July 16, 2013

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

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:

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 base 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.
Board of Supervisors, SRRQ Grindings Amendment
July 16, 2013
Page 7 of 7

REVIEWED BY:  [ X ]  County Administrator  [ ]  N/A
[ ]  Department of Finance  [ X ]  N/A
[ X ]  County Counsel  [ ]  N/A
[ ]  Human Resources  [ X ]  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.)