (continued)

San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment No 2 Changes

- d. Within 24 hours after the suspension is lifted, or the emergency declaration by the authorized local, state, or federal agency is no longer in effect, the Permittee shall send written notice to the Marin County Director of Public Works, and post on its website, the total hours of operation and number of truck-trips that occurred during the suspension.
34. Reclamation grading activities shall be limited to an 8-10 week period during each dry season, but shall not commence prior to April 15 nor active grading extend beyond October 15th. Erosion control measures may continue to be implemented after October 15th. (*Mitigation Measure R4.6-5a*)
- a. Each year by May 1 and not later than 30 days prior to the commencement of reclamation activities, the Permittee shall inform by mail all residences on Marin Bay Park Court, Heritage Drive, and San Marino Drive, and the public at large by web site posting, of the start date, nature of the work and expected duration of the 8-10 week period during which reclamation grading activities will occur that calendar year. (*Mitigation Measure R4.6-3d*)
35. *Lighting*: Permittee shall restrict and minimize lighting for night operations. Where lighting is necessary, Permittee shall utilize light shades, directional lighting, and other measures so as to minimize off site glare at residences adjacent to property.

Trucking

36. The Permittee shall limit daily truck traffic hauling asphalt grindings to, or aggregate, asphaltic concrete, rock and other quarry product from the Quarry to 250 one-way truck trips per day (125 in and 125 out). (*Mitigation Measures P4.6-6a & P4.2-7a*)
- a. The Permittee shall keep daily written records of truck trips in and from site and shall provide said records to the Department of Public Works upon request. Records shall include date, load weight or bill of lading, and time of departure, as well as daily number of inter-facility trucks and destination of non inter-facility trucks. Records of truck trips shall include in-bound trucks not used for rock and aggregate transport, e.g. asphalt batch plant oil, and diesel loads. Records shall be kept a minimum of one year and an annual calendar year tabulation shall be provided in an Annual Report.
37. All loaded trucks shall be required to pass over a material shakedown area before exiting the Quarry.
38. All trucks leaving the Quarry shall be washed down, including the undercarriage, prior to entering Point San Pedro Road (except trucks transporting asphalt). The wash down and adjoining areas shall be paved to minimize tracking of dust and dirt. Point San Pedro Road shall be swept by a sweeper truck two times per day by the Quarry, except on rain days, when sweeping is not required. Sweeping is subject to the approval of the City of San Rafael within City jurisdiction.

Exhibit A (continued)

San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment No 2 Changes

This condition applies as well to Phase 4 reclamation for any loaded trucks.
(*Mitigation Measure R4.2-1c, R4.2-1d, R4.2-2a & P4.2-6a*)

39. The access road leading between the scale house and Point San Pedro Road shall be paved.

40. The Permittee shall require all inter-facility trucks (those trucks transporting material from or to the Quarry to other facilities under ownership or control of the Permittee, its parent company or subsidiaries) to cover or tarp the load in order to prevent or reduce dust emissions.

41. Any material shipment from the Quarry to Dutra's currently proposed Haystack Landing facility in Petaluma shall be by barge only, provided that the facility is approved by the County of Sonoma with a barge unloading component and the barge unloading component is constructed.

42. Within 12 months of Permit approval the Permittee shall require that all trucks leaving or arriving at the Quarry loaded with aggregate or asphalt materials shall have their loads covered by tarp or other means to prevent fugitive dust. Upon Permit approval, the Permittee shall notify their customers and post this requirement on a web site. Permittee shall incorporate this requirement in all applicable third party contracts or agreements. Aggregate materials shall have the same meaning as California Vehicle Section 23114.

43. The Permittee shall provide a pull out area onsite after exiting the truck scales for truckers to check their load and/or tarp their load.

44. Trucks leaving the Quarry shall be metered by the Permittee at a minimum of 2 minute intervals during peak traffic periods. The peaks periods shall be approximately 2 hours long in the a.m. peak, and 1 hour long in the noon time and p.m. peaks, as determined by the Public Works Director.

45. Permittee shall install and maintain a conspicuous sign onsite near all exits from the Quarry that states the following: "TRUCKS SHALL NOT USE NORTH SAN PEDRO ROAD." Such prohibition shall not apply in the event of temporary closure or blockage of Point San Pedro Road. In such case, Permittee shall immediately notify the Department of Public Works of trucks from the Quarry using North San Pedro Road.

46. Permittee shall be responsible for cleaning up material spills on Point San Pedro Road from loaded trucks leaving the Quarry.

47. The Permittee shall routinely advise in writing, but no less than once per calendar year, and shall train all Quarry employees, Permittee leased truck operators and inter-facility truck drivers of the following trucking 'rules of the road'. The Permittee shall implement a progressive discipline policy on violating the



RECEIVED

MAY 29 2013

MARIN COUNTY PUBLIC WORKS

May 22, 2013

County of Marin
Department of Public Works
P.O. Box 4186
San Rafael, CA 94903

RE: Modification to Marin County Surface Mining and Quarrying Permit #Q-72-03

Dear Eric,

Enclosed please find Dutra Materials' application to modify its Quarrying Permit. The modification requested would allow Dutra to accept grindings from paving projects in Marin County for re-use as recycled asphalt pavement (RAP) in hot mix asphalt. Acceptance of grindings and the utilization of RAP in Hot Mix Asphalt has become an industry standard over the past few years. Modification of the permit would allow Dutra to maintain sustainable best practices associated with the asphalt pavement industry.

The benefits of accepting grindings and utilizing recycled asphalt pavement are well known. A few examples are:

- Utilization of RAP is a sustainable construction method and factored into LEED certification.
- Acceptance of RAP diverts material from landfills.
- RAP contains oil which thereby reduces the demand for virgin oil.
- Grind and pave operations gain efficiencies.
- Reduces total truck miles associated with projects.
- 100% recyclable.
- Consistent with AB 812. (see attached)
- Potential to reduce costs to Marin County projects.

Acceptance of grindings will not increase truck trips or emissions. Trucks importing grindings would leave the quarry with Hot Mix Asphalt and return to the quarry loaded with grindings. Grindings brought to our site would be deposited into a stockpile and the stockpile would be maintained consistent with our dust mitigation procedures; as any other stockpile onsite would.

THE DUTRA GROUP

The stockpile of grindings would be located near the asphalt plant as shown in the attached site plan. Once grindings have been processed into RAP, the rap would be introduced into our asphalt plant by way of feed hopper and conveyor. The introduction of RAP to the asphalt plant does not change the annual permitted throughput or permitted truck trips. It simply replaces approximately 15-25% of the virgin rock and approximately 1% of virgin asphaltic oil.

Dutra has consulted with Bay Area Air Quality Management District regarding air permits associated with the utilization of RAP. The District has indicated that new source permits would be needed for the additional conveyor and feed hopper located at the asphalt plant. Because Dutra currently has multiple conveyors and feed hoppers which are under utilized, we can remove a feed hopper and conveyor from under the current permit and apply a 3 year average emissions baseline towards the new permitted emissions. The net effect would be a reduction in overall permitted emissions.

Importation of grindings does not affect the reclamation plan as 100% of imported grindings would be recycled for use in new hot mix asphalt.

Dutra prides itself on being a steward of the environment. Importation of grindings and the utilization of RAP will allow Dutra and Marin County to further our partnership in sustainable business practices.

Feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Johnson', with a long horizontal line extending to the right.

Aaron Johnson

THE DUTRA GROUP

APPLICATION FOR SURFACE MINING OR QUARRYING PERMIT

\$700.00 Filing Fee to be attached.

TO: County of Marin
Department of Public Works
P.O. Box 4186, Civic Center
San Rafael, California 94903

Date 5/17/13

Gentlemen:

The undersigned hereby applies for permission to surface mine or quarry in unincorporated areas of the County of Marin by performing the following work: (Applicant will describe here fully what he wishes to do using reverse side or extra sheets if necessary and attach two copies of plans and reports.

Applicant's Attention is Directed to Section 23.06 of the Marin County Code.

San Rafael Rock Quarry requests a modification to Condition #3 of Permit # Q-72-03 to allow importation of asphalt grindings from projects located within Marin County. Importation of grindings will not increase truck trips or air emissions beyond what is currently permitted. See attachments for further detail.

ACREAGE OF LAND AFFECTED

IN THE COUNTY OF MARIN AT 1000 Point San Pedro Road San Rafael
Street Address City
Heritage Dr. 184-010-52
Nearest Cross Street Assessor's Parcel Number

Applicant agrees to do work in accordance with Marin County Code Section 23.06 and the rules and regulations of the Marin County Planning Commission and the Marin County Department of Public Works subject to its inspection and approval.

Operator's Signature

Aaron Johnson
Operator's Name - PRINT

2350 Kerner Blvd Suite 200
Operator's Post Office Address

San Rafael 94901
City Zip Code

415-459-7740
Telephone

Owner's Signature

Bill Dutra
Owner's Name - PRINT

2350 Kerner Blvd Suite 200
Owner's Post Office Address

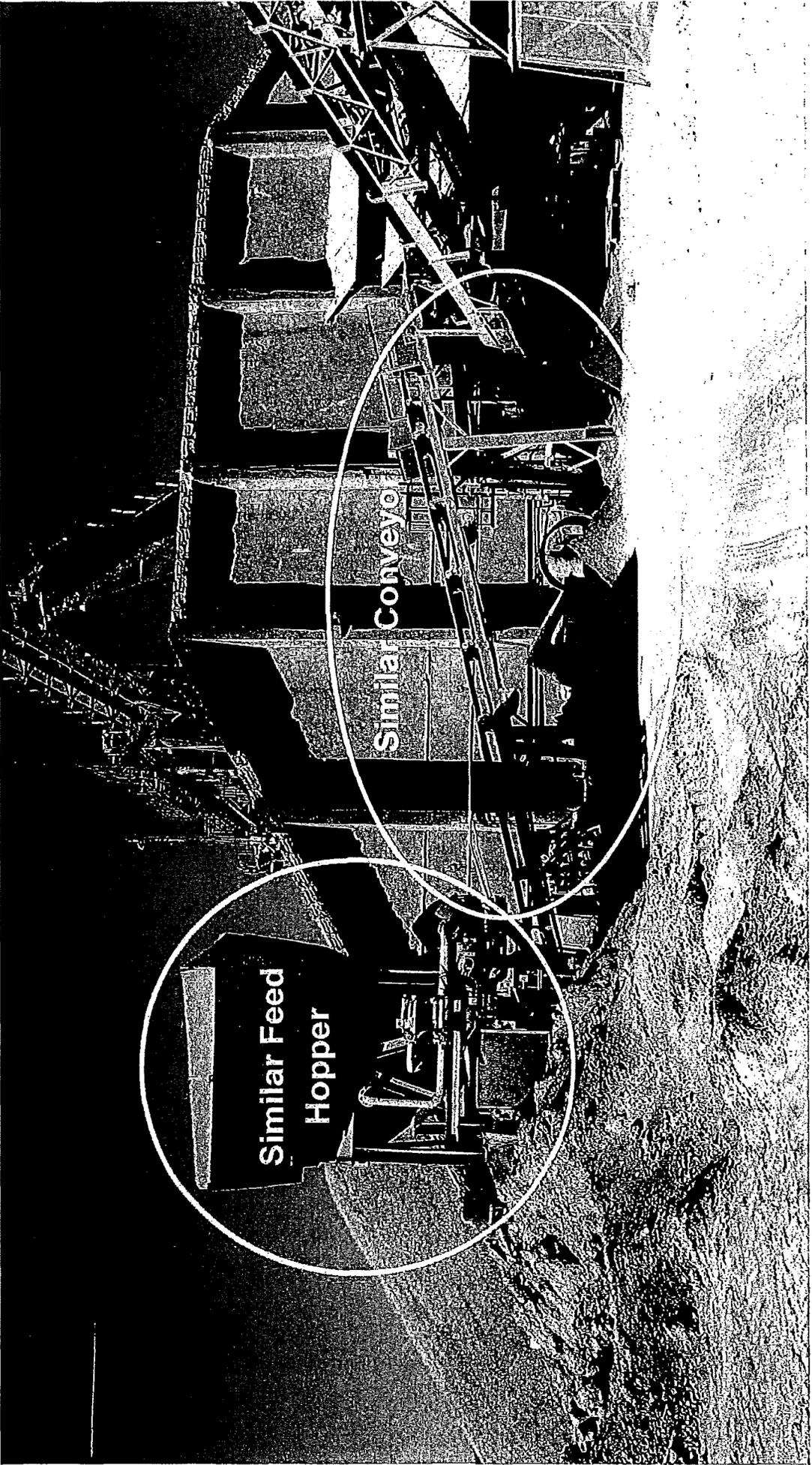
San Rafael 94901
City Zip Code

415-258-6876
Telephone

MARIN COUNTY Area
Permit No. Prep. by
Parcel No.
Amt. of Inspection Fee
Amt. of Surety Bond
Permit Issued

SAN RAFAEL ROCK QUARRY - GRINDINGS SITE PLAN

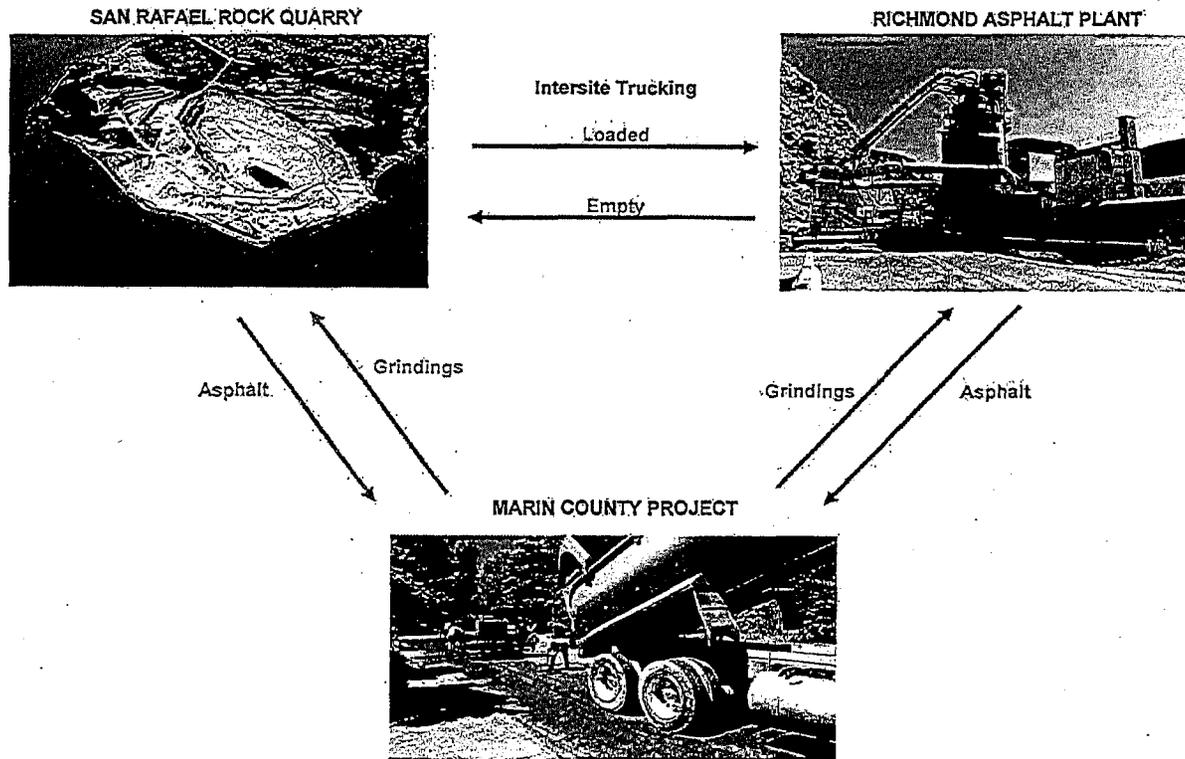




Similar Feed
Hopper

Similar Conveyor

TRUCKING SCENARIOS



Assembly Bill No. 812

CHAPTER 230

An act to add Section 42704 to the Public Resources Code, relating to solid waste.

[Approved by Governor September 7, 2012. Filed with Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 812, Ma. Solid waste; recycled asphalt.

Under existing law, it is the policy of the state to conserve and protect resources by encouraging the recycling of solid waste and the purchase of those recycled materials, including recycled concrete and rubberized asphalt concrete.

Under existing law, in purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation or any other state agency that provides road construction and repair services, the State Procurement Officer is required to make contracts available for those items that use recycled materials.

Existing law also requires the State Procurement Officer to make contracts available that use crumb rubber, as defined, unless the Director of Transportation determines that the use of the materials is not cost effective based on specified factors.

This bill would authorize the Department of Transportation, by January 1, 2014, to establish specifications for the use of reclaimed asphalt pavement (RAP) of up to 40% for hot mix asphalt mixes. The bill would specify that this authorization does not limit the authority of the department to establish specifications for this use of reclaimed asphalt pavement in amounts greater than 40%. The bill would require the department to submit a report to the Legislature, by March 1, 2016, on its progress, since the year 2011, toward the development and implementation of these specifications.

The people of the State of California do enact as follows:

SECTION 1. Section 42704 is added to the Public Resources Code, to read:

42704. (a) On or before January 1, 2014, the Department of Transportation may, with input from the Caltrans/Industry Rock Products Committee, establish specifications for the use of reclaimed asphalt pavement (RAP) of up to 40 percent for hot mix asphalt mixes.

(b) Subdivision (a) does not limit the authority of the Department of Transportation to establish specifications for the use of reclaimed asphalt pavement in amounts greater than 40 percent for hot mix asphalt mixes.

(c) (1) On or before March 1, 2016, the Department of Transportation shall submit a report to the Legislature in compliance with Section 9795 of the Government Code on its progress, since the year 2011, toward the development and implementation of the specifications for reclaimed asphalt pavement, as specified in subdivision (a).

(2) This subdivision shall become inoperative on March 1, 2020, pursuant to Section 10231.5 of the Government Code.

Marin County Planning Department

Mark J. Riesenfeld, AICP, Director

February 20, 1992

Mr. Robert Woodbury
General Manager
San Rafael Rock Quarry
1000 Point San Pedro Road
San Rafael, California 94901

Dear Bob:

After considerable research into the history of quarry operations, planning staff can now respond to your letter of August 27, 1991, regarding planned changes in equipment and operations at the San Rafael Rock Quarry. To enable us to respond to your proposed changes, we needed to determine more precisely what the use permit allowed. Based on our records, we have identified the uses and activities allowed by the permit (see Attachment).

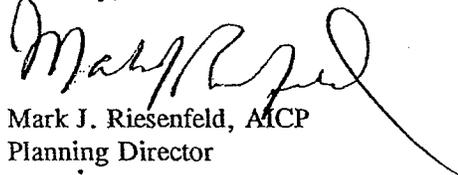
Using the attached listing as a basis, it is our determination that your proposal to rebuild, upgrade, and relocate two crushing/segregation plants is within the provisions of the 1972 Quarry Permit, and therefore, requires no further review by our Department. Also within the provisions of the 1972 Permit is the processing of recycled concrete and asphaltic concrete. A Building Permit will probably be necessary for the new equipment, but I suggest you contact the Building Inspection Division of Public Works directly regarding that issue. The proposed change to the method of loading and off-loading barges adjacent to the Quarry is also permitted by the 1972 Quarry Permit.

However, your long-range plans to expand barge storage and operations will require amendment of the 1972 Quarry Permit. In addition, these changes may also require permits from the Bay Conservation and Development Commission. We can refine the specific permitting requirements and the specific process when the Quarry determines it is closer to submitting an application.

With regard to the listing of uses and activities permitted by the 1972 Quarry Permit, it must be recognized that if the Quarry ever plans to modify its operations beyond the scope of those items covered by the 1972 Quarry Permit we will have to examine closely the necessity for amending the earlier Permit. Please let me know if you have any further questions or comments regarding our conclusions and I shall be pleased to assist.

Thank you for your continuing cooperation on this matter.

Sincerely,



Mark J. Riesenfeld, AICP
Planning Director

cc: Supervisor Bob Roumiguere
Dain Anderson, Principal Planner
Bob Beaumont, Land Development Engineer

Uses and Operations of the San Rafael Rock Quarry Authorized Under Provisions of the 1972 Quarry Permit as Determined by the Marin County Planning Department on January 29, 1992

- o Extraction of various mineral resources from on-site. Methods of extracting on-site mineral resources include, but are not limited to, blasting, drilling, mining, and digging. On-site mineral resources include high-quality rock, clay, shales, soil, and Franciscan Sandstone. Quantities or volume of materials extracted annually vary, dependent on market demand.
- o Importation via barge and truck of mineral resources from off-site. Off-site mineral resources include high-quality rock, clay, shales, Franciscan Sandstone, soil, asphaltic oil, and sand. Quantities or volume of materials imported annually vary, dependent on market demand.
- o Importation via barge and truck of "recyclable" (used) mineral resources from off-site. Off-site recyclable mineral resources include asphalt paving material and concrete. Quantities or volume of recyclable materials imported annually vary, dependent on available supply and market demand for products containing recycled mineral resources.
- o Processing of mineral resources, including those originating on-site and off-site, and including recyclable mineral resources. Processing includes crushing and sizing of all materials and production of asphaltic concrete involving the use of asphaltic oil and Franciscan Sandstone.
- o On-site stock-piling (storage) of all mineral resources and all mineral products produced or processed on-site.
- o Shipping of all mineral resources and products via truck and barge. Quantities or volume of materials and products "shipped" annually vary, dependent on market demand.

Confidential

July 1, 2013

BY EMAIL AND U.S. MAIL

Eric Steger
Senior Civil Engineer
County of Marin
Department of Public Works
P.O. Box 4186
San Rafael, CA 94903

Re: The San Rafael Rock Quarry's Request for Modification to Marin County Surface Mining
and Quarrying Permit #Q-72-03

Dear Eric:

We write on behalf of the Point San Pedro Road Coalition ("PSPRC"). We have reviewed the San Rafael Rock Quarry's ("SRRQ") request to amend its Surfacing Mining and Quarrying Permit ("Permit") to allow the importation of asphalt grindings, which is currently expressly prohibited in that Permit. For the following reasons, the requested amendment must be rejected.

Moreover, we note that the County entertains SRRQ's request after a more than 10 year battle waged by the County, the Coalition and area residents to obtain meaningful use permit conditions on the SRRQ's non-conforming quarrying operations in the midst of densely residential neighborhoods. The Quarry now seeks permission to engage in an activity to which the Coalition previously objected and that was expressly found to be illegal by Judge Sutro, whose injunction against this activity was expressly included by the County in SRRQ's Permit. Accordingly, the County should not now be unwinding these protections achieved through hard-fought litigation and a long and drawn out administrative process. It is particularly egregious that the County would even consider approving SRRQ's request with no environmental analysis under CEQA. To the contrary, the County should aggressively enforce the conditions of the Permit (some of which SRRQ has yet to comply with) for the protection of the residential neighbors of SRRQ.

Expansion of a Non-Conforming Use

The County Cannot Legally Approve SRRQ's Requested Operating Permit Amendment Allowing Importation of Asphalt Grindings Since Such Activity Has Already Been Found To Be An Illegal Expansion of the Quarry's Non-Conforming Use and Enjoined by the Marin Superior Court.

On November 9, 1982, the County of Marin ("County") re-zoned what is now SRRQ property from M-2 (industrial) to RMPC (commercial/residential), making the ongoing quarrying use nonconforming. This re-zoning occurred at the request of the City of San Rafael ("City") in its 1980 Peacock Gap Neighborhood Plan ("PGNP"). The SRRQ's predecessor actively participated in the PGNP process, representing that it would complete quarrying in the early 1990s and approving language in the PGNP indicating that 350 residential units were "designated" for the quarry property on its redevelopment. SRRQ's predecessor did not object to the County's re-zoning of the property in 1982.

The 1982 re-zoning triggered application of Marin County Code ("MCC") § 22.78.010 (now § 22.112.020A) and its prohibition against any non-conforming use being "enlarged, increased, or intensified." This exercise by the County of its police powers, at the City's request, promoted the protection of the health and welfare of the residents of the residential developments around the quarry, especially including those approved by the City in the 1980 PGNP and subsequently constructed adjacent to and nearby SRRQ's property.

Since the quarrying operation was being conducted on property zoned M-2 prior to November 9, 1982, it was a conforming use before that date. However, quarrying operations may not be conducted on RMPC zoning districts in the County. (Marin County Code §§ 22.47.020, 22.47.040 and 22.47.080). A "legal non-conforming use is one that existed lawfully before a zoning restriction became effective and that is not in conformity with the ordinance when it continues thereafter." Hansen Brothers Enterprises, Inc. v. Bd. of Supervisors (1996) 12 Cal. 4th 533, 540 n.1. Since the quarrying use being conducted on the property in 1982 was in conformance with the pre-1982 M-2 zoning of the property, but was not in conformity with the BFC-RMPC zoning adopted by the County on November 9, 1982, that use became non-conforming on that date.

Lawful, non-conforming uses existing on properties that are re-zoned may be continued after the zoning change, provided, however, that they are not enlarged or increased, nor extended to occupy a greater area of land than that occupied by the use at the time of the rezoning. (MCC § 22.112.020A.) While continuation of a non-conforming use is generally permitted, expansion or relocation is not. See County of San Diego v. McClurken (1951) 37 Cal. 2d 683, 687-88: A nonconforming use "endangers the benefits to be derived from a comprehensive zoning plan." City of Los Angeles v. Gage (1954) 127 Cal. App. 2d 442, 459. "The policy of the law is for elimination of nonconforming uses." City of Los Angeles v. Wolfe (1971) 6 Cal. 3d 326, 337. "The ultimate purpose of zoning is to reduce all non-conforming uses within the zone to conformity as speedily as is consistent with proper safeguards for the interests of those affected." Hansen Bros. Enterprises, supra, 12 Cal. 4th at 568 (internal quotations and citations omitted).

Based on MCC § 22.112.020A and these well-accepted legal principles regarding the limitations on non-conforming uses, in its earlier lawsuit against SRRQ, in which the County was a co-plaintiff, the Coalition challenged a variety of expanded uses in which SRRQ engaged on the quarry property after purchasing it in 1996 as illegal expansions or intensifications of SRRQ's non-conforming use. The Coalition sought a permanent injunction enjoining, among other activities, the importation of concrete and asphalt for recycling, which was not an existing use in 1982, when the property was re-zoned and its use became non-conforming. SRRQ's importation of these materials after 1982 illegally expanded its non-conforming mining use of the property. After the 2003 trial, SRRQ conceded that there was no baseline amount of asphalt that was being imported to the quarry for recycling in 1982. SRRQ's Closing Brief at 16:21-24. Accordingly, the Court enjoined SRRQ from any further importation of asphalt to be recycled to the quarry as an illegal expansion of a non-conforming use. *See* 4/19/04 Order, Hon. J. Sutro ("Defendant SRRQ is enjoined from importing onto the Quarry property the following materials: 1) gravel; 2) used asphaltic concrete or concrete for recycling; and 3) dredged non-sand materials."). Judge Sutro's Order was based in part on the following legal principles:

"I want to make one more final comment, at this point, with regard to the legal context in which the Court must consider the evidence and that concerns the policy of zoning laws to eliminate non-conforming uses. In the *Hansen* case, the California Supreme Court said, 12 Cal.4th at p. 568, and I quote, "The ultimate purpose of zoning is ... to reduce all non-conforming uses within the zone to conformity as speedily as is consistent with proper safeguards for the interests of those affected. We have recognized that, given this purpose, courts should follow a strict policy against extension or expansion of those uses". In *Township of Fairfield vs. Likanchuk's, Inc.*, a New Jersey case, the Court said, and I quote, "It is settled that use of land lawfully existing prior to the enactment of a zoning ordinance may be continued even though it does not comply with the use requirements of the new enactment." "However, because non-conforming uses are inconsistent with the objectives of uniform zoning, the policy of the law is to restrict, rather than to expand, such uses." "Accordingly, courts have generally required that non-conforming uses should be reduced to conformity as quickly as is compatible with justice. Courts have uniformly held that, because non-conforming uses were generally discordant to their surroundings, it was the fervent hope that they would in time wither and die and be replaced by conforming uses." "It follows that expansion of non-conforming uses is not favored." "Because of the expressed aversion toward expansion of non-conforming uses, the diminishing asset theory must be applied with caution. Public concern toward wholesale excavation and its attendant dangers are well founded." "Also, neighboring property may be developed for residential or other uses which are incompatible with the mining use in reliance on the perceived dormancy or limitation of the excavation activity at the time it became a non-conforming use."

(Reporter's Transcript of Tentative Decision, Judge Sutro, 1/20/04)(emphasis added).

The express prohibition against the importation of used asphaltic concrete or concrete for recycling, required by MCC § 22.112.020 and mandated by Judge Sutro's Order, was imported directly into SRRQ's Permit by the County, with the support and approval of the Coalition, and without any objection from SRRQ. (*See* SRRQ Operating Permit, "3. The Permittee shall not

import onto the Quarry property gravel, used asphalt concrete or concrete for recycling, or dredged non-sand material.”)

The County is legally bound to continue to enforce the prohibition against the expansion of SRRQ’s non-conforming use in MCC § 22.112.020 and Judge Sutro’s Order. It cannot legally agree to strike this prohibition against the importation of asphalt grindings for recycling, as SRRQ requests. There is no gray area here. If SRRQ wants to expand its current non-conforming industrial use, its only option is to seek a rezoning of the quarry property to industrial use, and then seek the Permit amendment. The requested Permit amendment must be denied as an illegal expansion of a non-conforming use.

CEQA Non-Compliance

Even if the County could legally approve SRRQ’s request to expand its non-conforming use and amend its Permit, the County has failed to comply with CEQA. The County has indicated that it considers SRRQ’s Permit amendment request to fall under CEQA’s Class I Categorical Exemption (“Class 1 Exemption”) and therefore no environmental review is required. We disagree. A Class I Exemption is defined by the CEQA Guidelines as consisting of:

“the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.” CEQA Guidelines § 15301 (emphasis added).

The importation of asphalt grindings and production of recycled asphalt pavement (“RAP”) which has never before been produced at SRRQ is clearly a proposed expansion of SRRQ’s existing use of its facility. It involves the importation by truck of a material not currently imported into the quarry, the establishment of a large new pile of that material onsite, the creation of visual and dust impacts, the purchase and set up of substantial new material handling equipment, with additional visual, noise and dust impacts, and will result in greater asphalt production levels. At an informal meeting held on May 16, 2013, with representatives of the Quarry, the Coalition and the County, the Quarry estimated that, if the “modification” is granted, asphalt production would double. It should be noted that since the proposal contains no cap on production, the actual production could potentially be more than doubled. These increases in production will bring concomitant increases in toxic air emissions and noise, and increased truck traffic to accommodate the greater volume of asphalt production facilitated by the importation of the grindings, among other impacts. Cumulatively, these impacts or potential impacts disqualify this permit amendment from the Class 1 CEQA categorical exemption.

Accordingly, even if this requested Permit amendment were not illegal for the reasons set forth above, it would have to undergo appropriate CEQA review before it could be approved, which the County has failed to perform.

Courts apply the substantial evidence test to an agency's factual determination that a project is subject to a categorical exemption. Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles, 161 Cal. App.4th 1168, 1187 (2008). Thus, the County has the burden of presenting substantial evidence demonstrating this project falls within the Class 1 categorical exemption. Magan v. County of Kings, 105 Cal.App.4th 468, 474 (2002). Neither the County nor the Quarry have provided any analysis suggesting that SRRQ's request for modification of its Permit does not expand its current use of its facility. To the contrary, the "modification" to allow asphalt recycling is, in fact, an expansion of the use, as was already determined by Judge Sutro in a decision that was never appealed by the Quarry.

Furthermore, even without increased emissions from asphalt recycling, the EIR concluded that the Quarry emissions presented a substantial health risk. Residential neighbors of the quarry, students attending local schools, workers employed at McNears Beach Park and visitors of the park alike are at risk from the significant health risks created by Quarry operations.

During lengthy hearings in 2010, the Quarry provided evidence that, due to the unique location of the quarry at the water's edge, it was essential that the SRRQ be granted its amended permit in order to provide, for example, rock to the delta area by barge. A staff report recommended the Board of Supervisors conclude that economic considerations, relating to the public's need for rock accessible by barge, outweigh the health of the community. There was no discussion, let alone a finding, that there was a public need for recycled asphalt at this location that would outweigh the health of the community. The SRRQ has a convenient location at which it already recycles asphalt in an industrial location - Richmond. The Richmond facility, which is not in close proximity to homes and adjacent to a popular park, can continue to serve Marin.

The County presently has produced no public record that might serve as a basis for granting SRRQ's request. The public itself has no information whatsoever, beyond mere informal statements of those interested in the outcome, on which to conclude that granting SRRQ's request would not illegally expand its use nor create further avoidable environmental burdens on the neighborhood.

In conclusion, the County cannot legally grant the SRRQ's request to modify its Permit to allow the importation and processing of asphalt grindings since it violates the Marin County Code prohibition against the expansion of non-conforming uses and related California law. Even if the County could consider granting the permit amendment (which it cannot), the County would first have to comply with CEQA and conduct an initial study to determine whether the project may have a significant effect on the environment, which it surely will.

Very truly yours,

SG
John Edgcomb

John Edgcomb

cc: Marin County Board of Supervisors: Susan Adams; Katie Rice; Kathrin Sears; Steve Kinsey
and Judy Arnold.



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July 3, 2013

Eric Steger
Assistant Director
Department of Public Works
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

Re: San Rafael Rock Quarry: Surface Mining and Quarrying Permit #Q-72-03

Dear Mr. Steger:

On behalf of San Rafael Rock Quarry, Inc. ("SRRQ"), this will respond to the July 1, 2013 letter of the Point San Pedro Road Coalition ("Coalition") opposing SRRQ's application for a temporary modification of permit conditions to allow use of grindings from paving projects in Marin County ("County") for re-use as reclaimed asphalt pavement in hot mix asphalt.

The Coalition's letter mischaracterizes the record and the facts in opposing this environmentally beneficial proposal. The proposed modification would be limited to a period of two (2) years, is entirely consistent with the actions of the Supervisors in unanimously approving other SRRQ operating conditions on September 28, 2010, would not increase production or truck trips beyond permitted limits, and poses no new or increased environmental impacts. For these reasons and those that follow, there is no merit to the Coalition's opposition and the proposed modification should be approved.

First, the Coalition's letter omits any reference to the fact that Resolution 2010-93, which includes Amended Surface Mining and Quarrying Permit #Q-72-03 ("AQP") and which was unanimously approved by the Supervisors on September 28, 2010, expressly permits other operating conditions that potentially exceed the scope of SRRQ's use of the property as a legal non-conforming use.¹ As the Resolution succinctly states (at Exhibit 1, pages 71-73):

Several components of the proposed AQP would potentially exceed the scope of SRRQ's permitted use of the property as a legal nonconforming use. This impact is discussed starting on Combined FEIR Amendment pages 3-29. Moreover, following the County's certification of the Combined Final EIR, additional discussions with SRRQ representatives and with a committee from an active local community based group, the Point San Pedro Road Coalition, increased the County's understanding of SRRQ's operations and limitations, as well as impacts to the community.

¹ Excerpts of Resolution 2010-93 are Attachment 1 hereto.



Eric Steger
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Operations that potentially exceeded SRRQ's permitted use of the property as a legal nonconforming use were found to include certain nighttime operations, increased noise, increased frequency or intensity of blasting, and increased dust and other air emissions, all of which were mitigated to less than significant. *See* Resolution 2010-93, Exhibit 1 at pages 72-75, Attachment 1 hereto.

Following meetings coordinated by the County and just prior to the Supervisors' consideration of Resolution 2010-93, the Coalition agreed to support the adoption of the proposed conditions of approval – including those that potentially exceeded SRRQ's permitted use of the property as a legal nonconforming use – as documented in an Agreement with SRRQ on September 28, 2010.² Thus, the Coalition's claim that the Supervisors' approval of operations that potentially exceed SRRQ's permitted use of the property as a legal nonconforming use would be unlawful is without merit, at best.³ In fact, the final Resolution expressly *deleted* a provision that had stated “[o]perations shall be limited to those in place in 1982 (i.e., noise generating operations will be limited to daylight hours on weekdays, except during a declared emergency),”⁴ and authorized these and other operations that potentially exceed SRRQ's permitted use of the property as a legal nonconforming use with the full support of the Coalition.

Second, although the conditions of approval include a prohibition on importing “gravel, used asphalt concrete or concrete for recycling, or dredged non-sand material” derived from the Marin Superior Court's April 19, 2004 Order, the Coalition's claim that importation of grindings from paving projects in the County for re-use as recycled asphalt pavement will increase production or pose new or increased environmental impacts is simply untrue. To the contrary, as stated in SRRQ's May 22, 2013 application, there will be *no* increase in production levels or truck trips above permitted limits, and there will be a net *reduction* in emissions.

Additionally, contrary to the Coalition's claim, the recycled asphalt will replace an existing stockpile of virgin aggregate at SRRQ, *not* create a new stockpile posing potential visual impacts; and with *reduced* emissions, the modification poses no health risk issues. The Coalition letter also mischaracterizes the County's environmental review and health risk assessment, which concluded that *current* and *proposed* SRRQ operations pose no significant health risks. *See* Resolution 2010-93, Exhibit 1, at pages 17-18 and 91, Attachment 1 hereto. In fact, the proposed modification provides numerous public benefits, as identified in SRRQ's application, including:

² A copy of the Agreement is Attachment 2 hereto.

³ The Coalition also selectively quotes the Court's January 2004 Tentative Decision. In fact, the Court's final Statement of Decision noted that, for quarries, non-conforming uses are subject to the diminishing asset doctrine and may be authorized where they do not change the character of the use and will not have a substantially different or adverse impact on the neighborhood. *See* April 12, 2004 Statement of Decision at 6-8, 31; *see also Hansen Brothers Enterprises, Inc., v. Board of Supervisors*, 12 Cal.4th 533, 542, 556-57 (1996).

⁴ *See* Resolution 2010-93, Exhibit 1 at page 74, Attachment 1 hereto.



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- Compliance with Assembly Bill 812, authorizing increased requirements for reclaimed asphalt pavement in hot mix asphalt for Caltrans projects, which was approved by the Governor last year;
- Recycling of grindings from paving projects within the County, reducing the need to transport and dispose of such grindings in landfills;
- Reducing the need for production and use of virgin aggregate and the need for importation and use of virgin asphalt oil;
- Increasing truck efficiency and reducing emissions by allowing trucks that deliver hot mix asphalt to return to SRRQ with grindings, rather than returning empty for the next load of asphalt;⁵ and
- Promoting a sustainable construction method that is a factor in LEED certification and has the potential to reduce costs for County and state projects.

Finally, there is no merit to the Coalition's claim that the proposed modification cannot be approved by the Supervisors as categorically exempt from further CEQA review. Here, the issue of conditions that exceed SRRQ's permitted use of the property as a legal non-conforming use were expressly considered, and all potential impacts from SRRQ operations – including truck trips and operation of the asphalt plant – were fully and fairly evaluated during the County's six (6) years of environmental review and public hearings

The CEQA Guidelines expressly provide that minor alternation of operations and existing facilities that pose no potential for significant environmental effects are exempt from further CEQA review. 14 Cal. Code Regs. §15301. California courts have upheld application of that exemption in circumstances like those presented here. In *Committee for a Progressive Gilroy v. State Water Resources Control Board*, 192 Cal.App.3d 847, 863-65 (1987), for example, the Court of Appeal confirmed that where a project is approved under CEQA, subsequent alterations require no further review if within the originally authorized production limits. See also *Bloom v. McGurk*, 26 Cal.App.4th 1307 (1994) (Class 1 exemption applies where there are no significant changes to facility's operations).

The proposed modification clearly fits this criteria, and is also exempt from CEQA under the so-called "common sense" exemption. See 14 Cal. Code Regs. §15061(b)(3) ("Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA"). "[A] remote or outlandish possibility of an environmental impact will not remove a project from the common

⁵ The Coalition's suggestion that recycled asphalt can be processed for Marin projects at Dutra's Richmond facility would reduce these environmental benefits and is inconsistent with Resolution 2010-93, which found that local sourcing of SRRQ materials reduce "adverse environmental consequences . . . including increased diesel particulate matter and greenhouse gases," and reduce "adverse social consequences associated with the exportation of environmental effects to remote locations." See Resolution 2010-93 at Exhibit 1, pages 90-91, Attachment 1 hereto.



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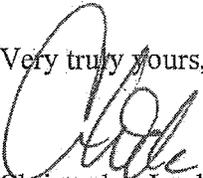
sense exemption.” *California Farm Bureau Federation v. California Wildlife Conservation Bd.*, 143 Cal.App.4th 173, 194 (2006).⁶ See also *Committee for a Progressive Gilroy*, 192 Cal.App.3d at 863 (agency action confirming scope of previous approvals “is merely a separate governmental reapproval of the original project and does not itself constitute a new project under CEQA”).

Here, the issue of conditions that exceed SRRQ’s permitted use of the property as a legal non-conforming use was expressly considered, and all potential impacts from SRRQ operations – including truck trips and operation of the asphalt plant – were fully and fairly evaluated during the County’s six (6) years of environmental review and public hearings. Where, as here, the proposed modification poses no potential for a new or different effect on the environment, the modification is categorically exempt from CEQA review.

For all of these reasons, and based on the record, there is no legal or factual merit to the Coalition’s opposition to this proposed modification or the contention that the Supervisors cannot lawfully approve it. The Supervisors previously, explicitly and unanimously, approved operating conditions that potentially exceed SRRQ’s permitted use of the property as a legal non-conforming use, and did so with the Coalition’s express agreement. The conditions of approval approved by the Supervisors also provide a procedure for seeking approval of further modifications, and SRRQ has followed that procedure.

On behalf of SRRQ, we appreciate the County’s consideration of this application for a temporary modification of permit conditions to allow use of grindings from paving projects in the County for re-use as reclaimed asphalt pavement in hot mix asphalt. Please contact me with any questions.

Very truly yours,



Christopher Locke

RCL:jjl

Enclosures

cc: Edward Kiernan, Deputy County Counsel
Ms. Aimi Dutra Krause
Molly Jacobson, Esq.

⁶ The Supervisors may find that multiple CEQA exemptions apply to the proposed modification. See *Surfrider Foundation v. California Coastal Com.*, 26 Cal.App.4th 151, 155-156 (1994) (approving combined application of CEQA exemptions supporting agency action).

Attachment 1

RESOLUTION NO. 2010-93
RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
APPROVING THE SAN RAFAEL ROCK QUARRY
SURFACE MINING AND QUARRYING PERMIT #Q-72-03, AMENDMENT #1
and
AMENDED RECLAMATION PLAN
(CA Mine #91-21-0008)

1000 POINT SAN PEDRO ROAD, SAN RAFAEL
ASSESSOR'S PARCELS 184-010-52 ET AL.

SECTION 1: CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

- I. WHEREAS a Combined Environmental Impact Report (hereinafter, "EIR") was prepared for the San Rafael Rock Quarry Amended Surface Mining and Quarry Permit and Amended Reclamation Plan projects pursuant to requirements of the California Environmental Quality Act ("CEQA," Public Resource Code Sections 21000-21177), State CEQA Guidelines; and County CEQA procedures; and
- II. WHEREAS on October 27, 2009, the Marin County Board of Supervisors adopted Resolution No. 2009-126 which certified the Combined Final EIR for the San Rafael Rock Quarry Amended Surface Mining and Quarry Permit and Amended Reclamation Plan projects as adequate for purposes of taking an action on the projects; and
- III. WHEREAS the Marin County Board of Supervisors hereby makes findings of fact pursuant to CEQA and the State CEQA Guidelines as contained in "Exhibit 1" attached to this resolution and incorporated herein by reference; and
- IV. WHEREAS the Marin County Board of Supervisors hereby makes a Statement of Overriding Considerations, as expressed in "Exhibit 1" and pursuant to the requirements of Section 15093 of the State CEQA Guidelines and CEQA Public Resource Code Section 21081, concerning the projects' two remaining cumulative unavoidable significant impacts and overriding considerations reflecting the balancing of project benefits that outweigh the unavoidable impacts; and

SECTION 2: SURFACE MINING AND QUARRY PERMIT AMENDMENT AND RECLAMATION PLAN AMENDMENT FINDINGS

- V. WHEREAS on September 1, 2010, prior notice of a public hearing was sent to property owners within two thousand five hundred feet of the perimeter of land affected and also posted on the County web site; and
- VI. WHEREAS on September 14, 2010, the Marin County Board of Supervisors conducted an evening public hearing to consider the San Rafael Rock Quarry Amended Surface Mining and Quarry Permit and Amended Reclamation Plan, accepted public testimony and then moved to continue the public hearing to September 28, 2010; and

VII. WHEREAS on September 28, 2010, the Marin County Board of Supervisors conducted the continued public hearing to receive testimony on the San Rafael Rock Quarry Amended Surface Mining and Quarry Permit and Amended Reclamation Plan; and

VIII. WHEREAS, prior to taking action, the Marin County Board of Supervisors has reviewed and considered, among other items: (1) the Combined Final EIR documents and record (including the August 2009 Response to Comment Amendment); (2) information, data and technical reports provided by the San Rafael Rock Quarry for the Amended Surface Mining and Quarrying Permit amendment and Amended Reclamation Plan submittals; (3) the proposed CEQA findings of fact and the Statement of Overriding Consideration; (4) the proposed Mitigation Monitoring and Reporting Program; and (5) all oral and written public testimony received and the administrative record;

SECTION 3: RESOLUTION APPROVING THE SAN RAFAEL ROCK QUARRY AMENDED SURFACE MINING AND QUARRY PERMIT AND AMENDED RECLAMATION PLAN PROJECTS, SUBJECT TO CONDITIONS OF APPROVAL AND ADOPTION OF A MITIGATION MONITORING AND REPORTING PROGRAM

NOW, THEREFORE BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts a resolution which approves the San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment #1 and amended reclamation plan, subject to the Conditions of Approval contained in "Exhibit 2", and adopts the Mitigation Monitoring and Reporting Program contained in "Exhibit 3" of this resolution. Both "Exhibit 2" and "Exhibit 3" are attached to this resolution and incorporated herein by reference.

SECTION 4: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 28th day of September 2010, by the following vote:

AYES: SUPERVISORS Susan L. Adams, Harold C. Brown, Jr., Charles McGlashan,
Steve Kinsey, Judy Arnold

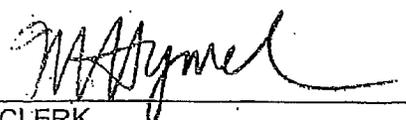
NOES: NONE

ABSENT: NONE



PRESIDENT BOARD OF SUPERVISORS

ATTEST:



CLERK

3. Significant Irreversible Impacts

The EIR identifies no significant irreversible impacts associated with approval of the proposed AQP or the AQP Preferred Alternative (see, e.g., Combined FEIR Amendment, p. 2-18).

C. **Cumulative Impacts**

1. Significant Unavoidable Impacts

Section 15126.2(b) requires that an EIR describe those impacts that cannot be fully mitigated as part of a proposed project. In some cases, no feasible mitigation measures are available to reduce the significance of impacts; in other cases, mitigation measures may be available, but not reduce an impact to a level that is less-than-significant. In each of these cases, the impacts are considered to be significant and unavoidable.

The EIR identifies two significant and unavoidable cumulative impacts (Cumulative Air Quality Impact C4.2-12 and Cumulative Land Use and Planning Impact C4.6-7) associated with approval of the Mitigated Alternative to the proposed AQP. These impacts were identified as potentially significant in the EIR and potentially feasible mitigation measures were identified. Except as noted, the Board has incorporated the mitigation measures described below. However, the Board finds that these impacts will remain significant after the identified mitigation measures are implemented. See Combined FEIR chapters 2 and 4 and Combined FEIR sections 6.2 and 6.3. See also Combined FEIR chapter 5.2, which addresses cumulative impacts as required by CEQA Guidelines section 15130. The Board further finds and determines that these significant and unavoidable adverse impacts are acceptable and that the project may be approved despite these impacts for the reasons specified below in the Statement of Overriding Considerations. Additionally, the Board finds that there are no additional feasible mitigation measures or alternatives that it could adopt at this time that would reduce the impacts to a less than significant level.

The EIR identifies the following potentially significant impacts, which will remain significant even after implementation of mitigation measures identified in the EIR. The additional mitigation measures specified in the Mitigated Alternative would reduce some impacts relative to the proposed AQP; however, the impacts would remain significant and unavoidable. These impacts also would remain significant and unavoidable under the AQP Preferred Alternative.

CUMULATIVE AIR QUALITY IMPACT C4.2-12: Toxic air contaminants emitted from past Quarry operations, in conjunction with planned future operations under the Amended Surface Mining and Quarrying Permit (as well as currently unplanned but reasonably foreseeable future operations), reclamation activities under the Amended Reclamation Plan, and post-reclamation land uses could cause significant cumulative health effects.

Facts

The Health Risk Assessment (HRA) used the same receptor locations and types to model past and future exposure to toxic air contaminants (TACs) from Quarry emissions. Cancer risks modeled from past operations (1982-2007) were in excess of the significance threshold of 10 cancer cases per million exposed individuals over a broad

area of the neighborhoods around the Quarry. The highest incremental increase in cancer risk was 109 cancer cases per million exposed population; however, since the residences at the location of this modeled increase were not developed until the late 1980s or early 1990s, no individuals actually would have been exposed to this high a risk. Somewhat lower rates, still in excess of the 10 in a million threshold, were calculated for receptor locations along Point San Pedro Road and throughout the Peacock Gap neighborhood. Impact C4.2-9 describes the incremental increase in cancer risk associated with future emissions from the proposed projects. Without mitigation, the rate of incremental increase associated with the Projects is estimated to be 14.4 additional cancer cases per million exposed individuals at the site of the hypothetical "maximum exposed individual." With Mitigation Measures C4.2-9a, b, and c, the rate declines to 8.8. While this latter figure is below the significance threshold for the future projects, the addition of the risk values for future exposure to the levels calculated for past exposure would result in an increase in the cancer risk in areas already exposed to a rate of over 10 additional cancer cases per million exposed population, as well as an increase in the area with this level of exposure. Even with mitigation, therefore, the Projects would make a contribution to a significant cancer health risk that is cumulatively considerable. Furthermore, while the ARP would provide sufficient resource for mining through approximately 2024, the Quarry could in the future again seek to amend its reclamation plan to allow for additional mining. It is reasonably foreseeable that the level of operations would be similar to those currently proposed, and that they would result in additional cancer health risk; however, since the rate of diesel particulate matter (DPM) emissions will continue to decline (see EIR Figure 4.2-3), the additional cancer risk associated with any future operations beyond that envisioned in the ARP would likely be quite small. Taken together, past, current and reasonably foreseeable future cumulative cancer risks are considered significant. This impact is discussed starting on page 3-26 of the Combined FEIR Amendment.

CEQA §21081(a) Finding

Finding 3: The impact would be mitigated, but not to a less-than-significant level. Special considerations make further mitigation measures or alternatives infeasible.

Evidence Supporting the Finding

Based on the EIR and the entire record, this significant and unavoidable impact is mitigated with imposition of Mitigation Measures C4.2-9a, b, and c (found starting on EIR page 4.2-50), but not to a level less-than-significant because no additional Mitigation Measures are available to further reduce the cancer health risks from current projects or from reasonably foreseeable future projects. Even with imposition of Mitigation Measures C4.2-9a, b, and c, this impact would remain significant and unavoidable. See, Combined FEIR Table 6-3, p. 6-31.

Adopted Mitigation Measures

C4.2-9a: As noted in Mitigation Measures R4.2-1 and P4.2-6, the applicant has taken measures to reduce DPM emissions from on-site equipment, including upgrading to lower emission engines and use of B-20 fuel.

The Board adopts Mitigation Measure C4.2-9a as proposed in the EIR.

- A qualified bat biologist, acceptable to the CDFG, shall conduct surveys of trees slated for removal as a result of quarrying activity. Potentially suitable habitat shall be located visually. Bat emergence counts shall be made at dusk as the bats depart from any suitable habitat. In addition, an acoustic detector shall be used to determine any areas of bat activity. At least four nighttime emergence counts shall be undertaken on nights that are warm enough for bats to be active. The bat biologist shall determine the type of each active roost (i.e., maternity, winter hibernaculum, day or night).
- Removal of trees showing evidence of bat activity will occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 for winter hibernacula and between August 15 and April 15 for maternity roosts). If active day or night roosts are found the bat biologist shall take actions to make such roosts unsuitable habitat prior to tree removal.
- A no-disturbance buffer shall be created around active bat roosts being used for maternity or hibernation purposes at a distance to be determined in consultation with CDFG. Active bat roosts located within 500 feet and line of sight of existing centers of Quarry activities are presumed to be unaffected, and no buffer is necessary. However, "take" of individuals will be prohibited.
- If surveys indicate that roosts are inactive or potential habitat is unoccupied, no further mitigation is required. Trees that have been determined to be unoccupied by special status bats and that are located outside the no-disturbance buffer for active roosts may be removed or demolished.
- If known bat roosting habitat is to be destroyed during tree removal or building demolition activities, artificial bat roosts shall be constructed at least two weeks prior to such disturbance in an undisturbed area of the property, at least 200 feet from any ongoing or future activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.
- Prior to quarry-related tree removal a report shall be submitted to the County that details the survey results and any actions taken to protect special-status bats. Any special-status bat sightings shall also be submitted to the CNDDB.

The Board adopts Mitigation Measure P4.3-16 as proposed in the EIR.

4. Land Use and Planning Impacts

Impact P4.6-6: The Amended Surface Mining and Quarrying Permit would allow for an intensification of quarry operations beyond 1982 levels, in excess of the Quarry's legal nonconforming use under Title 22 of the County Code (Significant).

Facts

Several components of the proposed AQP would potentially exceed the scope of SRRQ's permitted use of the property as a legal nonconforming use. This impact is discussed starting on Combined FEIR Amendment page 3-29. Moreover, following the County's certification of the Combined Final EIR, additional discussions with SRRQ representatives and with a committee from an active local community based group, the Point San Pedro Road Coalition, increased the County's understanding of SRRQ's operations and

limitations, as well as its impacts to the community. These discussions further informed modifications of the Mitigation Measures proposed in the EIR, as shown below.

CEQA §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this impact is mitigated with imposition of Mitigation Measures P4.6-6a and 6b, found starting on Combined FEIR Amendment page 3-29, and as modified below. With these Mitigation Measures, this impact would be reduced to a less-than-significant level because these Mitigation Measures would limit truck traffic and the intensity of operations to baseline (1982) levels. See Combined FEIR Table 6-3, p. 6-32.

The hours and days of permitted Quarry operation in the table in adopted Mitigation Measure P4.6-6b, below, reflect a modification from the requirements of this Mitigation Measure, as presented in the Combined FEIR. The modification would allow the Quarry to operate during some limited evening hours, which at some times of the year would be after dark, and also during a limited number of weekend days; the original Mitigation Measure generally limited hours of operation to daylight hours on weekdays. These modified restrictions are designed to substantially comply with the language of the original mitigation.

For the following reasons, this modification in Mitigation Measure 4.6-6b will not impair the ability of the Mitigation Measure to reduce the significance of Impact 4.6-6 to less than significant:

1. The restriction on operations to daylight hours on weekdays only is based on a statement in the 1982 Amended Reclamation Plan, that reads, "(n)oise generating operations in both the Quarry and the plant are generally limited to daylight hours on weekdays except in times of emergency." Neither the Surface Mining and Quarrying permit (Q 72-03) nor the conditions on operations contained in ARP82 included such limitations. In the EIR, this statement was interpreted narrowly, and did not consider the term "generally" in the statement. Restricting Quarry operations to daylight hours on weekdays and certain, restricted times during evening hours and on weekends would not constitute an increase in the intensity of use.
2. The physical basis for Impact P4.6-6 stems from the potential for actual physical impacts associated with increased intensity of use. These include the possibility of increased noise, increased nighttime light and glare, increased frequency or intensity of blasting, and increased dust and other air pollutant emissions. The Combined EIR, however, concludes that each of these impacts of Quarry operations is either less than significant or less than significant with mitigation (including Mitigation Measure P4.6-6a, and the other, unchanged restrictions imposed by Mitigation Measure P4.6-6b. Therefore, mitigation of the physical impact itself is effective in reducing the impact to less than significant.
3. Draft conditions of approval for the AQP Preferred Alternative include additional conditions, beyond those that reflect mitigation measures from the Combined EIR, that, if approved, would further reduce Impact P4.6-6, by further reducing noise and

dust from Quarry operations. County staff developed these conditions based on extensive research conducted since certification of the Combined EIR on noise and dust control technologies currently employed at other California surface mining operations. The draft conditions include the following:

- Enclose the conveyor systems at the Quarry crushing and processing plant including barge loading, primary, and secondary conveyors. This would not be a building, but an enclosure around the conveyor structure, and moving belt and rollers.
- Screens and secondary crushers shall have sound curtains with sound deadening materials installed between the equipment and residences. This also would not be a building but a wall-like structure with sound deadening materials to block sound transmission in the direction of residences.
- Enclose transfer points along the conveyor system where material transfers from one belt to another belt by means of a hopper. The enclosures shall incorporate sound deadening materials.
- Line all unenclosed hoppers and chutes on the conveyor at which aggregate materials fall onto a metal surface with a sound deadening material such as heavy neoprene, rubber, or HDPE.
- Implement the noise reduction program as a phased program over 3 years from Permit approval. Proposed plans and phasing shall be prepared by a qualified acoustical engineer and then provided to the Public Works Director within 6 months of Permit issuance for review and approval. The phasing goal is to have the noisiest equipment, relative to nearby residences, retrofitted within the first 12 months following plan approval. The applicant shall have a qualified acoustical engineer inspect the site and equipment and submit a verification of compliance with these conditions after each phase.

In sum, the modification to Mitigation Measure P4.6-6b, which would limit Quarry operations to certain, restricted nighttime and weekend hours, does not result in a change from the baseline condition; and would not result in a new or more severe impact, or impair the effectiveness of measures to reduce the physical impacts associated with increased Quarry operations. Furthermore, additional conditions of approval of the AQP Preferred Alternative would further reduce impacts of Quarry operations on nearby residences, by requiring the Quarry to adopt practices and technologies to further reduce noise and dust.

Adopted Mitigation Measures

P4.6-6a: The applicant proposes to limit daily truck traffic to 250 one-way trips per day (125 in and 125 out). This appears to be less than the daily average during the period 1980-1982 and within the baseline for Quarry operations.

The Board adopts Mitigation Measure P4.6-6a as proposed in the EIR.

P4.6-6b: Except with respect to days and hours of operation for quarry and reclamation activities (as indicated below), Quarry operations shall be limited to

the levels of intensity extant in 1982, at the time that the Quarry became a legal nonconforming use. This will include the following:

- Maximum annual production shall be limited to the fluctuating baseline level of production as defined in Chapter 3, Project Description i.e., a 5-year rolling average of no more than 1,414,667 tons per year, and a maximum level of production of 1,697,600 tons in any one year;
- ~~Operations shall be limited to those in place in 1982, i.e., noise-generating operations will be limited to daylight hours on weekdays, except during a declared emergency;~~
- Blasting shall be limited to an annual (calendar year) average of two times per week (104 times per year).
- Except for declared public emergencies, as described below, site quarry operations and reclamation shall not take place on Sundays and State Holidays, and the hours of operations for quarry and reclamation operations shall be limited to: [entire table is added]

Activity	Days of Week	Hours of Operations
Mining, Quarrying, Excavation, Drilling, Crushing Plant, Primary Crusher, Secondary Crusher, Aggregate Processing and Handling, and Asphalt Batch Plant	Mon. – Fri.	7 a.m. to 8 p.m.
Maintenance Activities (excluding maintenance activity with no off site noise at nearby residences)	Mon. – Fri.	Same as above, (Mining, etc.)
	Sat.	Up to 10 Sat. per cal. yr. 7 a.m. to 5 p.m.
Reclamation Grading Activity in the N.E., N.W. and S.W. Quadrants	Mon. - Fri.	<i>Apr. 15 thru Oct. 15 only</i> 7 a.m. to 5 p.m.
Material Haul Trucks Entering or Departing Quarry	Mon. – Fri.	7 a.m. to 5 p.m.
Barge Loading (truck or conveyor) Operations 'Winter', Nov. 1 thru Mar. 31 ²	Mon. – Thu.	7 a.m. to 10 p.m.
	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per cal. yr. ² 7 a.m. to 10 p.m.
	Sat.	Up to 26 Sat. per cal. yr. ² , 7 a.m. to 10 p.m. only when combined with Friday work until 10 p.m.
Barge Loading (truck or conveyor) Operations 'Summer', Apr. 1 thru Oct. 31 ²	Mon. – Thu.	7 a.m. to 9 p.m. ¹
	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per cal. yr. ² 7 a.m. to 9 p.m. ¹
	Sat.	Up to 26 Sat. per cal. yr. ² , 7 a.m. to 10 p.m. only when combined with Friday work until 9

		p.m. ¹
Blasting	Mon. – Fri.	11:30 a.m. to 1:30 p.m. max. 3 times per week
Quarry Office Use	Mon. – Sun.	No Restrictions

¹ In limited circumstances, if barge loading or trimming is not completed by 9 p.m., loading/trimming may continue until completed, but in case shall barge loading/trimming occur later than 10 p.m. The Permittee shall maintain records of loading that occurs between 9 and 10 p.m. and shall make those records available to the community.

² The reference to "per cal. yr." means that no more than a total of 26 such exceptions shall be exercised per calendar year, not 26 such exceptions per season.

- The Permittee shall provide 36 hours advance notification of any of the above operations occurring later than 7 p.m. Fridays or on Saturdays to the County of Marin by posting the date and activity type on a publically accessible web site.
- The Permittee shall attempt to schedule any of the permitted 10 days of Saturday noise producing maintenance to be schedule on the same days when weekend barge loading operations occur.

The Board adopts Mitigation Measure P4.6-6b as proposed in the EIR and modified above.

5. Noise and Vibration Impacts

Impact P4.7-7: Continued blasting at the Quarry would expose neighbors of San Rafael Rock Quarry to vibrations that exceed human annoyance levels (Significant).

Facts

Numerous complaints received by the Marin County Department of Public Works in recent years indicate that current blasting practices, which generally include one blast around noon approximately three days a week, exceed human annoyance levels relating to ground-borne vibration and air-overpressure. Since the Quarry proposes to continue blasting using current practices and at current levels, there will be a continuing impact on neighboring residences that exceeds the conditions apparently experienced in 1982. This impact is discussed starting on EIR page 4.7-28.

CEQA §21081(a) Finding

Finding 1: The impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this impact is mitigated with imposition of Mitigation Measures P4.7-7a and 7b, found starting on EIR page 4.7-30. With these Mitigation Measures, this impact would be reduced to a less-than-significant level because these Mitigation Measures would limit the effects of blasting, including those relating to vibration and air over-pressure. See, Combined FEIR Table 6-3, p. 6-33.

- Although the construction of a berm in the NE Quadrant is found to cause short-term significant and unavoidable noise impacts, in the longer term the berm would serve to reduce noise, air quality, and visual impacts for neighbors of the Quarry.

d) Legal Considerations

- On April 19, 2004, the Marin County Superior Court issued an order finding that the Quarry has a vested right to continue to mine without regard to depth or duration in the Quarry Bowl and on South Hill to the extent described in the 1982 Amended Reclamation Plan. Adoption of the Amended Reclamation Plan will bring the Quarry into substantial compliance with SMARA and the County Surface Mining Ordinance (County Code Ch. 23.06).

2. AQP Preferred Alternative

a) Economic Considerations

- The AQP Preferred Alternative would extend the useful life of an existing surface mining quarry that produces aggregate materials essential to the construction industry, thereby saving County residents and businesses the greater economic costs of developing new local sources of mineral resources or importing materials from greater distances.
- There are few active hard rock quarries in the Bay Area, and fewer that have ready access to a deep water dock. Approval of the AQP Preferred Alternative would allow the Quarry to continue to provide an economical source of materials for revetment of levees in the Delta, and for levees to protect existing developed areas around the Bay from sea level rise due to global warming.
- Approval of the AQP Preferred Alternative would enable SRRQ to continue to employ residents of Marin County and nearby areas in stable, well-paid jobs.

• **Social Considerations**

- The Quarry, a SMARA-designated Significant Mineral Resource Area, is one of a dwindling number of local quarries supplying essential aggregate material for myriad construction jobs in the County and throughout the Bay-Delta region.
- Approval of the AQP Preferred Alternative would enable the Quarry to continue to provide this local high-value resource for use as essential construction materials in emergency response situations. Because SRRQ has a deep water barge dock, it is able to supply rip-rap material for revetment of levees in the Sacramento-San Joaquin River Delta. SRRQ has had contracts in recent years to supply rock for this purpose under a State of Emergency declared by the Governor and, with approval of the AQP Preferred Alternative, could continue to provide necessary materials in emergencies.
- Approval of the AQP Preferred Alternative would enable SRRQ to continue to supply aggregate materials locally, thereby avoiding or substantially reducing

adverse environmental consequences of acquiring aggregate materials from distant sources, including increased emissions of diesel particulate matter and greenhouse gases from ocean-going ships and long-haul trucks.

- Approval of the AQP Preferred Alternative would avoid or substantially reduce adverse social consequences associated with the exportation of environmental effects to remote locations, where they would be unseen by the people who would benefit from the use of the material in roads, buildings, and levees.

b) Other Considerations

- Impacts of Quarry operations on nearby residential and recreational uses would be further reduced through adoption of additional merit conditions of approval, including conditions that would further reduce noise and dust.
- Although the cumulative air quality health risk is found to be significant and unavoidable, the present and future health risk impact of the AQP Preferred Alternative itself is mitigated to a less-than-significant level.
- The proposed permit conditions, as well as the Mitigation, Monitoring and Reporting Program, would implement robust reporting, inspection, and monitoring conditions that will aid in identifying and responding to potential impacts of ongoing Quarry operations.

c) Legal Considerations

- On April 19, 2004, the Marin County Superior Court issued an order finding that the Quarry has a vested right to continue to mine without regard to depth or duration in the Quarry Bowl and to the extent on South Hill as proposed in the 1982 Amended Reclamation Plan. Adoption of the AQP Preferred Alternative will bring the Quarry into substantial compliance with SMARA and the County Surface Mining Ordinance (County Code Ch. 23.06).

X. RECIRCULATION NOT REQUIRED; SUBSEQUENT/SUPPLEMENTAL EIR NOT REQUIRED

In the course of responding to comments received during the public review and comment period on the EIR and the Projects, certain portions of the EIR were modified and some new information amplifying and clarifying information in the EIR was added. See, e.g., Combined FEIR ch. 7, and Combined FEIR Amendment Chapter 3. No significant new information, as defined in section 15088.5(a) of the CEQA Guidelines, was added to the EIR after the Draft EIR was issued for public review and before certification. "Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR." CEQA Guidelines § 15088.5(b).

Additionally, no substantial changes, as defined in section 15162 of the CEQA Guidelines, which will require major revisions of the certified EIR (i) have been proposed in either of the Projects since certification of the EIR or (ii) have occurred with respect to the circumstances under which either of the Project is undertaken. Further, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence on October 27, 2009 (when

Attachment 2

the Point San Pedro Road Coalition, including its officers, directors, attorneys, agents, representatives, affiliates and assigns

FINAL DRAFT

AGREEMENT (Coalition)

David Crutcher (Director), Denise Lucy and Bonita Marmor (Co-Presidents), of the Point San Pedro Road Coalition ("Coalition"), and San Rafael Rock Quarry ("Project Sponsor / Permittee") collectively referred to herein as "The Parties" hereby enter into the following Agreement.

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WHEREAS, the Parties have held several meetings since the Resolution certifying The San Rafael Rock Quarry Combined Final EIR to discuss and develop mutually agreeable recommendations for the Marin County Board of Supervisors to review and consider.

WHEREAS, as a result of those meetings and other negotiations, the Parties have reached agreement on a proposed set of modifications to the conditions of approval for the Amended Surface Mining and Quarrying permit and the Amended Reclamation Plan to be jointly recommended by the Parties to the Marin County Board of Supervisors and wish to memorialize their understandings and agreements in a binding settlement agreement;

WHEREAS, David Crutcher (Director), Denise Lucy and Bonita Marmor (Co-Presidents), warrant they have the authority to enter into a binding agreement on behalf of the Coalition, its officers, directors, attorneys, agents, representatives, affiliates and assigns;

THEREFORE, IT IS HEREBY AGREED as follows:

recommend to the Board of Supervisors approval of

- The Parties agree to the modification of the following Surface Mining and Quarry Permit Amendment #1. Conditions of Approval, including Amended Reclamation Plan conditions.

as follows

Days and Hours of Operations & Reclamation

32. Except for declared public emergencies, as described below, site quarry operations or reclamation shall exclude Sundays and State Holidays, and the hours of operations for quarry and reclamation operations shall be limited to:

Activity	Days of Week	Hours of Operations
Mining, Quarrying, Excavation, Drilling, Crushing Plant, Primary Crusher, Secondary Crusher, Aggregate Processing and Handling, and Asphalt Batch Plant	Mon. - Fri.	7 a.m. to 8 p.m.
Maintenance Activities (excluding maintenance activity with no off-site noise at nearby residences)	Mon. - Fri. Sat.	Same as above (Mining, etc.) Up to 10 Sat. per cal. yr. 7 a.m. to 5 p.m.
Reclamation Grading Activity in the N.E., N.W. and S.W. Quadrants	Mon. - Fri.	Apr. 15 thru Oct. 15 only, up to 10 weeks 7 a.m. to 5 p.m.
Material Haul Trucks Entering or Departing Quarry	Mon. - Fri.	7 a.m. to 5 p.m.
Barge Loading (truck or conveyor) Operations "Winter", Nov. 1 thru Mar. 31	Mon. - Thu. Fri. Sat.	7 a.m. to 10 p.m. 7 a.m. to 7 p.m. Up to 26 Sat. per cal. yr. 7 a.m. to 10 p.m. only when combined with Friday work until 10 p.m.
Barge Loading (truck or conveyor)	Mon. - Thu.	7 a.m. to 9 p.m.

Deleted: David Crutcher (Director), Denise Lucy and Bonita Marmor (Co-Presidents), John Edgcomb (Counsel) for the Point San Pedro Road Coalition, individually and on behalf of the Point San Pedro Road Coalition, and San Rafael Rock Quarry ("Project Sponsor / Permittee") collectively referred to herein as "The Parties" hereby enter into the following Agreement.

WHEREAS, the Parties jointly agree that the Marin County Board of Supervisors have properly reviewed and considered the San Rafael Rock Quarry Amended Reclamation Plan and Amended Surface Mining and Quarrying Permit Combined Final Environmental Impact Report (EIR) in light of all public comments and testimony received regarding the information in the Combined Draft EIR, Combined Final EIR, EIR administrative record, Combined Final EIR Staff Report and Response to Comments Amendment to the Combined Final EIR, for adequacy, completeness and compliance with CEQA, State CEQA Guidelines and County Environmental Review Procedures.

WHEREAS, the Parties have held several meetings since the Resolution certifying The San Rafael Rock Quarry Combined Final EIR to discuss and develop mutually agreeable recommendations for the Marin County Board of Supervisors to review and consider.

WHEREAS, County of Marin's staff has reviewed the Parties requested modified or additional permit conditions and find that based on the Combined Final EIR and the entire record, the imposition of these additional permit conditions would not impair the effectiveness of the various staff recommended mitigation measures and permit conditions, nor would the additional permit conditions result in new or more severe impacts, as the additional permit conditions would be equivalent or more effective in further reducing the impacts, to at least the same degree as, or to a greater degree than the already proposed permit conditions and will create no more adverse effect of its own.

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Agreement

FN | The reference to "per cal. yr." means that no more than a total of 26 such exceptions shall be exercised per ^{calendar} year, ~~in "winter" or "summer"~~ ~~combined~~ not 26 such exceptions per season.

Operations 'Summer', Apr. 1 thru Oct. 31 FN	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per cal. yr. 7 a.m. to 9 p.m. ¹
	Sat.	Up to 26 Sat. per cal. yr., 7 a.m. to 9 p.m. only when combined with Friday work until 9 p.m. ¹
Blasting	Mon. - Fri.	11:30 a.m. to 1:30 p.m. max. 3 times per week
Quarry Office Use	Mon. - Sun.	No Restrictions

¹ In limited circumstances, if barge loading or trimming is not completed by 9 p.m., loading/trimming may continue until completed, but in no case shall barge loading/trimming occur later than 10 p.m. The Permittee shall maintain records of loading that occurs between 9 and 10 p.m. and shall make those records available to the community. (Mitigation Measures P4.1-9, P4.2-6c, P4.2-7a, P4.2-7d, CA.2-9b & P4.6-6b)

a. The Permittee shall provide 36 hours advance notification of any of the above operations occurring later than 7 p.m. Fridays or on Saturdays to the Director of Public Works and by posting the date and activity type on a publically accessible web site.

b. *The Permittee attempt to schedule any of the permitted 10 days of*
~~All attempts shall be made for Saturday noise producing maintenance to be scheduled on the same days when weekend barge loading operations occur.~~

2) The Parties agree to jointly request the Marin County Board of Supervisors to review, approve and incorporate additional permit conditions into Exhibit 2 "Marin County Surface Mining and Quarry Permit # Q-72-03, Amendment #1 Conditions of Approval Including Amended Reclamation Plan", and

3) The Parties agree to ~~fully support and urge~~ *recommend to* the Marin County Board of Supervisors to approve staff's September 14, 2010 and September 28, 2010 recommendations, and the Resolution approving the San Rafael Rock Quarry Surface Mining and Quarry Permit #Q-72, Amendment #1 Conditions of Approval, provided that the additional permit conditions and findings as delineated and further specified above are incorporated into the San Rafael Rock Quarry Surface Mining and Quarrying Permit #Q-72, Amendment #1 Conditions of Approval; and

4) In consideration for the mutual agreement to the additional permit conditions and Marin County Board of Supervisors review, consideration and approval of the San Rafael Rock Quarry Surface Mining and Quarry Permit #Q72, #1 Conditions of Approval, with all of the additional or modified permit conditions set forth above, David Crutcher, Denise Lucy and Bonnie Marmor on behalf of themselves and the Point San Pedro Road Coalition recommend that the Marin County Board of Supervisors at the scheduled public hearings, support for Staff's recommendations, the resolution approving the San Rafael Rock Quarry Surface Mining and Quarry Permit #Q-72, Amendment #1 Conditions of Approval, as amended by the additional or modified permit conditions set forth above.

5) ~~COVENANT NOT TO SUE~~ *to* The Coalition, the undersigned individuals and "Project Sponsor / Permittee", hereby covenant and agree not to commence or conduct any legal challenge of any portion of the San Rafael Rock Quarry combined FBIR certification process or approval (including a waiver of their rights under CEOA, Pub. Res. Code section 21167(e)). The Point San Pedro Road Coalition Board of Directors shall instruct their counsel, John Edgecomb and the Edgecomb Law Group, to not commence or conduct any legal challenge of any portion of the combined FBIR certification process or approval on behalf of themselves, the Point San Pedro Road Coalition or any other person or party, or to use or allow their files to be used to assist any other person or entity to

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to
 challenge the combined FEIR certification process or approval. The San Rafael Rock Quarry similarly shall instruct all of their counsel representing them in connection with this matter, including Chris Locke of Farella, Braun + Martel, to not commence or conduct any legal challenge any portion of the combined FEIR certification process or approval on behalf of themselves, the San Rafael Rock Quarry or any other person or party, or to use or allow their files to be used to assist any other person or entity to challenge the combined FEIR certification process or approval, subject to the Marin County Board of Supervisors review, consideration and approval of the "Marin County Surface Mining and Quarry Permit # Q-72-03, Amendment #1 Conditions of Approval Including Amended Reclamation Plan for the September 28, 2010 hearing. The Parties also agree that they will not provide financial, technical or legal assistance to any other person or entity challenging the County's certification of the EIR, or approval of SRRO operating conditions and/or reclamation.

Deleted: COVENANT NOT TO SUE: The Parties
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 Deleted: hereby covenant and agree not to conduct any legal challenge of any portion of the San Rafael Rock Quarry combined FEIR certification, permit or reclamation plan, process or approval (including a waiver of their rights under CEQA, Pub. Res. Code section 21167(c) and/or Government Code _____) and shall not commence, assist in any way, prosecute or cause, permit or advise to be commenced or prosecuted any appeal, action at law, suit in equity, complaint, grievance, writ action, local/state/federal administrative proceeding, to challenge any portion of the EIR certification, permit or reclamation plan process or approval

6) This Agreement shall be binding on the Parties and their officers, directors, employees, members, attorneys, agents, representatives, affiliates, successors and assigns.

7) The undersigned represent and certify that they are duly authorized to enter into this Agreement and bind the persons and entities referenced herein.

6) **HOLD HARMLESS AND RELEASE.** The San Rafael Rock Quarry agrees to hold harmless and release David Crutcher (Director), Denise Lucy and Bonita Marmor (Co-Presidents), and the Coalition, including its officers, directors, attorneys, agents and representatives, from any claim or suit arising from their participation in any CEQA or administrative permit proceeding, or anything written or said by them about the San Rafael Rock Quarry, owners, employees, or affiliates to date.

7) **GROUND FOR NULLIFICATION OF AGREEMENT.** If the Board of Supervisors does not approve San Rafael Rock Quarry Surface Mining and Quarry Permit #Q-72, Amendment #1 Conditions of Approval, as amended by all of the additional or modified permit conditions set forth above, then this Agreement is null and void and of no effect.

is governed by
 This agreement shall be construed and interpreted in accordance with the laws of the State of California. This Agreement can be modified or amended only by instrument in writing duly executed by each of the parties hereto. ~~This~~ This Agreement represents the full and complete agreement of the parties and supersedes all prior negotiations and oral statements.

Date: 9-28, 2010

San Rafael Rock Quarry

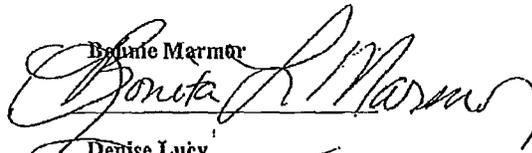
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Point San Pedro Road Coalition

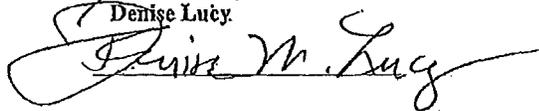
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Dave Crutcher

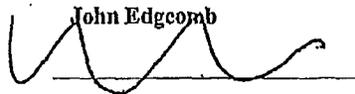
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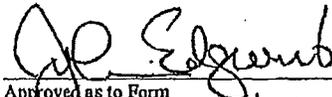
Barrie Marmor


Date: 9/28/10, 2010

Denise Lucy


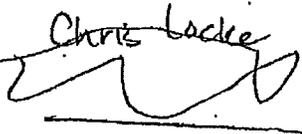
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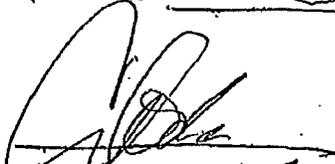
John Edgcomb



Approved as to Form
John Edgcomb, Counsel
for Coalitions

Date: 9/28/10

~~Date: _____ 2010~~

Chris Locke



Approved as to Form
Chris Locke, Counsel
for San Rafael Rocks Quarry

Date: 8/28/10

Days and Hours of Operations & Reclamation

Except for declared public emergencies, as described below, site quarry operations or reclamation shall exclude Sundays and State Holidays, and the hours of operations for quarry and reclamation operations shall be limited to:

Activity	Days of Week	Hours of Operations
Mining, Quarrying, Excavation, Drilling, Crushing Plant, Primary Crusher, Secondary Crusher, Aggregate Processing and Handling, and Asphalt Batch Plant	Mon. – Fri.	7 a.m. to 8 p.m.
Maintenance Activities (excluding maintenance activity with no off site noise at nearby residences)	Mon. – Fri.	Same as above (Mining, etc.)
	Sat.	Up to 10 Sat. per calendar year yr. 7 a.m. to 5 p.m.
Reclamation Grading Activity in the N.E., N.W. and S.W. Quadrants	Mon. - Fri.	<i>Apr. 15 thru Oct. 15 only, up to 10 weeks per calendar year</i> 7 a.m. to 5 p.m.
Material Haul Trucks Entering or Departing Quarry	Mon. – Fri.	7 a.m. to 5 p.m.
Barge Loading (truck or conveyor) Operations 'Winter', Nov.1 thru Mar. 31	Mon. – Thu.	7 a.m. to 10 p.m.
	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per calendar year. yr. 7 a.m. to 10 p.m.
	Sat.	Up to 26 Sat. per cal. yr., 7 a.m. to 10 p.m. only when combined with Friday work until 10 p.m.
Barge Loading (truck or conveyor) Operations 'Summer', Apr. 1 thru Oct. 31	Mon. – Thu.	7 a.m. to 9 p.m. ¹
	Fri.	7 a.m. to 7 p.m. Up to 26 Fri. per calendar year. yr. 7 a.m. to 9 p.m. ¹
	Sat.	Up to 26 Sat. per cal. yr., 7 a.m. to 9 p.m. only when combined with Friday work until 9 p.m. ¹
Blasting	Mon. – Fri.	11:30 a.m. to 1:30 p.m. max. 3 times per week
Quarry Office Use	Mon. – Sun.	No Restrictions

¹Occasionally, if a barge is nearly loaded by 9 p.m. loading may continue until the barge is fully loaded, but in no case shall barge loading occur later than 10 p.m.

(Mitigation Measures P4.1-9, P4.2-6c, P4.2-7a, P4.2-7d, CA.2-9b & P4.6-6b)

a. The Permittee shall provide 36 hours advance notification of any of the above operations occurring later than 7 p.m. Fridays or on Saturdays to the Director of Public Works and by posting the date and activity type on a publically accessible web site.

b. All attempts shall be made for Saturday noise producing maintenance to be scheduled on the same days when weekend barge loading operations occur.



July 8, 2013

Via Email and U.S. Mail

Eric Steger
Assistant Director
Department of Public Works
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

Re: San Rafael Rock Quarry Surface Mining and Quarrying Permit No. Q-72-03

Dear Eric:

We send this letter to reiterate the facts supporting the application submitted by San Rafael Rock Quarry ("SRRQ") for a temporary modification of its permit conditions to allow the importation of grindings.

Background Information

As you know, paving contractors must remove an existing asphalt road before it can be repaved. The road is removed with a portable piece of equipment called a "grinder," which mills the old surface a few inches deep by breaking the asphalt into small pieces. These pieces, known as "grindings," are approximately 2 inches in diameter and smaller in gradation. The grinder deposits the grindings into a dump truck to haul them away from the jobsite (typically to a location with an asphalt plant). After the truck arrives at its destination, it will dump the grindings and will take a load of hot, new asphalt to bring back to the job site. This type of "grind and pave operation" is most economically and environmentally efficient when the dump trucks are loaded in both directions.

Asphalt grindings are used to manufacture new asphalt and road base material. One hundred percent (100%) of the RAP grindings are used in this process – there is nothing leftover. When used to create new materials, the grindings are referred to as "Reclaimed Asphalt Pavement" or "RAP." The RAP grindings already contain

previously mined rock and asphalt oil, so the manufacturer uses up to 25% less aggregate and oil in creating the new materials.

Environmental Benefits of RAP

There are a number of environmental benefits associated with the use of RAP. In fact, the use of RAP is a sustainable construction method that is factored into LEED certification. As noted above, manufacturers use up to 25% less aggregate and oil in creating new asphalt with recycled materials, so fewer virgin resources are needed for paving projects. Using recycled materials also diverts material from landfills. Additionally, the importation of grindings to SRRQ would result in fewer greenhouse gases, because trucks would not need to drive outside the county to deposit their grindings before taking more asphalt at SRRQ.

The use of RAP grindings at SRRQ is consistent with the “reduce, reuse, and recycle” philosophy underlying the “zero waste” goal established by the Marin County Board of Supervisors, the Marin County Hazardous and Solid Waste Management Joint Powers Authority, and the City of San Rafael.¹ Since one hundred percent (100%) of RAP grindings are used in making new asphalt and/or road base, there would be “zero waste” in the removal of asphalt roads in Marin County.

Economic Benefits of RAP to Municipalities

The use of RAP grindings to manufacture new asphalt and road base has a great benefit to state and local governments. It costs less to manufacture asphalt with RAP, because fewer virgin materials are required. Consequently, more local roads can be repaved for the same amount of money.

Use of RAP in the Industry

Because of the environmental and economic benefits of RAP, its use has become prevalent in the industry. Currently, Caltrans specifications often require the use of 15% RAP in its product mixes, and other specifications may require 25% RAP. However, California Public Resources Code § 42704 permits the Department of Transportation to establish specifications using up to 40% RAP in hot asphalt mixes. This new statute, which was enacted last year, contemplates that such specifications will be established by January 1, 2014. The nationwide trend is toward increasingly higher percentages of RAP in hot asphalt mixes.

No Detrimental Effects on Neighboring Communities

The importation of RAP grindings at SRRQ would have no detrimental effects on the neighboring communities. As we have discussed, there would be no increase in

¹ See Marin County Board of Supervisors Resolution No. 2007-65 (April 17, 2007); Marin County Hazardous and Solid Waste Management Joint Powers Authority Resolution No. 07-01 (November 14, 2006); and City of San Rafael Resolution No. 13217 (August 1, 2011).

SRRQ's operations – the quarry would continue to be subject to all of the limitations in our existing permit. There would be no new stockpiles (the "new" stockpile of RAP would replace a previous stockpile of mined aggregate). There would be no increase in tonnage (SRRQ would continue to be subject to the tonnage limitations in its existing permit). There would be no increase in truck trips (SRRQ would continue to be subject to the truck trip limitations in its existing permit).

Positive Effects on Neighboring Communities

The use of RAP at SRRQ would have some positive effects on the neighboring communities. Because RAP grindings take the place of up to 25% of virgin rock in the asphalt, less mining would be required for the rock that goes into the asphalt produced by SRRQ. For example, if SRRQ produces and sells 100,000 tons of asphalt in one year and RAP is used at 25%, then there would be 25,000 fewer tons of virgin mined rock required for the asphalt. This translates into 3 fewer blasts; 1,250 fewer on-site truck trips; and 100 fewer hours of crushing by the crushing plant per year. Additionally, trucks that are fully loaded in both directions would produce less noise than empty trucks.

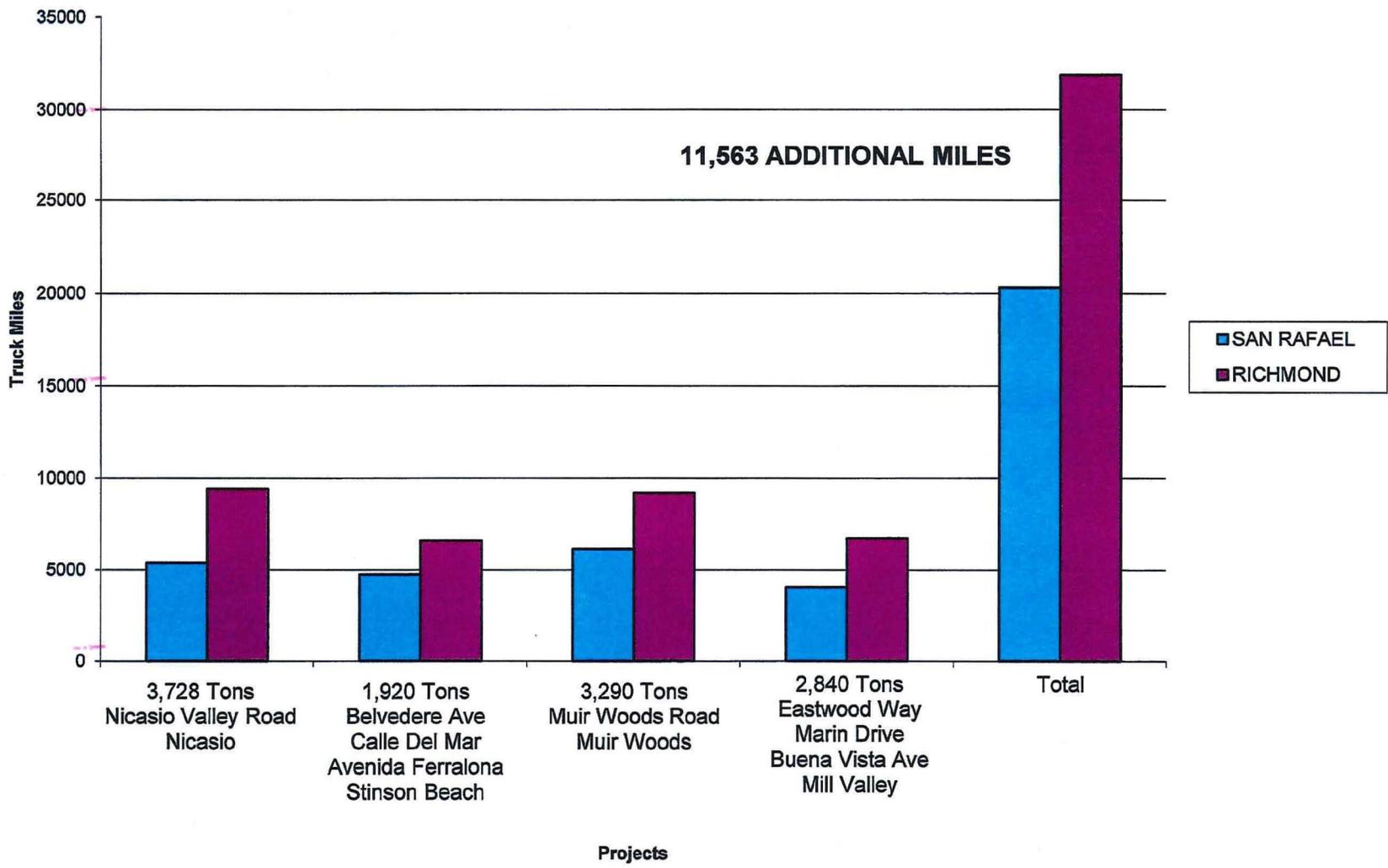
We would be happy to answer any additional questions that you might have, and we remain hopeful that the application to modify SRRQ's permit will be approved.

Very truly yours,



Aaron Johnson
Dutra Materials Manager

2013 Marin County Road Resurfacing Southern Region Truck Miles Comparison



FILING REQUESTED BY AND
WHEN FILED RETURN TO:

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903

Attn: Eric Steger

NOTICE OF EXEMPTION

Marin County
Environmental Coordination and Review

July 16, 2013

- 1. Project Name:** San Rafael Rock Quarry Surface Mining and Quarrying Permit Amendment No. 2, Asphalt Grindings Importation
- 2. Project Location:** 1000 Point San Pedro Road, San Rafael, CA
Marin County Assessor Parcel # 184-010-52 et al.
- 3. Project Description:** Import asphalt concrete grindings only from projects located within Marin County to the quarry, process and stockpile grindings, and reuse all imported grindings in the production of asphalt concrete at the existing on-site asphalt concrete batch plant. All other existing quarry Permit conditions continue to apply.
- 4. Public Agency Approving Project:** Marin County Board of Supervisors
- 5. Project Sponsor:** San Rafael Rock Quarry
- 6. CEQA Exemption Status:** Section 15301, Class 1, operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features.
- 7. Reasons for Exemption:** Minor alteration to existing Surface Mining and Quarrying Permit with no change in total allowed truck trips and no change to reclamation plan.

Project Planner:

Reviewed by:

Eric Steger
Assistant Director, Public Works

Rachel Warner
Environmental Planning Manager

Telephone: (415) 473-2754

Dear Supervisors,

I am writing to you to express my support for the Dutra Quarry's endeavor to import local grindings and produce recycled asphalt pavement (RAP). By enabling the quarry to import grindings, they will no longer have to import or export grindings over long distances to outside processing plants. This will decrease greenhouse emissions without increasing the permitted number of vehicles coming to or from the quarry. They will also be recycling more materials locally instead of leaving open the option that the materials end up in landfills. I wholly support this because the quarry will not expand from this endeavor; rather, they will be more sustainable and environmentally-friendly using their existing operations.

This permit modification will only enhance the ability of the Dutra Quarry to operate more efficiently, effectively and sustainably. As a Marin resident and employee of a local Marin Business I see no downside of approving this permit modification request. If we really want to keep Marin County as being one of the most eco friendly counties in the state, this seems to be a clear choice to enable the quarry to import and reuse grindings.

Regards,



Clayton Fraser
Chief Estimator

WEST BAY BUILDERS
250 Bel Marin Keys Blvd, Bldg A
Novato CA 94949

DPW '13 JUL 10 PM 1:55

Donald Udder MD
12 Marin Bay Park Ct
San Rafael, CA 94901
June 30, 2013

Re: San Rafael Rock Quarry Proposed Amendment

Dear Board:

I probably will be unable to attend the open July 16 meeting regarding proposed amendment of quarry operating permit and submit this letter to voice my objection to further modification/expansion of the permit.

The proposed importation of asphalt; grinding & recycling asphalt was not permitted previously and prohibited more than a decade ago by Judge Sutrø when SRQ engaged in this activity without a permit. There has never been an adequate environmental review of this activity versus the extensive EIR of other activities and it should not even be brought up without an environmental impact analysis.

I am opposed to any further increase in quarry activity absent tightening and increasing constraints already in place. There has been

an increase in quarry activity recently
with a disturbing increase in noise,
dust and a couple of very intense
flashes that I have recently experienced.
I continue to notice cracks and movement
in my house from the quarry, although
dismissed in the past.

I would like to see less not more
activity than we, as neighbors, have
recently experienced. We are
paying the price for this activity, in
damage to our property, quality
of life and house valuation. We are
I am opposed to the proposal which
is not appropriate to consider the
current agreement to consider the
of negotiation, multiple lawsuits and
should not be expanded & reworked after
the fact. 2) no environmental impact
review has been performed on this stone
3) existing "permitted activities are becoming
more onerous and are to be subject to
periodic review.

Sincerely,
Donald Alder VWS

Steger, Eric

From: Michelle A. Whiteside <michellew1@hotmail.com>
Sent: Wednesday, July 10, 2013 10:14 AM
To: Adams, Susan; Arnold, Judy; Kinsey, Steven; Sears, Kathrin; Rice, Katie; Steger, Eric
Subject: The Quarry Modificartion has my vote!

Dear Marin County Supervisors,

The hearing to weigh whether or not the Dutra Quarry can modify their permit to allow the importation of grindings to use in recycled asphalt pavement (RAP) is fast approaching. I support their request because it will make the quarry more environmentally-friendly – instead of sending grindings to the landfill or exporting grindings long distances for reuse, the quarry could instead recycle this product in our own community, something that will lower greenhouse gas emissions considerably.

The use of RAP has become a standard practice for quarries across the region and it is an environmentally superior production method that enables us to cut waste, reduce traffic and lessen the need to mine unused aggregate from the earth. Please keep these facts in mind and strongly consider voting “yes” to approve this common-sense process that’ll be a win-win for producers and the environment.

Respectfully,

Michelle Whiteside
Whiteside Construction Corporation
1151 Hensley Street
Richmond, CA 94801

Steger, Eric

From: Steger, Eric
Sent: Wednesday, July 10, 2013 8:34 AM
To: Steger, Eric
Subject: FW: Quarry expansion

-----Original Message-----

From: Mary Sparks [<mailto:msparksphd@comcast.net>]
Sent: Tuesday, July 09, 2013 5:01 PM
To: Arnold, Judy
Cc: Adams, Susan; Rice, Katie; Sears, Kathrin; Kinsey, Steven; Bonnie Marmor
Subject: Quarry expansion

To the Marin County Board of Supervisors:

I am a resident of San Rafael and live in the vicinity to the San Rafael Rock Quarry. I understand they are attempting to expand their operations to include asphalt recycling. This company has a history of blatantly ignoring the law and I have no reason to think their attitude has changed. A hearing with the Board of Supervisors has been set for July 16 and I request that the hearing be delayed one week in order to accommodate the schedule of John Edgcomb, the attorney representing the Pt. San Pedro Road Coalition. To leave the Coalition out of this discussion is unreasonable.

Thank you for your consideration.

Mary Sparks
188 Knight Drive

Steger, Eric

From: Shannon Bennett <skbennett@gmail.com>
Sent: Tuesday, July 09, 2013 5:34 PM
To: Adams, Susan; jarnold@mrincounty.org; Kinsey, Steven; Sears, Kathrin; Rice, Katie; Steger, Eric
Subject: Support for the San Rafael Quarry

Marin County Board of Supervisors,

We are writing to you to ask you to allow the San Rafael Rock Quarry to import grindings. As neighbors of the Quarry we have been witness to all the good work they have done over the years. The battle for their operating permit was a long and arduous battle and don't believe the Quarry Team would be back before you if they didn't feel they had good reason. A quick review of their proposal shows us that all the components of environmental stewardship is being addressed – reduce, recycle and reuse. Shouldn't we encourage such an approach?

The quarry has contributed revenue and other community assets to San Rafael and Marin County, and this permit modification will allow them to continue their good work in our community and others may need their help. We need to allow the company to modernize and compete so that local jobs will be assured for the future and we support this change because it will benefit many Marin County residents.

Please stand with us and other local residents by granting the Quarry their permit modification request.

Sincerely,

Shannon and Mark Bennett

90 Bay Way

San Rafael CA 94901

Steger, Eric

From: Adams, Susan
Sent: Tuesday, July 09, 2013 5:07 PM
To: Beaumont, Bob; Steger, Eric
Subject: FW: San Rafael Rock Quarry - Delay of Hearing Request

From: Tom Kostosky [<mailto:tomkosforest@yahoo.com>]
Sent: Tuesday, July 09, 2013 4:53 PM
To: Arnold, Judy
Cc: Adams, Susan; Rice, Katie; Sears, Kathrin; Kinsey, Steven; sprcoalition@sprcoalition.org
Subject: San Rafael Rock Quarry - Delay of Hearing Request

Ms. Arnold:

As a member of the San Pedro Road Coalition, I am writing in support of the Coalition's request for a delay in the scheduled July 16 Meeting Date to allow our Counsel to attend. We want John Edgcomb, the attorney who has ably represented us for over a decade, to be present.

Thank you for all the fine work you do on behalf of the residents of Marin County, and I hope you will see the reasonableness of this request.

Tom Kostosky
110 Loch Lomond Dr. 7B
San Rafael CA 94901

Steger, Eric

From: dennis salyers <salyers.dennis@gmail.com>
Sent: Tuesday, July 09, 2013 7:54 AM
To: Adams, Susan
Cc: Arnold, Judy; Kinsey, Steven; Sears, Kathrin; Rice, Katie; Steger, Eric
Subject: Concerned Resident

Supervisor Adams and the Marin County Board of Supervisors-

I am a local resident in the Peacock Gap Neighborhood and I feel that the proposed permit modification allowing the Quarry to import and reuse grindings is in Marin County's best interests. The rock quarry has provided countless tons of essential aggregate materials over the years, and the quarry will continue to be a key partner in aggregate production in the future. As times change and industry standards evolve, we must enable local aggregate producers like the San Rafael Rock Quarry to change with the times.

By providing the quarry with the resources needed to more efficiently use and re-use local aggregate, we can be sure that our resources last longer into the future and our aggregate demands can be met for years to come. This permit request is a clear choice to help meet our infrastructure needs and I strongly hope you will agree by approving their permit modification request to accept and reuse grindings.

Sincerely,
Dennis Salyers
320 Riviera Dr.
San Rafael CA, 94901

Steger, Eric

From: Barbara Jones <dowitcher11@gmail.com>
Sent: Tuesday, July 09, 2013 6:10 AM
To: Steger, Eric
Subject: SRRQ Request to Import Grindings - I SUPPORT!

Dear Supervisors,

I am asking you to support the San Rafael Rock Quarry's request to import grindings at their facility on San Pedro Road. I am a strong believer in everything local, and hope you will enable them to import grindings to produce recycled asphalt pavement (RAP), a sustainable building material. By allowing the San Rafael Rock Quarry to import grindings, we can help ensure that this locally-owned business gains an edge by staying on par with industry building standards, which has regularly used RAP for several years now.

I strongly feel that this is an important step to maintaining a locally-owned business we all depend on to help provide the materials needed for our infrastructure and recreational needs. I hope you make the right choice by voting to approve their request to accept this important, environmentally-friendly building material.

Respectfully,

Barbara Jones

11 Dowitcher Way, San Rafael, CA 94901

Steger, Eric

From: sean maloney <maloneyconst@att.net>
Sent: Monday, July 08, 2013 9:48 PM
To: Arnold, Judy; Adams, Susan; Kinsey, Steven; Rice, Katie; Sears, Kathrin; Steger, Eric
Subject: Dutra's Quarry Proposal

Marin County Board of Supervisors:

I am a life-long Marin County Resident and I want nothing more than to continue to watch our County be a leader on the environmental front. I have reviewed the Dutra Quarry's proposal and it seems to me to incorporate all the right elements – reduce, reuse and recycle. Marin County has a zero waste goal and approving this permit modification would be one more step toward achieving that goal. My work is in the Construction Industry and during these economic times anything that our local decision makers can do to help our local businesses and the environment surely deserves a supportive vote.

I urge you to consider a YES Vote when the Quarry is before you next week requesting to modify its permit to import grindings.

Thank you for your time and consideration.

Sean Maloney
Maloney Construction, Inc.

Sean Maloney
MALONEY CONSTRUCTION INC.
General Engineering & Building Contractor
Office: (415) 277-5977
Fax: (415) 277-5979
Cell: (707) 799-8890

www.maloneyconstruction.net

HUBzone, SBE, DVBE, SF LBE
A.B. Chance Dealer Installer

Steger, Eric

From: Brian Dougherty <bjdmv@yahoo.com>
Sent: Monday, July 08, 2013 8:03 PM
To: Adams, Susan; Arnold, Judy; Kinsey, Steven; Sears, Kathrin; Steger, Eric; Rice, Katie
Subject: Quarry Permit

Dear Marin County Board of Supervisors,

I would like you to support the permit modification request for the San Rafael Rock Quarry. I fully support recycling local aggregate material including grindings. Instead of these grindings filling the landfill, I want to see it fill potholes. We don't need the additional traffic and greenhouse gases from the long distance trucking required to get the materials from other areas. We can instead provide a superior alternative through the use of recycled asphalt pavement (RAP), of which grindings are a key component.

I have lived in Marin County all of my life and I love it. I love that our unemployment rate is so low and that we enjoy a unique quality of life here. But I also know that this will only remain true if we stay ahead of the curve by producing more sustainable materials and reusing what we have. The San Rafael Rock Quarry's permit modification will make sure we accomplish both, and I hope you agree by voting "yes" to approve this permit request.

Sincerely,

Brian Dougherty
8 Creekside Way
Mill Valley, CA. 94941
415 412 2079

Steger, Eric

From: Schalich Bros. Construction <schalich@sbcglobal.net>
Sent: Monday, July 08, 2013 5:54 PM
To: susan@marincounty.org; Arnold, Judy; Kinsey, Steven; Sears, Kathrin; Rice, Katie; Steger, Eric
Cc: Aimi Dutra
Subject: Please help our Rock Quarry and keep the business in Marin!!!!

Dear Supervisors,

Next week, I encourage you to support the San Rafael Rock Quarry's request to modify their use permit by being able to process grindings as a part of their operations. Enabling them to do so will increase the efficiency of their quarry while at the same time reducing the extraction volumes of virgin rock from quarries in our area and increasing the quarries longevity and production lifespans.

Without this change, the San Rafael Rock Quarry will be at a competitive disadvantage by not being able to remain up to speed with industry standards. More importantly, why shouldn't we allow a locally-owned business to process these materials in our community instead of hauling these materials to faraway processing plants? We must enable our local industries to remain viable, and this permit modification request will ensure that remains the case now and in the future.

I strongly hope you will support the San Rafael Rock Quarry and their permit modification request.

Thank you for your consideration.

Sincerely,

Jim Schalich

Schalich Brothers Construction

Steger, Eric

From: Dave@patriotmech.com
Sent: Monday, July 08, 2013 5:08 PM
To: Adams, Susan; Arnold, Judy; Kinsey, Steven; Rice, Katie; Sears, Kathrin; Steger, Eric
Subject: San Rafael Rock Quarry

Dear Supervisors,

I am writing today to urge you to support the permit modification request submitted by the San Rafael Rock Quarry to import and reuse “grindings” from construction projects in our area. The San Rafael Rock Quarry has been a good neighborhood partner for many years now, providing jobs, producing a local source of aggregate materials, and incorporating best management practices to limit dust, noise and traffic.

Their permit modification request to import and reuse grindings will help the quarry come up to speed with industry standards while reducing our greenhouse gas emissions, diverting waste out of local landfills and increasing the availability of sustainable building materials for construction projects in our area.

The benefits clearly outweigh the costs and I hope you take this into consideration by voting “yes” to approve the San Rafael Rock Quarry’s permit modification request.

Sincerely,

Dave Trahan

Dave Trahan
401 Irwin Street
San Rafael Ca 94901
415/ 444-0888



Steger, Eric

From: Andrew Stokes <andrew@seacapfg.com>
Sent: Monday, July 08, 2013 2:12 PM
To: Steger, Eric
Subject: San Rafael Rock Quarry Permit Expansion
Importance: High

Eric

It scarcely bears repeating that the current operating permit for the Quarry was approved after years of lawsuits, grand jury investigations and multiple hearings, along with an EIR. The result was a compromise where the Quarry was allowed to continue to operate as a non-conforming use.

And now here we are only a couple of years later and they are back asking for an amendment to those very operating conditions.

The answer on this has to be a very simple NO.

If the Supervisors agree to Dutra's demands yet again, they are on a very slippery slope and no doubt risk more new lawsuits.

Regardless, we strenuously object to the Quarry's plan to site asphalt operations there. Not only will there be an awful smell but there are legitimate health concerns from continued exposure to fumes.

Not only that, but it is our understanding that Judge Sutro banned the importation of grindings about 10 years ago, when the Quarry last did "recycling" without a permit. He also found there was no evidence that this was an allowed activity under the then operating conditions. What was true then remains true to this day.

The County is also hearing on this matter without the benefit of an EIR.

In summary:

The demand from the Quarry to "recycle" asphalt is in direct violation of its operating permit, represents an illegal expansion of its non-conforming use, further degrades the surrounding community and is proposed without being subject to an EIR (this last point is somewhat unneeded since the expansion should be rejected on the other grounds alone). The Supervisors must not allow the Quarry to dictate terms yet again.

We are writing since we are unable to attend the meeting and wish to make our objections known in the strongest possible terms.

Andrew & Ingrid Stokes
54 San Marino Dr
San Rafael CA 94901.

Steger, Eric

From: BOS
Sent: Wednesday, July 03, 2013 1:46 PM
To: Albert, Tanya; Alden, Leslie; Clark, Susannah; Crosse, Liza; Escobar, David; Frites, Rick; Laird, Sandy; Parton, Maureen; Vernon, Nancy; Weber, Leslie
Cc: Steger, Eric
Subject: SRRQ

This message was received through the email address link for sending one email to all Supervisors. Please forward as you deem appropriate.

From: rachelstreet@comcast.net [<mailto:rachelstreet@comcast.net>]
Sent: Wednesday, July 03, 2013 12:32 PM
To: BOS
Subject:

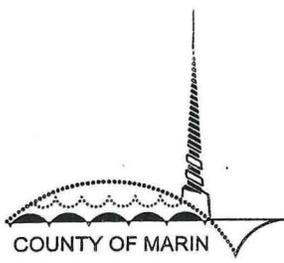
Rachel Street would like information about:
Dear Board of Supervisors,

On July 16, you will be considering a proposal for an expansion of San Rafael Rock Quarry operations. As a resident of Peacock Gap, I am astonished that this would even be considered after the decades-long battle with the Quarry finally came to a cease-fire. Let me assure you that we DON'T want an expansion in their operations. We have accepted an undue burden as a community allowing an industrial operation as our neighbor. Please don't make us accept more.

Unfortunately, I am unable to attend the meeting on the 16th. But on behalf of me and my children and my neighbors, please say NO.

Sincerely,
Rachel Street

Rec'd
6-20-13



DEPARTMENT OF PUBLIC WORKS

People serving people.

NOTICE

Robert Beaumont
DIRECTOR

Board of Supervisors Hearing on San Rafael Rock Quarry Surface Mining and Quarry Permit # Q-72-03 Amendment to Allow Asphalt Grindings Importation and Reuse

Administration
PO Box 4186
San Rafael, CA 94913-4186
415 473 6528 T
415 473 3799 F
415 473 3232 TTY
CRS Dial 711
www.marincounty.org/pw

Accounting

Airport

Building Maintenance

Capital Projects

Certified Unified Program
Agency (CUPA)

Communications
Maintenance

County Garage

Disability Access

Engineering & Survey

Flood Control &
Water Resources

Land Development

Purchasing

Real Estate

Reprographic Services

Road Maintenance

Stormwater Program

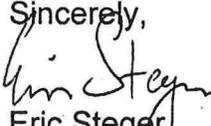
Transportation &
Traffic Operations

Waste Management

Dear Community Member:

The Marin County Board of Supervisors is holding a public hearing to consider the San Rafael Rock Quarry Surface Mining and Quarrying Permit amendment No. 2 to allow importation of asphalt road grindings from construction projects within Marin County and reuse in the making of new asphalt at the existing on site asphalt plant. No other changes to the Permit is being proposed, including no change in the daily truck trip limit of 250 one way truck trips. The San Rafael Rock Quarry is located at 1000 Point San Pedro Road, San Rafael (Assessor Parcel #'s: 184-010-09, -15, -16, -51, and -52).

Because of your proximity to the San Rafael Rock Quarry, the County is providing you notice that said public hearing will be held at a meeting of the Marin County Board of Supervisors on Tuesday, July 9, 2013, at 1:30 p.m., in the Board of Supervisors Chambers (Room #330 - Administration Building), Civic Center, San Rafael, California. It is expected that the Board of Supervisors will take action at the meeting. Any interested party may appear and be heard at these times. Information on the proposal, the Surface Mining and Quarrying Permit, and the previously certified EIR can be viewed on the Marin County Department of Public Works web site: <http://www.marincounty.org/depts/pw/divisions/land-use/quarry>.

Sincerely,

Eric Steger
Assistant Director

6-24-13
Mr. Steger:
I am not opposed to the proposed amendment to Permit # Q-72-73 to Allow Asphalt Grindings Importation and Reuse. I hope this note can be favorably used toward approval of the Amendment.



Jim Luce

All public meetings and events sponsored or conducted by the County of Marin are held in accessible sites. Requests for accommodations may be requested by calling (415) 473-4381 (voice) (415) 473-3232 (TTY) at least four work days in advance of the event. Copies of documents are available in alternative formats, upon written request.



DEPARTMENT OF PUBLIC WORKS

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