

MARIN COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 2009-126

A RESOLUTION CERTIFYING
THE SAN RAFAEL ROCK QUARRY AMENDED RECLAMATION PLAN
AND AMENDED SURFACE MINING AND QUARRYING PERMIT
COMBINED FINAL ENVIRONMENTAL IMPACT REPORT

SECTION I: FINDINGS

- I. WHEREAS, the project sponsors submitted an application in 2005 proposing to amend the existing Reclamation Plan approved for the quarry pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA), (Amended Reclamation Plan ARP82 approved by the County in 1982); and the project sponsors additionally submitted an application to amend the quarry permit to facilitate continued quarrying operations within certain areas of the site, including blasting, excavating from the Main Quarry Bowl to a depth of -400' MSL and from the South Hill, and transporting rock and earth by truck and barge. The project applications were determined complete in January 2005 for both the Amended Quarry Permit (AQP) and Amended Reclamation Plan ARP04. The Environmental Coordinator determined on preliminary review that an EIR would clearly be required for both the ARP04 and AQP projects. The applicant agreed to proceed directly with preparation of a full scope EIR for ARP04 without first preparing an Initial Study, as provided in CEQA. However, the applicant did not similarly agree to proceed directly to an EIR for the AQP. Consequently, the County prepared an Initial Study for the AQP and subsequently determined on the basis of the Initial Study that an EIR was also required for the AQP. 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**; and
- II. WHEREAS, the 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. Various quarry activities and operators have quarried continuously on the site since the 1870s, 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 Quarry since 1986; and
- III. WHEREAS, 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. Basalt Rock Company submitted a reclamation plan to the County in 1976 (the 1976 Reclamation Plan was never approved by the County). The Quarry property was designated by the California Division of Mines and Geology as a regionally significant mineral zone pursuant to SMARA; and

- IV. WHEREAS, 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. An Amended Reclamation Plan (ARP82) was approved by the County in 1982. Under ARP82, quarry activities were scheduled to cease on the property and reclamation of the site commence in 1998 and in 2000, the County issued a Notice of Non-Compliance to SRRQ due to substantial deviation from ARP82. In 2001, the State, the County, the Point San Pedro Road Coalition and individuals sued SRRQ for nuisance and violations of County zoning and building regulations. The Superior Court found that the quarry had a vested right to mine the quarry pit without limit on depth or duration and had a right to mine a portion of "South Hill", but had exceeded the legal non-conforming right and had substantially deviated from ARP82. The Court issued an order prohibiting SRRQ from certain actions and limiting quarry operations while the County completed an administrative process to consider an amended reclamation plan and how the quarry should be operated; and
- V. WHEREAS, pursuant to the AQP submittal, the applicants propose to continue: crushing, sorting, and stockpiling earth and rock quarried from the site, dock and load barges with earth, sand and rock quarried from the site, operate an asphalt batch plant, and load and weigh commercial trucks that transport material over Point San Pedro Road. The AQP application proposes several changes in conditions and limitations of SRRQ's mining operations that differ from the conditions contained in the current permit. These include incorporation of a new Mining Plan, which sets standards for slope angles, benches, and critical elevations of the mined areas; 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; details regarding weather restrictions and emergency operations; limits on blasting, noise, and dust; and protection of visual resources through use of visual screens and shielding of lights. The applicant's proposed hours of operation for the crushing plant are 7 a.m. to 5 p.m., December 1st through April 30th, and 7 a.m. to 10 p.m., May 1st through November 30th (no crushing on Sat. or Sun.). Barge loading hours of operations are proposed year long as 7 a.m. to 10 p.m. Quarry material truck traffic is proposed to be limited to 250 one way trips (125 round trips), Monday through Friday (except holidays), between 7 a.m. to 5 p.m., except in declared public emergencies. (Not a part of this AQP is the manufacture of brick products still occurring on a portion of the property, currently leased by SRRQ to the McNear Brick Company. However, the cumulative effect of the Quarry and Brick Company are evaluated). The applicant's proposed hours of operations are very similar to the interim operating conditions established by the court while the County's current administrative process is ongoing; and
- VI. WHEREAS, the major project components of ARP04 include: cutting a channel to the bay and flooding the Quarry bowl; creating three stockpile areas, stockpiling overburden up to 75 feet high and mixing pond fines into the soil in the NE Quadrant; creating a surcharge berm in the NW Quadrant; creating the South Hill soil cover; and general revegetation. The applicant has proposed to continue mining operations for 15-17 more years after approval of the submitted ARP04. Following termination of quarrying activities, the Quarry owner proposes to level the visual and noise mitigation stockpiles, and flood the Quarry pit and connect it to San Francisco Bay to create a marina and commercial and residential

development on the property. Land use entitlements for the proposed marina and commercial and residential development will require submittal of separate applications, and will be reviewed by the County at that time; and

- VII. WHEREAS, in October 2005, the County independently selected and contracted with Environmental Science Associates to prepare at the applicant's expense an EIR for the ARP04 and an Initial Study for the AQP, including an option to prepare an EIR for the AQP depending on the outcome of the AQP Initial Study. The AQP Initial Study was completed in June 2007 during the period of preparation of the ARP04 Draft EIR, and then both EIRs for both projects were completed simultaneously and incorporated separately into a single, combined Draft EIR document; and
- VIII. WHEREAS, separate Notices of Preparation (NOP) of an EIR for each project was prepared and circulated to public agencies and all interested parties for comment on the scope of the EIR. The date of circulation of the NOP for the ARP04 was October 26, 2005, and the date of the NOP for the AQP was August 17, 2007, subsequent to the Initial Study and determination that a focused EIR was required for the AQP project. Several comment letters and oral comments were received from individuals and from interested governmental agencies in response to the NOPs. The County held public scoping sessions (meetings) regarding the proposed projects on January 25, 2006 for the ARP04 and on September 12, 2007 and October 3, 2007 for the AQP, which entailed an extended comment period due to a holiday on the day of the first scoping meeting, September 12, 2007. CEQA requires a 30-day comment period on the Notice of Preparation; however the Notice of Preparation comment period was extended an additional 17 days until the October 3, 2007 scoping session. The public scoping sessions were held to help identify potentially significant environmental effects to be analyzed in depth in the EIRs. Numerous oral comments were received at the scoping meetings, and additional written comments were received at and following the meetings; and
- IX. WHEREAS, comments on the NOPs included concerns regarding noise, blasting, dust, truck traffic, diesel emissions, human health and cancer concerns from silica and asbestos dust and truck fumes. Commentors living in close proximity to the adjacent Quarry submitted a substantial number of complaints, both in and outside of the EIR process, related to site operations and asserting that current site operations are incompatible with neighboring residential land uses, regardless of whether SRRQ is meeting existing permit and regulatory standards. These complaints ranged from health concerns over blasting and diesel emissions, to annoyances such as the penetrating sound of truck backup alarms from quarrying activities, and
- X. WHEREAS, the combined Draft EIR, a Notice of Completion (NOC), and notice of public hearing on the Draft EIR were distributed on February 14, 2008, to members of the Planning Commission, Board of Supervisors, State Clearinghouse, federal, state and local agencies and special districts, surrounding property owners, and other interested groups and individuals. The NOC and notice of public hearing were published in a newspaper of general circulation to begin a 60-day public review and comment period on the adequacy of the Draft EIR. CEQA requires a minimum 30-day public review period on a Draft EIR, unless a the Draft EIR also has a State Responsible Agency, in which case the comment period shall be a

minimum of 45-days. Our office extended the deadline in this case at the Board of Supervisor's request to allow additional time for the public and responsible agencies to review and comment on the adequacy of the Draft EIR. Therefore, the public review and comment period went above and beyond what is mandated by CEQA for a 60-day public review period ending on April 14, 2008; and

- XI. WHEREAS, on March 25, 2008 the Board conducted a public hearing in two parts to receive separate testimony for each of the two projects addressed in the Draft combined EIR. As with the NOP, the primary issues raised in testimony during the hearing and in written comments submitted either at the hearing or prior to the close of the public review period regarded concerns over noise, blasting, dust, truck traffic, diesel emissions, human health and cancer concerns from silica dust and truck fumes, flooding the quarry bowl, marshes, greenhouse gas emissions, and importance of the resource. Following the close of the public hearing, the Board directed that a Final EIR Response to Comments be prepared after the close of the comment period on the Draft EIR; and
- XII. WHEREAS, 49 comment letters were received during the 60-day review period on the Draft EIR, comprising a total of approximately 585 individual comments requiring response in the Final EIR. The Final EIR responds to all individual comments in each letter and provides separate "Master Responses" addressing the primary issues raised overall; and
- XIII. WHEREAS, on January 29, 2009, the Final EIR (revised Draft EIR text with track changes, Response to Comments and Appendices) and a Notice of Availability of the Final EIR for review and comment were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, federal, state and local agencies and special districts, EIR commentors, and other interested groups and individuals. Notice of Availability of the Final EIR was published in a newspaper of general circulation to begin a 45-day review and comment period on the Final EIR. The review and comment period on the Final EIR was provided to give written proposed responses to public agency comments to the commenting agency at least 10 days prior to certifying the Final EIR pursuant to CEQA Guidelines 15088 (b) and to allow the public and interested parties an opportunity comment on the Final EIR focusing exclusively on the adequacy of the response to comments on the Draft EIR pursuant to Marin County EIR Guidelines Section V.- I (2) ; and
- XIV. WHEREAS, on March 16, 2009, the review and comment period on the Final EIR Response to Comments was closed, and written comments were received on the Final EIR until 4:00 pm on that date. A total of 11 comment letters were received on the Final EIR, comprising a total of approximately 130 individual comments requiring response. Those letters are included in the Final EIR Amendment along with responses to those comments. Similar to the Draft EIR, comments on the Final EIR primarily addressed concerns over noise, blasting, dust, truck traffic, diesel emissions, human health and cancer concerns from silica and asbestos dust and truck fumes. Since the comments and responses on the Final EIR (including the Final EIR Amendment) result in only minor clarifications and insignificant changes to the Final EIR, they do not trigger CEQA requirements for recirculation of the document for additional public review and do not prevent certification of the Final EIR as adequate and complete; and

XV. WHEREAS, the Final EIR Response to Comments Amendment was completed and distributed on August 12, 2009, and incorporated additional responses to comments received during the Final EIR review and comment period. This document is part of the Final EIR for consideration with the Final EIR Volumes I, II and III. Copies of the Final EIR Amendment were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. A Notice of Availability of the Final EIR Response to Comments Amendment was published in a newspaper of general circulation and the Final EIR Amendment was distributed to allow 14-days for public and Agency review of the Final EIR documents prior to the Board of Supervisors first hearing on certification of the Final EIR as adequate and complete. The 14-day review was not a solicitation period for additional comments on the Final EIR Amendment. The 14-day review was provided to give any additional written proposed responses in the Final EIR Amendment to public agency comments on the earlier Final EIR Response to comments to the commenting agency at least 10 days prior to certifying the Final EIR pursuant to CEQA Guidelines 15088 (b) and as a courtesy to allow the public and interested parties additional time to review and understand responses provided in the Final EIR Amendment prior to the Board of Supervisor's action for certification on the Final EIR.

SECTION II: ACTION

- XVI. WHEREAS, on August 25, 2009; the Marin County Board of Supervisors conducted a public hearing to address the adequacy of the Final EIR for certification as it pertains to the AQP, and then moved to continue the public hearing to October 27, 2009 in order to conduct a separate public hearing to address the adequacy of the Final EIR as it pertains to the ARP04 and then close the public hearing process on the EIR to consider certification of the Final EIR for both projects after the close of the October 27, 2009 hearing. All of the the Final EIR documents including the Response to Comments Amendment to the Final EIR, together with staff's report recommending certification of the Final EIR were provided to the Board of Supervisors; and
- XVII. WHEREAS, on October 27, 2009, the Marin County Board of Supervisors conducted the continued public hearing to receive testimony on the adequacy of the Final EIR for certification with respect to the ARP and to consider certification of the Final EIR for both projects and received oral and written public testimony; and
- XVIII. WHEREAS, the Marin County Board of Supervisors has reviewed and considered in light of all public comments received and testimony the information in the Draft EIR, Final EIR, EIR administrative record, Final EIR Staff Report and Response to Comments Amendment to the Final EIR, for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Board of Supervisors hereby finds:

1. The recitals above are true and accurate and reflect the independent judgment and analysis of the Board of Supervisors.
2. Notice of the Board of Supervisors hearings on the San Rafael Rock Quarry Amended Reclamation Plan and Amended Surface Mining and Quarrying Permit environmental review documents was given as required by law and the actions were conducted in accordance with CEQA, and the State CEQA Guidelines and Marin County EIR Guidelines.
3. All individuals, groups and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the environmental review documents. These opportunities for comment meet or exceed the requirements of CEQA and the County Environmental Review procedures.
4. All comments submitted during the public review and comment period on the DEIR, the public hearings on the adequacy of the DEIR conducted by the Board of Supervisors and the public review and comment period and hearing on the Final EIR were responded to adequately.
5. The Board of Supervisors was presented with all of the documents comprising the Final EIR which consist of: FEIR Volume I, the Revisions to the Draft EIR Text; Final EIR Volume II Comments on the Draft EIR and Responses; Final EIR Volume III Appendices; The FEIR Response to Comments Amendment; and all of the other information described in the recitals and has considered The Final EIR and this information in adopting this resolution.
6. The Final EIR (a) has been completed in compliance with the intent and requirements of CEQA and the State CEQA Guidelines, and the Marin County EIR Guidelines and process, (b) reflects the independent judgment and analysis of the County of Marin, and (c) has been presented to and reviewed and considered by the Board of Supervisors in its deliberations regarding approval of the San Rafael Rock Quarry Amended Reclamation Plan and Amended Surface Mining and Quarrying Permit.

SECTION III: VOTE

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 27th day of October, 2009, by the following vote to-wit:

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

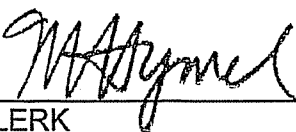
NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK



DEPARTMENT OF CONSERVATION

OFFICE OF MINE RECLAMATION

801 K STREET • MS 09-06 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-1230 • FAX 916 / 445-6066 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

RECEIVED

DEC 21 2009

MARIN COUNTY
DEPARTMENT OF PUBLIC WORKS

December 14, 2009

VIA EMAIL: esteger@co.marin.ca.us
ORIGINAL SENT BY MAIL

Eric Steger
County of Marin
Department of Public Works
P.O. Box 4186
San Rafael, CA 94913-4186

Dear Mr. Steger:

**SAN RAFAEL ROCK QUARRY AMENDED RECLAMATION PLAN
CA MINE ID # 91-21-0008**

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the amended reclamation plan for the San Rafael Rock Quarry (SRRQ) dated October 12, 2004, together with the Implementation Plan sheets and revisions to sheets E2, E3, E5, and RV 1 through RV4, as well as the Supplemental Geotechnical Data Report dated April 11, 2005 (ENGE0, 2005). OMR has commented on various versions of some of these documents in past letters, but up to now has not provided formal reclamation plan comments on the entire project. This purpose of this letter is to provide that formal review.

The Surface Mining and Reclamation Act of 1975 (SMARA) (Public Resources Code section 2710 et seq.) and the State Mining and Geology Board Regulations (California Code of Regulations (CCR) Title 14, Division 2, Chapter 8, Subchapter 1) require that specific items be addressed or included in reclamation plans. The following comments prepared by Beth Hendrickson, Restoration Ecologist, and Joshua Goodwin, Engineering Geologist, are offered to assist in your review of this project. We recommend that the reclamation plan be supplemented to fully address these items.

Mining Operation and Closure

(Refer to SMARA sections 2770, 2772, 2773, CCR sections 3502, 3709, 3713)

SMARA section 2772(c)(3) requires the termination date of mining. References are made to a 15- to 17-year quarry lifespan; these should be amended to a specific date such as December 31, 2026.

SMARA section 2772(c)(9) requires a statement of the impact of reclamation on future mining. This can be as simple as "Reclamation of this site will preclude future mining, since the resource will be depleted."

CCR section 3502(b)(2) requires consideration of the future public health and safety. Any potential safety issues and mitigation measures for those should be included in the reclamation plan.

End Land Use

(Refer to SMARA section 2772, CCR sections 3707, 3708)

SMARA section 2772(c)(5) requires that a map of the site clearly show topographic details of the site, a detailed description of the geology of the area in which surface mining is to be conducted, as well as the limits of mining, reclamation, proposed access roads and existing roads on site, and utilities within or adjacent to the mine site. The map provided should include existing, proposed interim and final contours and drainage patterns, and depict existing areas of vegetation and proposed areas of revegetation. In addition, the map should include setbacks from adjacent property boundaries, soil and waste rock stockpiles, erosion control facilities, and existing and proposed structures. The final map(s) should be of readable scale. The amended reclamation plan should include a revised geologic map for the quarry pit and South Hill cut slope to document the proposed final condition of the mined slopes.

Geotechnical Requirements

(Refer to CCR sections 3502, 3704)

The recommendations for monitoring and supplemental geotechnical analysis provided by ENGEO (ENGEO, 2005) should be included in the amended reclamation plan. Additionally, OMR's recommendations provided in our November 30, 2005 letter (attached) should also be included in the amended reclamation plan.

Hydrology and Water Quality

(Refer to SMARA sections 2772, 2773, CCR sections 3502, 3503, 3706, 3710, 3712)

According to SMARA section 2772(d): *An item of information or a document required pursuant to subdivision (c) that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the lead agency submits the reclamation plan to the director for review. To the extent that the*

information or document referenced in the reclamation plan is used to meet the requirements of subdivision (c), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this article. Since the reclamation plan relies on the Storm Water Pollution Prevention Plan (SWPPP) and the Storm Water Management Plan (SWMP) to meet the water quality and erosion and sediment control requirements of SMARA, the final versions of the SWPPP and SWMP should be incorporated into the reclamation plan.

Environmental Setting and Protection of Fish and Wildlife Habitat

(Refer to CCR sections 3502, 3503, 3703, 3704, 3705, 3710, 3713)

Baseline studies documenting species richness, cover and density are required under CCR 3705(a). Quantitative data regarding these criteria are not included in the reclamation plan or associated documents reviewed by OMR. Baseline data with respect to the various habitat types should be obtained and included in the reclamation plan (see attached guidelines).

Mitigation measures developed through the environmental review process that pertain to reclamation or affect the manner by which mining is done should be included in the reclamation plan. This is to address the requirements under CCR 3503(c) and 3703 (a) for protection of habitat and sensitive species.

Wetland delineation results should be included in the reclamation plan, and mitigation measures described for any impacts [CCR3703(c)].

Resoiling and Revegetation

(Refer to SMARA section 2773, CCR sections 3503, 3704, 3705, 3707, 3711)

“Overburden” is mistakenly used as a synonym for topsoil repeatedly throughout section 2 C. For example, on page 28: “The top 12” of soil will be non-mixed overburden graded onto the areas to be planted”. “Topsoil” should be substituted for “overburden” throughout the text where this sentence occurs.

The seed mix for the Permanent Open Space Revegetation (Type III) contains two non-native annual grass species, *Briza minor* and *Vulpia myuros*. CCR 3705(g) requires the use of native species, unless the end use precludes the use of natives. OMR recommends that native grasses such as the annual *Vulpia microstachys*, or perennials such as *Nassella pulchra* or *Melica imperfecta* be substituted for the non-native species. The seeding rate of 60 and 50 pounds per acre for the two annual grasses is excessive; OMR recommends substituting the annual *V. microstachys* for *V. myuros* at a rate of about 20 pounds per acre, and adding one or two perennial grasses at a rate of 5 pounds per acre instead of the *Briza minor*.

Other non-native species proposed for revegetation should be substituted with readily available native counterparts, as in the following:

Non –native	Native counterpart
<i>Alnus cordata</i>	<i>Umbellularia californica</i>
<i>Calamagrostis acutiflora</i>	<i>Calamagrostis koelerioides</i>
<i>Festuca amethystine</i>	<i>Festuca occidentalis</i>
<i>Mimulus hybridus</i>	<i>Mimulus aurantiacus</i>
<i>Pinus pinea</i>	<i>Pinus muricata</i>
<i>Platanus acerifolia</i>	<i>Platanus racemosa</i>
<i>Quercus suber</i>	<i>Quercus agrifolia</i>
<i>Rubus vitifolius; R. pentaloba</i>	<i>Rubus ursinus</i>
<i>Sambucus canadensis</i>	<i>Sambucus mexicana</i>

Two native species proposed in the plan are more suitable for inland locations and will probably not perform well on the coast: *Quercus lobata* and *Quercus douglasii*. OMR recommends that the plan be amended to substitute *Quercus agrifolia*, *Umbellularia californica*, or other trees native to the local environment. OMR notes that the badly misspelled species name and incorrect variety "*Strax officinalus californicus*" may lead to confusion; this should be *Styrax officinalis* var. *redivivus*.

All areas proposed to be planted with container stock should also be seeded with a native seed mix to provide ground cover and erosion control as well as to help keep weeds in control. The plan must specify the number of each container stock species to be planted, or else give a percentage of each and a planting density or spacing design. The text refers to spacing "as listed above in a triangular pattern" but the specific detail (e.g., "trees will be planted on 40-foot centers") is omitted. Details such as planting methods and container type(s) should be included in the plan. Hydroseeding is specified in the plan; OMR recommends that the plan be amended to include a two- or three-step hydroseeding procedure, where the seed is applied first in a slurry, then covered with a fiber mulch layer or a layer of straw plus tackifier. Such an application procedure improves seed contact with the soil and has been shown to improve germination rates.

Revegetation plan requirements under CCR 3705 are largely lacking. These include: test plots; correct season of planting; whether or not irrigation is proposed and how that will be accomplished; weed management methods and criteria; revegetation success criteria quantified by cover, density, and species richness; monitoring methods and a sampling plan sufficient to achieve 80% confidence level in monitoring results. The plan should be amended to address these requirements.

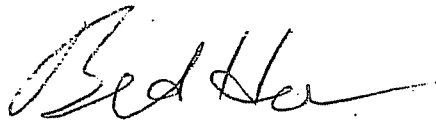
Administrative Requirements

(Refer to SMARA sections 2772, 2773, 2774, 2776, 2777, PRC section 21151.7)

Recent legislation (Senate Bill 668, Chapter 869, Statutes of 2006) amended PRC section 2774 with respect to lead agency approvals of reclamation plans, plan amendments, and financial assurances. These new requirements are applicable to the reclamation plan. Once OMR has provided comments on the reclamation plan, a proposed response to the comments must be submitted to the Department at least 30 days prior to lead agency approval. The proposed response must describe whether you propose to adopt the comments. If you do not propose to adopt the comments, the reason(s) for not doing so must be specified in detail. At least 30 days prior notice must be provided to the Department of the time, place, and date of the hearing at which the reclamation plan is scheduled to be approved. If no hearing is required, then at least 30 days notice must be given to the Department prior to its approval. Finally, within 30 days following approval of the reclamation plan, a final response to these comments must be sent to the Department. Please ensure that the County allows adequate time in the approval process to meet these new SMARA requirements.

If you have any questions on these comments or require any assistance with other mine reclamation issues, please contact me at (916) 445-6175.

Sincerely,



Beth Hendrickson, Acting Manager
Reclamation Unit

Attachment

DEPARTMENT OF PUBLIC WORKS

COUNTY OF MARIN
www.co.marin.ca.us/pw

P. O. Box 4186, San Rafael, CA 94913-4186 • 415/499-6528 • FAX 415/499-3799 • TTY 415/473-3232

Farhad Mansourian, RCE
Director

February 25, 2010

Department of Conservation
Office of Mine Reclamation
Attn: Ms. Beth Hendrickson
801 K Street, MS 09-06
Sacramento, CA 95814-3529

**RE: San Rafael Rock Quarry (SRRQ) CA Mine ID# 91-21-0008
Lead Agency SMARA Certification of Amended Reclamation Plan
Proposed Response to Director's Comments**

Dear Ms. Hendrickson:

Thank you for the Department's comments dated December 14, 2009 on the pending amended reclamation plan for the San Rafael Rock Quarry. As noted in your letter, recent legislation amended Public Resources Code (PRC) section 2774 with respect to lead agency approvals of reclamation plans, requiring the lead agency to submit proposed response to comments to the Office of Mine Reclamation (OMR) at least 30 days prior to lead agency approval. This letter constitutes the County's proposed response. Each section below corresponds to those used in the OMR's comment letter.

Mining Operation and Closure

The County concurs with OMR's comments. Regarding PRC section 2772(c) (3), the County proposes to tie the termination date of mining to the end of the environmental analysis period used in the Combine EIR, subject to PRC section 2777. Regarding PRC section 2772(c) (9), the County proposes a conditional approval for the quarry operator to submit an assessment soon after approval. Regarding California Code of Regulations (CCR) Title 14 section 3502(b) (2), the County proposes a condition of approval to include measures to protect potential post reclamation public safety issues at the site in a revised reclamation plan to be submitted soon after approval.

End Land Use

The County concurs with OMR's comments. OMR's provides broad comments in this section regarding the provision of clear topographic details, site geology, and areas of revegetation on maps, much of which is already shown on the submitted plans. However, because site conditions have changed significantly since the amended reclamation plan was submitted,

ADMINISTRATION
499-6528

ACCOUNTING
499-7877 • FAX 507-2899

AIRPORT
451-A AIRPORT ROAD
NOVATO, CA 94945
897-1754 • FAX 897-1264

BUILDING MAINTENANCE
499-6576 • FAX 499-3250

CAPITAL PROJECTS
499-7877 • FAX 499-3724

COMMUNICATION
MAINTENANCE
499-7313 • FAX 499-3738

DISABILITY ACCESS
499-6528
CALIFORNIA RELAY SERVICE 711

ENGINEERING & SURVEY
499-7877 • FAX 499-3724

FLOOD CONTROL DISTRICT
499-6528

COUNTY GARAGE
499-7380 • FAX 499-7190

LAND DEVELOPMENT
499-6549

PRINTING
499-6377 • FAX 499-6617

PURCHASING
499-6371

REAL ESTATE
499-6578 • FAX 446-7373

ROAD MAINTENANCE
499-7388 • FAX 499-3656

STORMWATER PROGRAM
499-6528

TRANSPORTATION
PLANNING & TRAFFIC
OPERATIONS
499-6528

WASTE MANAGEMENT
499-6647 • FAX 446-7373

ALL AREA CODES ARE 415

various revisions have been made to the original submitted plans and the Board of Supervisors (BOS) may approve further variations in the plans, we propose to have a conditional requirement for the quarry to submit a 'conforming' reclamation plan soon after approval. We plan to incorporate OMR's comments as part of the 'conforming' plan requirement.

Geotechnical Requirements

The County concurs with OMR's comments. The County proposes to incorporate the ENGEO recommendations in the Supplemental Geotechnical Data Report, Proposed Changes to Mining Plan, dated April 11, 2005, and the OMR recommendations in a letter dated November 30, 2005 as conditions of approval.

Hydrology and Water Quality

The County concurs with OMR's comments. Preparation and implementation of a current Storm Water Pollution Prevention Plan (SWPPP) and the Storm Water Management Plan (SWMP) is proposed to be a condition of approval. Note that such plans may be revised as reclamation is phased. The proposed condition of approval also would require submittal of updated plans.

Environmental Setting and Protection of Fish and Wildlife Habitat

The County generally concurs with OMR's comments. The first comment appears to relate to vegetation types. The most significant existing habitat to be preserved and enhanced is the marsh and wetlands on the property. A proposed Combine EIR mitigation measure is to complete a tidal marsh restoration plan within 1 year of approval. Other areas of the quarry are being mined or have been already heavily impacted by past operations. Ultimate subsequent use of the site is residential, commercial and harbor uses. According to the guidelines provided by OMR, baseline studies are not required for such uses. However, implementation of the OMR's resoiling and revegetation comments will, in effect, stabilize the site with native vegetation prior to subsequent uses.

To address 14 CCR 3503(c) and 3703(a), the biological mitigation measures identified in the Combined EIR to protect listed species, and fish and wildlife habitat, are proposed to be conditions of approval. Note that the October 12, 2004 Amended Reclamation Plan, Volume 2, includes 'Biological Recommendations' by LSA Associates. This document also contains a map of 'Potentially Jurisdictional Waters'.

Resoiling and Revegetation

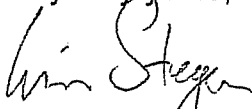
The County concurs with OMR's comments. The County proposes a condition that the quarry review and revise the revegetation plan to clarify the terms and the use of overburden (on site rock/soil), topsoil, and soil amendments. OMR's revegetation comments on seed mixes, additional details, hydroseed application, test plots, etc., are proposed to be conditions of approval requiring amendments to the revegetation plan.

Administrative Requirements

The BOS will hold a hearing, at a future date yet to be set, to review and consider action on both approvals of the amended quarry permit and amended reclamation plan (ARP04). At that time, the BOS will use the Combined EIR to review and consider taking action on the amended quarry permit and alternatives, the ARP04 and alternatives, findings required under CEQA and a mitigation monitoring and reporting program, and may adopt a Statement of Overriding Consideration. The County will provide at least 30 days notice to OMR prior to taking action.

Please contact me at (415) 507-2754 should you have any questions.

Very truly yours,



Eric Steger
Senior Civil Engineer

C: Farhad Mansourian, Director DPW
Aimi Dutra Krause, SRRQ



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

801 K STREET • MS 09-06 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 323-9198 • FAX 916 / 445-6066 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

March 26, 2010

VIA EMAIL: esteger@co.marin.ca.us
ORIGINAL SENT BY MAIL

Eric Steger
Senior Civil Engineer
Marin County Department of Public Works
P.O. Box 4186
San Rafael, CA 94913-4186

SAN RAFAEL ROCK QUARRY
CA MINE ID #91-21-0008

Dear Mr. Steger,

The Department of Conservation's Office of Mine Reclamation (OMR) has received the County's responses to its letter of December 14, 2009 on the amended reclamation plan for the San Rafael Rock Quarry. OMR finds that our comments have been adequately addressed, and has no further comment at this time.

If you have any questions on these comments or require any assistance with other mine reclamation issues, please contact me at (916) 323-5435.

Sincerely,

James Pompy, Manager
Reclamation Unit