

# AGENDA NO. 4



**PLANNING COMMISSION**

**STAFF REPORT**

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DATE: May 10, 2010

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF AN AMENDMENT TO AN EXISTING RECLAMATION PLAN (RMA-1-00 REVISION 05) ON A 104-ACRE SITE LOCATED IN THE NORTHEAST PORTION OF THE CITY OF CARLSBAD AND THE SOUTHWESTERN PORTION OF THE CITY OF OCEANSIDE SOUTH OF STATE ROUTE 78 AND WEST OF COLLEGE BOULEVARD – FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN – APPLICANT: HANSON AGGREGATES PACIFIC SOUTHWEST, INC.**

## **RECOMMENDATION**

Staff recommends that the Planning Commission by motion;

- (1) Certify the Environmental Impact Report (EIR) and associated findings, statement of overriding considerations, and mitigation monitoring and reporting program by adopting Planning Commission Resolution No. 2010-P15.
- (2) Approve Reclamation Plan Amendment (RMA-1-00 Revision 05), by adopting Planning Commission Resolution No. 2010-P16 with findings and conditions of approval attached herein.

## **PROJECT DESCRIPTION AND BACKGROUND**

**Site Review and Background:** The subject site is approximately 104.2 acres in size and is situated in the northeast portion of the City of Carlsbad (100.1-acres) and the southwestern portion of the City of Oceanside (4.1-acres). The Oceanside/Carlsbad city boundary runs north-south through the project site. The site is generally located south of SR 78 and Haymar Drive and west of College Boulevard. Adjacent land uses include the Quarry Creek Shopping Center within the City of Oceanside to the east, an automobile dealership to the northeast in Oceanside, a residential subdivision in the City of Carlsbad to the south and open space owned by the California Department of Fish and Game and an historic adobe residence to the west.

The project site is the remaining portion of the former South Coast Quarry. Elevations within the project site range from 80 feet above mean sea level (MSL) along Buena Vista Creek to approximately 320 feet AMSL in the southeastern portion of the site. The southern portion of the site contains a steep north-facing slope, while the central portion of the site contains Buena Vista Creek. The eastern portion of the creek within the site in both the cities of Oceanside and Carlsbad contains a waterfall known as El Salto Falls.

The 4.1-acre portion of the project site in Oceanside has General Plan and zoning designations of Light Industrial (IL) and Open Space (OS). The portion of the site located in Carlsbad has General Plan designations of Residential Low-Medium Density (RLM) and Open Space (OS) and is zoned Industrial (M) and One Family Residential (R-1-10000).

The quarry property consisted of a total of 162.2 acres, with 62.1 acres located within the City of Oceanside and 100.1 within the City of Carlsbad. In compliance with the State Surface Mining and Reclamation Act of 1975 (SMARA), the City of Oceanside adopted a mining ordinance in 1986 (Ordinance 88-32) and the first Reclamation Plan (RMA-2-88) for the South Coast Materials Quarry was adopted in September 1991 by the State Mining and Geology Board. The City of Oceanside is the lead agency for approval of subsequent reclamation plans for the entire site because the City of Carlsbad does not have a local reclamation ordinance and recognizes the City of Oceanside as the state-designated lead agency for the purpose of reclamation under SMARA.

A hard rock quarry was operated at this 162.2-acre site in both the cities of Oceanside and Carlsbad between 1961 and 1995, first by the South Coast Material Company and since 1991 by Hanson Aggregates. The on-site operations included quarrying of hard rock material, manufacturing of asphalt and concrete products, including a recycling operation, and site reclamation work. Site activities in the City of Carlsbad have operated under a Conditional Use Permit (CUP #9) approved in 1961. Beginning in 1977, the quarry operated under City of Oceanside CUP C-2-77. Following approval of the reclamation plan in 1991, the City of Oceanside approved CUP-9-92 to allow quarrying operations to continue until 1995. All mining operations are now complete and the recycle operation is the only ongoing use.

In 2001, the City of Oceanside approved the Quarry Creek project, which included an amended reclamation plan for the Former South Coast Materials Company quarry, construction of the Quarry Creek Shopping Center, and widening of College Boulevard. The amended reclamation plan included a provision to leave Buena Vista Creek in its current alignment as opposed to moving it to the north as shown in the 1991 reclamation plan.

**Project Description:** As part of the 2001 reclamation plan approval by the City of Oceanside, the owner was directed to retain the current alignment of Buena Vista Creek, rather than align it to the north as approved in the original plan. This amendment is to facilitate that direction and clarify how this will be accomplished and the precise area and configuration for the remaining areas of the quarry to be reclaimed. The draft environmental impact report (EIR) for the former South Coast Quarry Amended

Reclamation Plan evaluated the proposed project plus 4 alternatives. After extensive review of the alternatives by the public and Wildlife Agency staff, it was clear that Alternative 3 was preferred, although some further changes were suggested. Refined Alternative 3 was developed based on those comments, and chosen as the preferred project alternative. A description of Refined Alternative 3 is provided below.

### Current Amended Reclamation Plan

The current reclamation plan amendment (Refined Alternative 3 in the Final EIR) further modifies the 1991 and amended 2001 Reclamation Plans to address the retention of Buena Vista Creek in its current alignment, design features for the creek restoration, and associated grading of adjacent areas to complete the remaining reclamation. The property is designated in the City of Oceanside and City of Carlsbad General Plan and Zoning for both urban types of uses and open space conservation of biologically sensitive areas. The reclamation work is designed to leave the site in a safe, usable condition that is readily adaptable for future designated land uses as required by the SMARA and City of Oceanside Mining Ordinance.

The Reclamation Plan includes the boundary and topography of the site, the location of the creek in its current alignment, roads, and utility facilities. The Plan shows the phases used to describe the reclamation of the property, but not necessarily a scheduling sequence. The various phases are as follows:

Phase 1 – South Wall – This phase includes the south wall or large vegetated manufactured slope along the southern edge of the quarry. This slope was reclaimed and includes revegetation with a variety of native and ornamental plantings.

Phase 2 – Oceanside Quarry Areas – Phase 2 (2A, and 2B) includes the quarry areas within the City of Oceanside. Buena Vista Creek divides this phase - Phase 2A located south of the creek was reclaimed in 2002. This area was sold and developed with the Quarry Creek Shopping Center. Phase 2B is an approximately 4-acre parcel located north of the creek and south of Haymar Drive. This area was partially graded under the 2001 Reclamation Plan and revised grades are included as part of this current amendment.

Phase 3 – Buena Vista Creek – Phase 3 consists of the entire Buena Vista Creek channel area in Carlsbad through the project site. A northerly realignment of the creek was approved in the 1991 Reclamation Plan. Due to input from the Wildlife Agencies and public, the Oceanside City Council in 2001, approved an amendment to the Reclamation Plan requiring Buena Vista Creek to be kept in its current alignment. The revised channel design for the creek is shown as part of this current amendment.

Phase 4 – Carlsbad Quarry Areas – Phase 4 consists of the balance of the quarry area both north and south of Buena Vista Creek within the City of Carlsbad. This phase proposes a reconfiguration of land to the north of the existing channel that was previously part of the channel realignment.

## Changes in the Proposed Finish Elevations

The proposed amendment includes a reconfiguration of the finished ground surface within the remaining reclamation areas, including Phases 2B in Oceanside and 3 and 4 in Carlsbad to accommodate changes associated with the Buena Vista Creek channel design. The original Reclamation Plan showed a realignment of Buena Vista Creek to the northerly edge of the site, with a large graded pad between the south wall slopes and reconfigured creek location. That area was shown to be sheet graded with elevations ranging from approximately 130 to 100 feet above mean sea level (AMSL).

The amended plan would have proposed creek channel elevations that range from 71 to 100 feet above mean sea level (AMSL). South of the creek, pad elevations would range from approximately 104 to 114 feet AMSL, with the area at the southeast corner from 132 to 140 feet AMSL. The areas north of the creek would range from 100 to 116 feet AMSL with slopes up to 150 feet AMSL. Grading quantities for the proposed amendment will require approximately 274,000 cubic yards of balanced cut and fill.

## Buena Vista Creek Design

Buena Vista Creek through the project site descends at a relatively steep rate through a degraded incised channel as it bisects the project site. The proposed Buena Vista Creek channel cross section will be widened from its current condition, which currently is an average bottom width of approximately 5-25 feet and a bank to bank width that ranges from 80-110 feet. The proposed design will widen the creek to include a 150-foot wide bottom, overbank terraces on both sides of the channel expanding the width to approximately 194 feet, and 2.5:1 side slopes with an overall bank to bank width of approximately 300 feet. A thalweg (the line defining the lowest points along the length of a river or creek bed) will be established in the channel bed with a gentle curvature. The channel will be less than a 0.2 percent longitudinal gradient, using a series of drop structures and pools created by riprap of varying sizes, to prevent erosion, but allow for sufficient scouring to maintain a dynamic riparian system that is close to the natural condition of a stream.

Seven rock drop structures ranging from one to three feet in height will be constructed at irregular intervals along the widened channel. Each structure will extend across the channel bottom and up the adjacent banks to at least one foot above the 100-year flood water surface elevations. The structures will form a stepped channel bed profile that will allow the 100-year flood flow velocities to be maintained below an erosive threshold. The locations and heights of each structure vary and were selected to allow portions of the existing channel bed to remain undisturbed. The drop structures will be constructed with rocks from the project site (to the extent feasible) of varying gradation including emergent boulders in order to create a channel with a step-pool-step profile.

The existing southern willow scrub and natural stream channel above El Salto Falls will remain in its current state. Portions of the existing riparian vegetation within the degraded channel through the project site will also remain. The drop structures will be planted with willows and riparian vegetation will be planted within the channel and will naturally allow the water course to form and adjust its flow and gradient.

### Open Space Easements and Planning Buffers

Certain habitats within the reclamation property would be retained or created/revegetated, and placed in permanent open space easements. These areas include the area around El Salto Falls, the Buena Vista Creek improvements (to the top of the channel slopes), the pond area in the western portion of the site and existing Buena Vista Creek in the northwestern portion of the site. Based on input from the Wildlife Agencies, the buffer design from the new creek habitat will have an overall average width of 100 feet from the bottom of the widened creek channel as a biological buffer, along with an additional 10 feet as a future planning buffer, so the total buffer width ultimately will total 110 feet from the bottom of the widened creek channel.

In conjunction with the Reclamation Plan, there will be a conservation easement placed over the creek areas, which will include the full 100-foot biological buffer. Upland creation vegetation will be established within the biological buffer only to the top of the channel side slopes during reclamation. The width varies based on the channel slope configuration and averages approximately 80 feet. The balance of the biological buffer (extending beyond the top of the channel side slopes), to achieve the full 100 feet from the bottom of the widened creek channel on each side, will be revegetated in conjunction with any future end use and upon any final grading for such future end use, and will be assured through the conservation easement requirements. The future 10-foot buffer area and any specific restrictions on uses within that area (i.e. trails, parking, etc.) are anticipated to be established as part of future use proposals as they could vary depending on the ultimate adjacent uses.

### Infrastructure Improvements and Accommodation

No development is proposed as part of the amended Reclamation Plan. However, there are certain infrastructure improvements that are needed for any future use of the property. Current access to the property is from Haymar Drive, and access for future development may also be provided from Haymar Drive. The future extension of Marron Road is shown on the City of Carlsbad Circulation Element across the project site, which could provide primary access for future development. The site grading will accommodate a short access ramp extension from the existing terminus of Marron Road into the site to provide interim fire and emergency access to the property areas south of the creek as these areas will not be accessible from Haymar Drive after creek restoration is commenced. No roadway alignments are being determined or fixed as part of the amended Reclamation Plan and

will be evaluated at the time of future development. The proposed reclamation grading could accommodate future street construction in the area between the creek and south slope, and the proposed plan does not preclude meeting City of Carlsbad criteria for design and alignment of the future streets.

The storm drain outlets and riprap areas at Buena Vista Creek are sized for ultimate conditions so they do not have to be reconstructed after revegetation in the creek is installed and established. A sewer line is likely to be needed for any future use at the site; however, the location for any future line has not been determined. It is unknown whether and when any new sewer line might be constructed on the south side of the creek, therefore, a provision to access the existing sewer line on the north side of the creek has been incorporated into the Reclamation Plan. No new sewer line will be installed, but placement of a sleeve underneath a drop structure is part of the Reclamation to accommodate a future sewer connection for the pad area south of the creek, in the event such a crossing is needed.

#### Required Local, State, and Federal Discretionary Actions

The following discretionary actions are required for implementation of the amended Reclamation Plan:

- Amended Reclamation Plan approval and Subsequent Environmental Impact Report certification – City of Oceanside
- Federal Clean Water Act Section 404 Permit – U.S. Army Corps of Engineers
- Federal Clean Water Act Section 401 Certification – Regional Water Quality Control Board
- Federal Endangered Species Act Section 10(a) Permit – U.S. Fish and Wildlife Service
- California Fish and Game Code Section 1602 Streambed Alteration Agreement – California Department of Fish and Game
- Floodplain Special Use Permit – City of Carlsbad
- Hillside Development Permit – City of Carlsbad
- Habitat Management Plan (HMP) Permit – City of Carlsbad

The project is subject to the following local and state ordinances and policies:

1. Zoning Ordinance (City of Oceanside and City of Carlsbad)
2. General Plan (City of Oceanside and City of Carlsbad)
3. City of Carlsbad Habitat Management Plan and City of Oceanside Draft Subarea Plan
4. California Environmental Quality Act (CEQA)
5. City of Oceanside Reclamation Ordinance
6. State of California Surface Mining and Reclamation Act (SMARA)

## **ANALYSIS**

### **KEY ISSUES**

1. *Does the proposed project comply with all local, state, and federal mining and geotechnical regulations?*

The proposed reclamation amendment is subject to a number of regulatory requirements related to potential geology/soil/mining issues. A summary of these requirements is presented below.

#### **California Seismic Hazards Mapping Act**

The California Seismic Hazards Mapping Act provides a statewide seismic hazard mapping and technical advisory program to assist local governments in protecting health and safety relative to seismic hazards. The act provides direction and funding for the State Geologist to compile seismic hazard maps and to make them available to local governments. These requirements are implemented on a local level through local general plans such as the City of Carlsbad (1994) and City of Oceanside (1975) General Plan Public Safety Elements. These general plan elements identify goals and policies related to geologic/seismic safety and to conduct an appropriate level of geotechnical analysis for proposed developments.

A Geotechnical Investigation was prepared for the proposed project by GEOCON Inc. (2007 with updates through September 2009). This report concludes that "No soil or geologic conditions were encountered that would preclude planned grading to reclaim the site in accordance with the alternative amended reclamation plans." However, the report also found that there are potentially significant adverse impacts related to soil settlement concerns in alluvial materials near Buena Vista Creek and potential loss of or damage to sensitive paleontological resources (fossils). The report found that the Santiago Formation underlies portions of the site and has the potential to contain fossil remains. The report also identifies the following environmental design measures to address potential geologic or soil conditions and potential for paleontological resources that could occur or be encountered during project implementation:

- Attendance at a pre-construction meeting by the project grading contractor, civil engineer, and geotechnical engineer to discuss grading plans and any special conditions/requirements;
- Review of final grading and project plans by the project geotechnical engineer to ensure compatibility with geotechnical conclusions, and completion of additional analysis, if required;
- Review/testing of earthwork activities by the project geotechnical engineer; and
- Conformance with identified geotechnical criteria, regulatory requirements, and industry standards for project design and construction.

- To address the soil settlement potential impact a mitigation measure has been added that requires that a settlement monument be installed near the completion of project grading to monitor and correct any settlement issues;
- A requirement to have a paleontologist on-site during grading operations to monitor for potential paleontological resources (fossils).

### State of California Surface Mining and Reclamation Act (SMARA)

Quarry operations in California are subject to the State of California Surface Mining and Reclamation Act, as administered by the State Mining and Geology Board. The original Reclamation Plan for this site was prepared in accordance with the City of Oceanside Reclamation Ordinance (86-32) and ultimately approved by the State Mining and Geology Board in September, 1991. The last amendment of the Reclamation Plan was in 2001, in accordance with the City of Oceanside's updated Reclamation Ordinance (99-07). The City of Carlsbad does not have a local reclamation ordinance, and recognizes the City of Oceanside as the state-designated lead agency for purposes of reclamation under SMARA.

Reclamation has been completed for portions of the original quarry property adjacent to College Boulevard in the City of Oceanside, which have been sold and developed with commercial uses and permanent slope open space. The amended Reclamation Plan has been prepared in compliance with SMARA and is intended to achieve the following goals:

- Reclaim the remaining unreclaimed 104.2 acres of the site to a safe, usable condition that is readily adaptable for future land uses in accordance with SMARA.
- Retain the existing Buena Vista Creek alignment through the site, preserve the El Salto Falls, and enhance the habitat values of the creek, while meeting requirements for control of erosion and sedimentation, and accommodating current hydrological conditions of the creek.
- Establish time frames, procedures, and performance standards for measuring the completion of reclamation activities.
- Achieve complete and final reclamation of the site as required by SMARA, and eliminate SMARA-related barriers to alternative land uses.

### 2. *Is the proposed project consistent with all local, state, and federal environmental laws and regulations?*

The Final Subsequent Environmental Impact Report (Final EIR) for the Former South Coast Quarry Amended Reclamation Plan project has been prepared in conformance with the California Environmental Quality Act (CEQA). The Draft EIR for the project acknowledged that either Alternative 1B (Reduced Footprint with Balanced Grading) or Alternative 3 (Modified Structural Creek Alternative within Reduced Footprint) would be acceptable to the project applicant as the preferred alternatives to the Draft EIR proposed project, and that they were prepared to implement either alternative in place of the project included in the draft Amended Reclamation Plan. Based on input received during response to comments on the Draft EIR (September 22 through November 21, 2008), it

became evident that Alternative 3 was going to be the preferred alternative. Alternative 3 has been further modified or refined for inclusion in the Final EIR as “Refined Alternative 3” based on comments by and meetings with the U.S. Fish and Wildlife Service and California Department of Fish and Game, U.S. Army Corps of Engineers, City of Carlsbad, and City of Oceanside and is being carried forward as the preferred alternative or proposed project in the Final EIR.

Several environmental issues were found to have the potential for significant adverse effects and were evaluated in detail in the Draft EIR. The following is a summary of key environmental issues analyzed for Refined Alternative 3 (proposed project):

### Land Use and Planning

Phase 2B of the Reclamation Plan is within the City of Oceanside (4.1 acres), and proposed activities within this area are required to comply with the City’s General Plan and Zoning Ordinance. The proposed project would be consistent with the policies in the General Plan with the exception of Policy 3.0B of the Land Use Element, which requires the identification, evaluation, and mitigation of significant impacts to the environment. All impacts would be mitigated to below a level of significance with the exception of impacts associated with air quality. The proposed project would result in significant and unmitigable temporary impacts associated with oxides of nitrogen (NOx) emissions during grading operations associated with reclamation of the property. Therefore, the project would not conform to Policy 3.0B of the Land Use Element. The property is in conformance with the City of Oceanside Zoning Ordinance. Additional CEQA analysis would be required prior to any future development of the Oceanside site.

The proposed Reclamation Plan is in conformance with the City of Carlsbad General Plan. Phases 3 and 4 areas are zoned for Industrial and Single-Family Residential uses in the City of Carlsbad Zoning Ordinance. Future land uses would need to conform with the zoning designations or would require a rezone. Additional CEQA analysis would be required prior to any future development of the site.

### Habitat Plans

The proposed project conforms to the objectives and guidelines of the Oceanside Draft Subarea Plan. There would be no net loss of wetlands and impacts to wetlands would be mitigated by creation at a minimum 1:1 ratio, as well as preservation of additional wetland habitat on-site. As stated above, a 100-foot biological buffer would be provided along the restored portions of Buena Vista Creek as well as adjacent to El Salto Falls.

The proposed project is also subject to the City of Carlsbad Habitat Management Plan (HMP). The HMP hardline boundary was based on the 1991 Reclamation Plan and therefore does not fully align with the footprint of Refined Alternative 3. However, this

alternative would provide equivalent or greater acreage of habitat areas within the site, and is considered consistent with the Carlsbad HMP because it meets the goals and objectives of the HMP for this portion of the plan. The proposed change in the HMP hardline boundary is allowed through an equivalency finding and does not require a formal plan amendment.

### Hydrology and Water Quality

Potential hydrology and water quality issues for Refined Alternative 3 (proposed project) were addressed in a revised Drainage Report included in the Final EIR (Chang Consultants 2009). Implementation of the proposed project would not result in any significant hydrology or water quality impacts based on the following conclusions in the report: (1) overall drainage patterns within and from the site would not change; (2) Buena Vista Creek would be maintained essentially in its existing location; (3) the proposed modifications to the creek configuration would more closely emulate the historic (and natural) condition of the channel within the project site; (4) all of the proposed drainage facilities would help to return the creek channel to a more natural condition protecting the on-site channel from erosion and stream degradation; and (5) the existing El Salto Falls structure would not be physically impacted by the proposed modifications, and no significant change in associated flow volumes or velocities would result.

Implementation of the proposed project would not result in an increase in post-development runoff volumes. The project would also include the installation of riprap energy dissipation structures at all applicable drainage outlets. All 100-year storm flows would be contained within the proposed channel in all on-site areas located upstream of the proposed drop structures, with no associated floodway impacts or hazards to offsite properties.

### Biological Resources

A total of 13 vegetation communities occur on-site, including southern cottonwood-willow riparian forest, southern willow scrub, freshwater marsh, riparian woodland, non-vegetated channel, open water, Diegan coastal sage scrub, southern mixed chaparral, non-native grassland, eucalyptus woodland, non-native vegetation, disturbed habitat, and developed land. Sensitive species within the site areas subject to reclamation activities onsite include two California gnatcatchers pairs in the coastal sage scrub areas and the observation of one yellow warbler. No sensitive plant species occur within the site areas subject to reclamation. Additional sensitive plant and animal species are found within other areas of the property that are not being disturbed by the reclamation work. Project implementation would result in significant impacts to southern cottonwood-willow riparian forest, southern willow scrub, freshwater marsh, Diegan coastal sage scrub, and disturbed habitat. Mitigation for these impacts would be onsite in the form of preservation/restoration and creation of these habitats.

## Cultural Resources

No significant direct impacts to archaeological resources, traditional cultural properties or cultural landscapes, including El Salto Falls, a designated sacred site will occur with project implementation. There remains a potential for subsurface cultural resources onsite, and therefore, an archaeological and Native American monitor will be required during all subsurface grading operations.

## Aesthetics

The site is not located in the viewshed of a designated scenic roadway, but nonetheless is visible from SR 78 and several surrounding private properties. The proposed reclamation project would avoid grading the undisturbed area located directly south of Haymar Drive and west of the existing mined area with Diegan coastal sage scrub and non-native grassland habitat. Buena Vista Creek and the associated El Salto Falls are considered significant visual resources. The proposed reclamation project proposes to enhance, reduce erosion, remove exotic vegetation, and retain the natural alignment of the creek through these sensitive areas.

## Traffic and Circulation

The proposed project would not require import or export of fill dirt. Therefore, there would not be any significant construction-related traffic associated with the project. Upon completion of reclamation, minimal maintenance traffic would be required at the site. Future land use development on the site will need to be analyzed in subsequent CEQA/environmental and traffic reports at the time any future development applications are processed.

## Air Quality

The reclamation activities associated with the proposed project could potentially lead to a temporary air quality impact associated with grading and heavy equipment usage during the reclamation process. Air emissions of nitrogen oxides (NO<sub>x</sub>) from heavy equipment and trucks would be above the daily significance thresholds, but would be less than the annual significance thresholds. As a result, emissions of NO<sub>x</sub> would result in a significant and unmitigable, but temporary impact to ambient air quality in the surrounding area. Reclamation equipment and vehicles would have the potential to emit greenhouse gases such as carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), and methane (CH<sub>4</sub>) that arise due to combustion of fossil fuels.

## Hazards and Hazardous Materials

On-site remediation at the site has been ongoing since the mid-1980s, including both soil and groundwater remediation resulting from some older leaky fuel tanks. The remediation effort is not part of the amended Reclamation Plan and is planned to be completed prior to commencement of reclamation activities. Most of the soil material has been remediated to

a “clean” condition and can be used anywhere within the site. Approximately 13,500 cubic yards of material is still considered “impacted” and is classified as restricted use soil. The 13,500 cubic yards of remaining impacted soil would be placed under slope areas or future roadways in accordance with San Diego Regional Water Quality Control Board and County Department of Health requirements or hauled offsite to a suitable disposal site prior to the commencement of reclamation activities.

## **ENVIRONMENTAL DETERMINATION**

A Subsequent Environmental Impact Report (EIR) has been prepared for the proposed project, which is intended to inform public decision makers, responsible and interested agencies, and the general public of potential environmental effects of the proposed project.

A number of issues were identified as being potentially significant, and are therefore addressed in the EIR. These issues are:

Land Use	Noise
Geology/Soils/Paleontology	Air Quality
Hydrology/Water Quality	Traffic and Circulation
Biological Resources	Aesthetics
Cultural Resources	Hazards

Of the 10 issues addressed in the EIR, all but short-term temporary air quality and greenhouse gas (GHG) emissions during Reclamation Plan implementation can be mitigated to below a level of significance. The Planning Commission will need to adopt findings and a statement of overriding stating (attached) that the project benefits (Buena Vista Creek restoration, improved water quality, permanent preservation of El Salto Falls and the creek, etc.) will outweigh the unmitigable impact described above.

## **PUBLIC NOTIFICATION**

Pursuant to Article 41 of the Oceanside Zoning Ordinance, Legal notice was published in the North County Times and notices were sent to property owners of record/and occupants within a 1500-foot radius of the subject property, to individuals/organizations requesting notification, and to the applicant.

## **SUMMARY**

In summary, staff finds that the Reclamation Plan is consistent with the requirements of the Zoning Ordinance and the land use policies of the General Plan for both Carlsbad and Oceanside. The project also meets all requirements of the California Surface Mining and

Reclamation Act (SMARA) and the Oceanside Reclamation Ordinance. Staff is recommending that Refined Alternative 3 be adopted. As such, staff recommends that the Planning Commission approve the project. The Commission's action should be:

- Certify the Subsequent Environmental Impact Report (EIR) and associated findings, statement of overriding considerations, and mitigation monitoring and reporting program by adopting Planning Commission Resolution No. 2010-P15.
- Approve Reclamation Plan Amendment (RMA-1-00, Revision 05) by adopting Planning Commission Resolution No. 2010-P16 with findings and conditions of approval attached herein.

PREPARED AND SUBMITTED BY:

  
Jerry Hittelman  
City Planner

JH//fil

Attachments:

1. Planning Commission Resolution No. 2010-P15
2. Planning Commission Resolution No. 2010-P16
3. Public correspondence/letters received after close of EIR public review

1 PLANNING COMMISSION  
2 RESOLUTION NO. 2010-P15

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE  
4 CITY OF OCEANSIDE, CALIFORNIA CERTIFYING THE  
5 FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT  
FOR THE FORMER SOUTH COAST QUARRY AMENDED  
RECLAMATION PLAN PROJECT ON CERTAIN REAL  
PROPERTY IN THE CITY OF OCEANSIDE

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6 APPLICATION NO: RMA-1-01, REVISION 05  
7 APPLICANT: Hanson Aggregates Pacific Southwest, Inc.  
8 LOCATION: South of Highway 78, west of College Boulevard, on site of former  
Rock Quarry

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9 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
10 RESOLVE AS FOLLOWS:

11 WHEREAS, an Environmental Impact Report was prepared and circulated for public  
12 and agency review and proper notification was given in accordance with the California  
13 Environmental Quality Act; and

14 WHEREAS, the Planning Commission, after giving the required notice, did on the 10th  
15 day of May 2010, conduct a duly advertised public hearing on the content of the Final Subsequent  
16 Environmental Impact Report; and

17 WHEREAS, studies and investigations made by this Commission and in its behalf reveal  
18 the following facts:

19 For the Final Environmental Impact Report:

- 20 1. The Final Subsequent Environmental Impact Report was completed in compliance with  
21 the provisions of the California Environmental Quality Act (CEQA).
- 22 2. There are certain significant environmental effects detailed in the Environmental Impact  
23 Report which have been avoided or substantially lessened by the establishment of  
24 measures which are detailed in Exhibit "A" Environmental Findings and Statement of  
Overriding Considerations for the Former South Coast Quarry Amended Reclamation  
Plan Project.
3. The Final Subsequent Environmental Impact Report and Mitigation and Monitoring and  
Reporting Programs for the project (included in the Final EIR) and were presented to the  
Planning Commission, and the Planning Commission reviewed and considered the  
information contained in these documents prior to making a decision on the revised

1 reclamation plan. The Final Environmental Impact Report and Mitigation and  
2 Monitoring and Reporting Program for the amended reclamation plan have been  
3 determined to be accurate and adequate documents, which reflect the independent  
4 judgment of the City.

5 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
6 certify the Final Subsequent Environmental Impact Report for the former South Coast Quarry  
7 Amended Reclamation Plan Project RMA-1-00 Revision 05, subject to the following  
8 recommendations and conditions:

- 9 1. Pursuant to Public resources Code Section 21081.6 the Planning Commission adopts the  
10 Mitigation Monitoring and Reporting Program (MMRP) for the project and finds and  
11 determines that said programs are designed to ensure compliance with the mitigation  
12 measures during project implementation.
- 13 2. Notice is HEREBY GIVEN that the time within which judicial review must be sought on  
14 this decision is governed by the provisions of the California Environmental Quality Act.

15 PASSED AND ADOPTED Resolution No. 2010-P15 on May 10, 2010 by the  
16 following vote, to wit:

17 AYES:

18 NAYS:

19 ABSENT:

20 ABSTAIN:

21 \_\_\_\_\_  
22 Claudia Troisi, Chairperson  
23 Oceanside Planning Commission

24 ATTEST:

25 \_\_\_\_\_  
26 Jerry Hittleman, Secretary

27 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
28 this is a true and correct copy of Resolution No. 2010-P15.

29 Dated: May 10, 2010

**FINDINGS OF FACT**  
**FOR THE FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN**  
**FINAL ENVIRONMENTAL IMPACT REPORT**  
**(SCH No. 2005111124)**  
**April 2010**

**1. INTRODUCTION**

**1.1 Findings of Fact**

The California Environmental Quality Act, Public Resources Code Section 21000-21178 ("CEQA") and State CEQA Guidelines for Implementation of the California Environmental Quality Act, Cal. Code Regs. Title 14, Sections 15000-15387 ("CEQA Guidelines") are "intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (Cal. Pub. Res. Code Section 21002 (emphasis added).) CEQA's mandate and principles are implemented, in part, through the requirement that agencies adopt findings before approving projects for which EIRs are required. (See Pub. Res. Code Section 21081(a).) For each significant environmental effect identified in any EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions.

The first permissible finding is that "[c]hanges or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the final EIR." (CEQA Guidelines Section 15091 (a)(1).) The second permissible finding is that "[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency." (CEQA Guidelines Section 15091(a)(2).) The third potential conclusion is that "[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR." (CEQA Guidelines Section 15091(a)(3).) Section 21061.1 of CEQA defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." Section 15364 of the CEQA Guidelines adds another factor: "legal" considerations. See also Citizens of Goleta Valley v. Board of Supervisors ("Goleta II"), 52 Cal.3d 553, 565, 276 Cal.Rptr. 419 (1990).

The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (City of Del Mar v. City of San Diego, 133 Cal. App.3d 410, 417, 183 Cal.Rptr. 898 (1982).) "[F]easibility under CEQA encompasses 'desirability to the extent that desirability is based on a reasonable balancing of the relevant economic, social and technological factors.'" (Id.; see also Sequoyah Hills Homeowners Ass'n v. City of Oakland, 23 Cal.App.4th 704, 715, 29 Cal.Rptr.2d 182 (1993).)

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The City must therefore glean the meaning of these terms from the other contexts in which the terms are used. Section 21081 of CEQA, on

which CEQA Guidelines Section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which will substantially lessen the significant environmental effects of such projects.” (Pub. Res. Code Section 21002.)

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level. These interpretations are consistent with the holding in Laurel Hills Homeowners Ass’n v. City Council, 83 Cal.App.3d 515, 519-527, 147 Cal.Rptr. 842 (1978), in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question (e.g., the “loss of biological resources”) to a less than significant level. Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed],” these Findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level, or has simply been substantially lessened but remains significant.

The following Findings of Fact (“Findings”) are made relative to the conclusions of the Final Subsequent Environmental Impact Report for the Former South Coast Quarry Amended Reclamation Plan (SCH No. 200511124) (“FEIR”). As used herein, the term “Project” refers to the Refined Alternative 3 described in Section I (D) of the Final EIR.

## 1.2 Document Format

These Findings have been organized into the following sections:

- a) Section 1 provides an introduction to these Findings.
- b) Section 2 provides a summary of the Project and overview of the discretionary actions required for approval of the Project and a statement of the Project’s objectives.
- c) Section 3 provides a summary of public participation in the environmental review, an overview of the administrative record that has been developed for the Project, as well as findings regarding the Mitigation, Monitoring and Reporting Program (MMRP) and general findings regarding the Project and CEQA compliance.
- d) Section 4 sets forth findings regarding those environmental impacts which were determined during the notice of preparation period either not to be relevant to the Project or which were determined to clearly not manifest at levels which were deemed to be significant for consideration at the Project-specific level.
- e) Section 5 sets forth findings regarding significant or potentially significant environmental impacts identified in the Final EIR which the City has determined are either not significant or can be substantially lessened or reduced to a less-than-significant level through the implementation of mitigation measures included in the MMRP for the Project.

f) Section 6 sets forth findings regarding alternatives to the Project which were analyzed in the Final EIR. As further discussed herein, the Refined Alternative 3 was identified as being environmentally preferable to the project proposed in the Draft EIR, and is therefore being carried forward as the "Project". Other alternatives discussed in the Draft EIR were determined to have greater impacts or less desirable design features, and therefore were rejected by the City.

g) Section 7 sets forth the finding regarding growth inducing impacts.

## 2. PROJECT SUMMARY

### 2.1 Background

The hard rock quarry operated on the site between 1961 and 1995 by South Coast Material Company and its subsequent owners. Since 1991, the property has been owned and operated by Hanson Aggregates. The on-site operations associated with the quarry included three types of activities: 1) quarrying of the hard rock material from the site; 2) the manufacturing of asphalt and concrete products; and 3) site reclamation work. All mining on the site is complete. Quarry activities in the City of Carlsbad operated under a Conditional Use Permit (CUP #9) issued by the City in 1961 and this CUP is still in effect. Beginning in 1977, the quarry operated subject to the provisions of City of Oceanside Conditional Use Permit C-2-77. Following the adoption of a reclamation plan for this quarry in 1991, the City of Oceanside City Council granted CUP C-9-92 to continue quarrying operations which has since expired. The quarry operated under this permit until 1995.

Other on-site uses included a rock plant, a concrete batch plant and an asphalt products facility, along with concrete recycling, shop building, scale house and associated office areas. The rock plant and asphalt plant have been dismantled and removed from the site. The concrete batch plant was closed in March 2005 and dismantled in December 2005, with all plant remnants completely removed from the site by September 2006. The office building was demolished and removed from the site in June 2006. The recycling operation is continuing on site and is anticipated to remain in operation through completion of the reclamation grading. The termination of these uses and removal of the remaining shop building and scale house structures are included as part of the final phase of this Amended Reclamation Plan.

During removal of fuel tanks on the site in 1997, diesel and gasoline impacted soil was detected and an ongoing program of environmental investigation and remediation was begun by 1998. The source area excavation and current soil and groundwater remediation effort began in 2005. None of the remediation actions are a part of the proposed project but are being conducted under separate regulatory requirements. The site remediation activities are overseen by the San Diego County Department of Environmental Health (DEH) under the Local oversight Program, Case Number H02509-001, and are also subject to Regional Water Quality Control Board (Water Board) Order No. R9-2002-0342 (the "Water Board Order"). The remediation activities are not themselves discretionary actions subject to CEQA. It should be noted that the remediation activities will, and are required to, proceed under the DEH regulations and to comply with the Water Board Order irrespective of any action on the Reclamation Plan or the proposed project.

The original reclamation plan property consisted of a total of 162.2 acres, with 62.1 acres located within the current boundaries of the City of Oceanside and 100.1 acres within the City of Carlsbad.

In compliance with the Surface Mining and Reclamation Act of 1975 (SMARA), the first Reclamation Plan (RMA-2-88) for the South Coast Materials quarry site was adopted by the State Mining and Geology Board in September 1991. Under SMARA, all mining operations are required to have an adopted reclamation plan to reclaim the land to a usable condition that is readily adaptable to alternative land uses, and which is consistent with the local zoning and General Plan designation for the property. The City of Oceanside is the lead agency for approval of the reclamation plan for the entire mining site because the City adopted a mining ordinance in 1986 (ordinance 86-32) in compliance with SMARA. The City of Carlsbad does not have a local reclamation ordinance and recognizes the City of Oceanside as the state-designated lead agency for the purpose of reclamation under SMARA.

In 2001, a Final EIR (State Clearinghouse No. 2000041003) was certified for the Quarry Creek Project, which included an amended reclamation plan for the Former South Coast Materials Company quarry, construction and operation of the Quarry Creek Shopping Center, and the widening of College Boulevard. Within the Quarry Creek EIR, Phases 1 and 2A of the mine reclamation program (located within the City of Oceanside) were addressed at a project level. Phases 2B, 3 and 4 of the mine reclamation were addressed at a program level of detail within the Quarry Creek EIR and included all 100.1 acres of the mine property within the City of Carlsbad, as well as 4.1 acres within the City of Oceanside. Restoration of Buena Vista Creek was included within Phase 3. The Quarry Creek EIR addressed the realignment of Buena Vista Creek to the north within the mine property as approved in the 1991 Reclamation Plan and an alternative that would leave the creek in place. The City of Oceanside approved the 2001 Reclamation Plan with the condition that the creek be retained within in its current alignment, including the preservation of the remnants of the El Salto Falls. Phases 1 and 2A of the 2001 Reclamation Plan were approved and have been implemented.

Public circulation of the Draft Supplemental EIR (hereinafter referred to as "Draft EIR") occurred between September 22 and November 21, 2008. The Draft EIR acknowledged that either Alternative 1B (Reduced Footprint with Balanced Grading) or Alternative 3 (Modified Structural Creek Alternative within Reduced Footprint) would be acceptable to the project applicant as preferred alternatives to the Draft EIR proposed project, and that they are prepared to implement either alternative in place of the project included in the 2007 Amended Reclamation Plan. Based on the comments received during public circulation of the Draft EIR, it was evident that Alternative 3 was the preferred alternative. Nonetheless, Alternative 3 presented certain agencies with a number of concerns that were received in the written comments received on the Draft EIR. As a result, Alternative 3 has been further refined for inclusion in the Final EIR as "Refined Alternative 3" based on comments received from the Wildlife Agencies, the Corps and the City of Carlsbad and was carried forward as the preferred alternative in the Final EIR.

## **2.2 Project Description**

Refined Alternative 3 is similar to Draft EIR Alternative 3 (Modified Structural Creek Alternative within Reduced Footprint), but would include refinements to the graded area by avoiding all areas that were not previously disturbed by mining activities and to the Buena Vista Creek channel design. These refinements would result in the preservation of more of the existing on-site habitat and wetlands than the Draft EIR proposed project and alternatives analyzed in the Draft EIR. This alternative also has been refined to include additional bio-engineering techniques in the channel and

provide greater water quality treatment for runoff passing through the site and other refinements to the water quality features.

Proposed grades under Refined Alternative 3 would remain in a similar range of elevations across the site to the Draft EIR proposed project and alternatives. Final elevations of the graded area north of the creek would range from approximately 100 to 116 feet above mean sea level (AMSL) and the finished grade of the larger area south of the creek would range from approximately 104 to 114 feet AMSL. The smaller pad in the southeastern portion of the site would range in elevation from approximately 132 to 140 feet AMSL. Slopes within the Phase 2B area would range from approximately 110 to 150 feet AMSL. The channel's elevation would range from approximately 71 to 100 feet AMSL. Grading associated with Refined Alternative 3 would require approximately 274,000 cubic yards (cy) of cut material and 274,000 cy of fill, resulting in no need for soil import or export.

The on-site portion of Buena Vista Creek is currently highly degraded and is a relatively steep-sloped incised channel. The historic width of the channel within the project site was less than 100 feet in width (generally 50 to 80 feet). Refined Alternative 3 provides an overall channel width (bottom width and overbank terraces) of 194 feet. As with the Draft EIR proposed project and alternatives, Refined Alternative 3 would provide a wider creek channel compared to what has historically existed on the project site.

Under the Refined Alternative 3, the proposed Buena Vista Creek channel would include a 150-foot-wide bottom and 2.5:1 (horizontal to vertical) side slopes. In addition, overbank terraces would be added to both sides of the channel, resulting in an overall channel width of approximately 194 feet. Refined Alternative 3 proposes to grade the channel at less than a 0.2-percent longitudinal gradient to avoid erosive flow velocities. Refined Alternative 3 provides for a minimum of seven feet of freeboard in the proposed channel above the 100-year flow rates, which is well in excess of the standard one foot of freeboard typically required. A thalweg (the line defining the lowest points along the length of a river bed) would be established along the channel bed with a gentle curvature, and meandering benches would be constructed along the channel banks. The bench widths would vary along the length of the channel, but the total width of both benches (one on either side of the channel) at any given point would be 24 feet. The benches would be constructed approximately four feet above the channel bed to allow inundation during low to moderate storm events. The total width subject to inundation during these events is approximately 194 feet just above the benches. The total channel cross-section would include a low-flow channel, an expanded channel including the riparian zone, an overbank terrace, a transition zone and an upland zone.

Seven natural rock drop structures ranging from one to three feet in height would be constructed at irregular intervals along the channel. Each structure would extend across the channel bottom and up the adjacent banks to at least one foot above the 100-year water surface elevations. The structures would behave as rock riffles that form a stepped channel bed profile. The stepped profile would allow the 100-year flow velocities to be maintained below an erosive threshold throughout much of the proposed channel. The locations and heights of each structure vary and were selected to allow portions of the existing channel bed to remain undisturbed.

The drop structures would be constructed with rocks of varying gradation including emergent boulders in order to create a channel with step-pool-step profile. The step-pool-step would consist of

level reaches separated by the drop structures (step). The area immediately upstream of a step can contain a pool, which is sometimes referred to as a pool riffle. Pool riffles would be created upstream of some structures. The structures would be constructed with naturally occurring on-site rock to the extent available. The rocks would be of varying gradation and emergent boulders would be incorporated to mimic more naturally occurring rock riffles. A filter material would be placed under the structures to prevent piping and maintain stability. Grouting only would be used where necessary to maintain the integrity of the structures under high-flow events. The design would allow the creek to flow uninterrupted during normal- and low-flow periods.

Some portions of the channel both upstream and downstream of the rock riffles would experience erosive velocities during the 100-year design storm. In these areas, a buried riprap revetment would be constructed behind the channel bank. The revetment would contain the lateral erosion that can occur at a bank.

### **2.3 Statement of Project Objectives**

The overall objectives of the Amended Reclamation Plan include the following:

- Reclaim the remaining unreclaimed 104.2 acres of the site to a safe, usable condition that is readily adaptable for future land uses in accordance with SMARA.
- Retain the existing Buena Vista Creek alignment through the site, preserve the El Salto Falls, and enhance the habitat values of the creek, while meeting requirements for control of erosion and sedimentation, and accommodating current hydrological conditions of the creek.
- Establish time frames, procedures and performance standards for measuring the completion of reclamation activities.
- Achieve complete and final reclamation of the site as required by SMARA and eliminate SMARA-related barriers to alternative land uses.

## **3. PUBLIC PARTICIPATION AND RECORD OF PROCEEDINGS**

### **3.1 Public Input**

There have been numerous opportunities for public review and comment, including but not limited to the public forums set forth below:

EIR Notice of Preparation, November 21, 2005 – December 20, 2005

Public Scoping Meeting on January 31, 2006

Additional Public Meeting on March 22, 2006

Draft EIR Public Review, September 22, 2008 – November 21, 2008

### **3.2 Record of Proceedings**

- The Notice of Preparation and all other public notices issued by the City in conjunction with the Project;

- The Draft EIR;
- The Final EIR;
- All written comments and verbal public testimony presented during the public comment period on the Draft EIR;
- The MMRP;
- All findings, ordinances, and resolutions adopted by the City in connection with the Project, and all documents incorporated by reference therein;
- All final reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's actions on the Project;
- All documents submitted to the City by other public agencies or members of the public in connection with the Project;
- Minutes and/or verbatim transcripts of all public information sessions, public meetings, and public hearings held by the City in connection with the Project;
- Any documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings;
- Matters of common knowledge to the City, including, but not limited to federal, state, and local laws and regulations;
- The City's General Plan, Municipal Code, and Draft Subarea Plan/Habitat Conservation Plan ("HCP");
- Any documents expressly cited in these Findings, in addition to those cited above; and
- Any other materials required to be in the record of proceedings by Section 21167.6 (e) of CEQA.

The custodian of the documents comprising the record of proceedings is the City Clerk, whose office is located at 300 North Coast Highway, Oceanside, CA 92054. At all relevant times, all these documents, which constitute the record of proceedings upon which the City's decision is based, have been available upon request at the offices of the City.

The City has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the City or City Staff as part of the City files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of two categories. First, many of them reflect prior planning or legislative decisions of which the City was aware in approving the Project. (See City of Santa Cruz v. Local Agency Formation Commission, 76 Cal.App.3d 381, 391-392, 142 Cal.Rptr. 873 (1978);

Dominey v. Department of Personnel Administration, 205 Cal.App.3d 729, 738, n.6, 252 Cal.Rptr. 620 (1988).) Second, other of the documents influenced the expert advice provided to City Staff or consultants, who then provided advice to the City. For that reason, such documents form part of the underlying factual basis for the City's decisions relating to the adoption of the Project. (See Pub. Res. Code Section 21 167.6(e)(10); Browning-Ferris Industries v. City Council of City of San Jose, 181 Cal.App.3d 852, 866, 226 Cal.Rptr. 575 (1986); Stanislaus Audubon Society. Inc. v. County of Stanislaus, 33 Cal.App.4th 144, 153, 155, 39 Cal.Rptr.2d 54 (1985).)

The Final EIR was completed in compliance with CEQA, and reflects the City's independent judgment. The City believes that its decision on the Project is one which must be made after a hearing required by law at which evidence is required and discretion in the determination of facts is vested in the City. As a result, any judicial review of the City's decision will be governed by Section 21168 of CEQA. Regardless of the standard of review that is applicable, the City has considered evidence and arguments presented to the City prior to or at the public hearings on this matter. In determining whether the Project has a significant effect on the environment, and in adopting Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21081.5 and 21082.2.

### **3.3 Mitigation Monitoring and Reporting Program**

CEQA requires the Lead Agency approving a project adopt a MMRP for the changes to the project that it has adopted or made a condition of project approval in order to ensure compliance with project implementation. A MMRP has been defined and serves that function for the Final EIR. The MMRP designates responsibility and anticipated timing for the implementation of mitigation. The City will serve as the overall MMRP Coordinator. A MMRP has been prepared for the Project and has been adopted concurrently with these Findings. (See Pub. Res. Code Section 21081.6(a)(1).) The City will use the MMRP to track compliance with all mitigation measures.

### **3.4 General Findings**

The City hereby finds as follows:

- a) The foregoing statements are true and correct;
- b) The City is the "Lead Agency" for the Project evaluated in the Final EIR and independently reviewed and analyzed the Draft EIR and Final EIR for the Project;
- c) The Notice of Preparation of the Draft EIR was circulated for public review between November 21, 2005 and December 20, 2005. It requested that responsible agencies respond as to the scope and content of the environmental information germane to that agency's specific responsibilities;
- d) The public review period for the Draft EIR was between September 22, 2008 and November 21, 2008. The Draft EIR and appendices were available for public review during that time. A Notice of Completion along with 15 copies of the Draft EIR were sent to the State Clearinghouse, and notices of availability of the Draft EIR were published in the local newspaper. The Draft EIR was available for review at the City of Oceanside Planning Department and at the City libraries;

e) The Draft EIR and Final EIR were completed in compliance with CEQA;

f) The Final EIR reflects the City's independent judgment;

g) The City evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the City prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides adequate, good faith and reasoned responses to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information to the Draft EIR regarding environmental impacts. The Lead Agency has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the Final EIR;

h) The City finds that the Final EIR provides objective information to assist the decision-makers and the public at large in their consideration of the environmental consequences of the Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the review period and responses to comments made during the public review period in compliance with CEQA;

i) The Final EIR evaluated the following direct and cumulative impacts: Land Use and Planning, Soils, Geology and Paleontology, Hydrology and Water Quality, Biological Resources, Cultural Resources, Aesthetics, Traffic and Circulation, Noise, Air Quality and Hazards/Hazardous Materials. All of the significant impacts of the Project were identified in the Final EIR.

j) CEQA requires the Lead Agency approving a project to adopt a MMRP for the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance with project implementation. The MMRP included in the Final EIR as certified by the City serves that function. The MMRP includes all of the mitigation measures identified in the Final EIR and has been designed to ensure compliance during implementation of the proposed development. In accordance with CEQA, the MMRP provides the measures to ensure that the mitigation measures are fully enforceable;

k) The MMRP designates responsibility and anticipated timing for the implementation of mitigation; the City will serve as the overall MMRP Coordinator in conjunction with the City of Carlsbad (where relevant).

l) In determining whether the Project may have a significant impact on the environment, and in adopting Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21081.5 and 21082.2;

m) The impacts of the proposed Project have been analyzed to the extent feasible at the time of certification of the Final EIR.

n) Copies of all the documents incorporated by reference in the Final EIR have been available upon request at all times at the offices of the City Clerk and/or Planning Department, the custodians of record for such documents or other materials;

o) Textual refinements and errata were compiled and presented to the decision-makers for review and consideration. The City staff has made every effort to notify the decision-makers and the interested public/agencies of each textual change in the various documents associated with the review of the Project. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents will contain errors and will require clarifications and corrections. Second, textual clarifications were necessitated in order to describe refinements suggested as part of the public participation process;

p) The responses to the comments on the Draft EIR, which are contained in the Final EIR, clarify and amplify the analysis in the Draft EIR.

q) Having reviewed the information contained in the Draft EIR and Final EIR and in the administrative record as a whole, as well as the requirements of CEQA and the State CEQA Guidelines regarding recirculating of Draft EIRs, and having analyzed the changes in the Draft EIR which have occurred since the close of the public review period, the City finds that there is no new significant information regarding adverse environmental impacts of the Project in the Final EIR and finds that recirculating of the Draft EIR is not required; and

r) Having received, reviewed, and considered all information and documents in the Final EIR, as well as all other information in the record of proceedings on this matter, the following Findings are hereby adopted by the City in its capacity as the CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the Project.

#### **4. Environmental Issues Determined Not to be Potentially Affected by the Project**

Based on the responses to the Project's Notice of Preparation, the following environmental issues were determined by the City to be either inapplicable to the Project based upon the nature of the proposed development and/or the absence of any potential impact related to that issue or because the issue was potentially impacted to a degree deemed to be less than significant, and therefore did not warrant further consideration in the Final EIR other than as set forth in Section III of the Final EIR. No substantial evidence has been presented to or identified by the City which would modify or otherwise alter the City's less-than-significant determination for each of the following environmental issues: (1) Agricultural Resources, (2) Mineral Resources, (3) Population/Housing, (4) Public Services, (5) Utilities and Service Systems, and (6) Recreation.

#### **5. Findings Regarding Potentially Significant Environmental Effects Which Are Determined Not to be Significant or Which Can Be Substantially Lessened or Avoided Through Feasible Mitigation Measures.**

The City has determined, based on the threshold criteria for significance presented in the Final EIR, that the following environmental effects of the Project will not manifest at levels which have been determined by the City to be significant or, if significant, feasible mitigation measures identified in the Final EIR and adopted by the City as conditions of approval will result in the avoidance or substantial reduction of those effects.

Some of the environmental effects related to the Project were found to be less than significant, including hydrology and water quality; aesthetics; traffic and circulation; and hazards/hazardous

materials. Effects related to soils, geology and paleontology; biological resources; cultural resources; noise; and air quality (PM<sub>10</sub> construction emission impacts only), while potentially significant, are mitigated to below a level of significance.

### 5.1 Soils, Geology and Paleontology

**Environmental Impacts:** The Project could potentially result in significant adverse impacts related to settlement concerns in alluvial materials near the Buena Vista Creek crossing, and the loss of or damage to sensitive paleontological resources associated with Quaternary river terrace deposits and the Tertiary Santiago Formation.

**Finding:** Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect on biological soils, geology and paleontological resources identified in the Final EIR to below a level of significance.

**Mitigation Measures:** The following mitigation measures, which are set forth below, as well as the Final EIR, are feasible and made binding through the Project's MMRP, which will ensure implementation of the mitigation measures, and will mitigate the potential direct and indirect Soils/Geology and Paleontology impacts to below a level of significance.

*SGP-1* A settlement monument shall be installed near the completion of project grading at the specific location identified on the ground by the project geotechnical engineer. The described monument shall incorporate the design parameters described in the Geotechnical Report (Attachment C in Volume II of the Final EIR) or other specific design elements identified by the project geotechnical engineer, and shall be surveyed weekly for a period of one month after installation (and prior to construction of any subsequently proposed structures). All monitoring data shall be provided to the project geotechnical engineer for review and analysis, and to determine if additional monitoring is required (i.e., if settlement is ongoing). Once it is determined by the project geotechnical engineer that significant settlement is no longer occurring, any subsequently proposed construction in the identified area may commence.

*SGP-2* Prior to issuance of a grading permit, the applicant shall provide verification to City staff that a qualified paleontologist and paleontological monitor have been retained to implement a paleontological resources monitoring program. A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques. A qualified paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the supervision of a qualified paleontologist.

*SGP-3* The qualified paleontologist or paleontological monitor shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor. The requirement for paleontological monitoring shall be noted on the project construction drawings.

*SGP-4* The paleontologist or paleontological monitor shall be on site full-time during the initial cutting of previously undisturbed areas of Quaternary river terrace deposits and the Santiago Formation to inspect for well-preserved fossils. Monitoring may be increased or decreased at the discretion of the qualified paleontologist in consultation with City of Oceanside staff, and shall occur only when excavation activities affect the noted geologic units.

*SGP-5* In the event that well-preserved fossils are found, the paleontologist shall have the authority to direct the project engineer to divert, direct, or temporarily halt construction activities in the area of discovery to allow evaluation and recovery of fossil remains in a timely fashion. Because of the potential for recovery of fossil remains, it may be necessary to set up a screen-washing operation on site. Cities of Oceanside and Carlsbad staff shall respond to the finding within 48 hours and shall approve salvaging procedures to be performed before construction activities in the subject area(s) are allowed to resume. City staff shall respond to the finding within 48 hours and shall approve salvaging procedures to be performed before construction activities in the subject area(s) are allowed to resume.

*SGP-6* Fossil remains shall be cleaned, sorted, catalogued, and then deposited in a scientific institution that houses paleontological collections (such as the San Diego Natural History Museum). The qualified paleontologist shall be responsible for preparation of fossils to a point of identification, and shall submit a copy of a letter of acceptance from a local qualified curation facility to the cities of Oceanside and Carlsbad staff. A qualified curation facility is defined as a research institution with a permanent commitment to long-term care of paleontological collections. Such an institution shall have professional curatorial staff. If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project paleontologist shall contact the cities of Oceanside and Carlsbad staff to suggest an alternative disposition of the collection.

*SGP-7* A monitoring results report, with appropriate graphics, summarizing the results, analyses and conclusions of the paleontological resources monitoring program, even if negative, shall be submitted to cities of Oceanside and Carlsbad staff for approval within three months following the termination of the paleontological monitoring program. Any discovered fossil sites shall be recorded at the San Diego Natural History Museum by the qualified paleontologist.

**Facts in Support of Findings:** Implementation of the above described mitigation measure (*SGP-1*) for geological resources would avoid or reduce potentially significant impacts associated with settlement concerns in alluvial materials near the Buena Vista Creek crossing to less than significant levels. The mitigation measure requires a settlement monument to insure that no settlement is occurring in alluvial materials near the Buena Vista Creek crossing prior to the commencement of future construction activities.

Implementation of the above described mitigation measures (*SGP-2* through *SGP-7*) for paleontological resources would avoid or reduce potentially significant impacts associated with the loss of or damage to sensitive paleontological resources associated with Quaternary river terrace deposits and the Tertiary Santiago Formation to less than significant levels. Grading for the Project may uncover fossil material of the Quaternary river terrace deposits and the Tertiary Santiago Formation of high scientific value, which may contain significant paleontological resources. The

mitigation measures require a monitoring program and approved qualified paleontological monitor, working under the direction of a qualified paleontologist, to be present during pre-grading meetings and during grading operations affecting previously undisturbed sediments of Quaternary river terrace deposits and the Tertiary Santiago Formation, with authority to halt grading if resources are uncovered or evident. If identified, the paleontologist will coordinate and implement a salvage program. Through this process, and the cleaning, storage and contribution of any fossil remains to the San Diego Natural History Museum or other scientific institution (with the applicant's permission), any significant paleontological resources that may be present on the Project site will be protected. These procedures combined with a final summary report from the monitor describing the mitigation program have proven to be an effective program for preservation and recovery of paleontological resources.

## 5.2 Biological Resources

**Environmental Impacts:** The Project would result in direct and indirect impacts to sensitive habitat.

- a) The Project would result in impacts to wetland habitats, including 0.05 acre of southern cottonwood-willow riparian forest, 0.85 acre of southern willow scrub and 0.06 acre of freshwater marsh.
- b) The Project would result in impacts to 1.99 acres of Diegan coastal sage scrub.
- c) The Project would result in impacts to 34.26 acres of disturbed habitat.
- d) The Project would result in permanent impacts to 0.30 acre and temporary impacts to 0.40 acre of Corps jurisdictional areas, including 0.05 acre of southern cottonwood-willow riparian forest, 0.59 acre of southern willow scrub and 0.06 acre of freshwater marsh. In addition, the Project would result in permanent impacts to 0.56 acre and temporary impacts to 0.4 acre of CDFG jurisdictional areas, including 0.05 acre of southern cottonwood-willow riparian forest, 0.85 acre of southern willow scrub and 0.06 acre of freshwater marsh.
- e) The Project would result in direct removal of habitat in which two coastal California gnatcatchers were observed.
- f) The Project would result in direct removal of habitat in which one yellow warbler was observed.
- g) Noise impacts to nesting least Bell's vireos, coastal California gnatcatchers or raptors in excess of 60 dB would be significant.

**Finding:** Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect on biological resources identified in the Final EIR to a below a level of significance.

**Mitigation Measure:** The following mitigation measures, which are set forth below, as well as in the Final EIR, are feasible and are made binding, through the Project's MMRP, which will ensure implementation of the mitigation measures, and will mitigate the potential direct and indirect Biological Resources impacts to below a level of significance.

- BR-1* Impacts to southern cottonwood willow riparian forest, southern willow scrub and freshwater marsh shall be mitigated at a 3:1 ratio with a minimum 1:1 creation ratio. In total, impacts to riparian vegetation communities shall require 2.88 acres of mitigation, including a minimum of 0.96 acre of riparian creation. The Project shall include 1.45 acres of riparian creation, and the remaining 1.43 acres mitigation shall occur with enhancement of preserved wetlands on site. An additional 11.05 acres of riparian vegetation shall be avoided on site.
- BR-2* Impacts to 1.99 acres of Diegan coastal sage scrub shall be mitigated at a 2:1 ratio (3.98 acres). The Project shall include 3.68 acres of Diegan coastal sage scrub creation along a number of slopes on site, as well as 0.30 acre of preservation of existing Diegan coastal sage scrub.
- BR-3* Impacts to 34.26 acres of disturbed habitat shall be mitigated at a 0.1:1 ratio with payment of a Habitat and Development Fee to the jurisdiction in which it occurs of an amount corresponding to 3.43 acres.
- BR-4* The Project would cause impacts to 0.70 acre of Corps jurisdictional areas and 0.96 acres of CDFG jurisdictional areas. Impacts to Corps jurisdictional areas shall require 2.10 acres of mitigation, including at least 0.70 acre of creation; impacts to CDFG jurisdictional areas shall require 2.88 acres of mitigation, including at least 0.96 acre of creation. The mitigation program to offset impacts shall include creation of 0.96 acre of riparian habitat within the expanded channel, of which at least 0.70 acre must be Corps jurisdictional. The remaining mitigation requirement (1.92 acres) shall be met by creation of additional habitat and enhancement of existing riparian habitat. In addition, all the remaining jurisdictional areas on site, including southern cottonwood-willow riparian forest, southern willow scrub, freshwater marsh, jurisdictional non-wetland waters/streambeds, and open water, shall be avoided.
- BR-5* Impacts to coastal California gnatcatchers shall be mitigated by the on-site preservation and creation of Diegan coastal sage scrub totaling 3.98 acres.
- BR-6* Impacts to the yellow warbler shall be mitigated by the preservation of created and restored riparian habitat.
- BR-7* If project grading (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on-site habitat during the bird breeding season (February 15 through September 15), a qualified biologist shall conduct pre-construction surveys in the adjacent habitat for the coastal California gnatcatcher, least Bell's vireo, southwestern willow flycatcher and nesting raptors. The survey should begin not more than three days prior to the beginning of grading activities. The Wildlife Agencies shall be notified if any of these species are observed nesting within 500 feet of proposed grading activities. No activities which would result in noise levels exceeding 60 dBA hourly  $L_{eq}$  within this 500-foot buffer

shall be allowed. Background noise (e.g., SR 78) shall be excluded from the 60 dBA calculation. If grading activities are not completed prior to the breeding season and any of these species are present, and noise levels exceed this threshold, noise barriers should be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly  $L_{eq}$  and/or the activities shall be suspended. Impacts resulting from noise for non-listed species other than raptors are not considered significant, and mitigation is not warranted.

#### **Facts in Support of Findings:**

a) Implementation of the above-described mitigation measure will reduce direct impacts to wetland habitat to a level less than significant. Direct impacts to wetlands will be mitigated in accordance with measures acceptable to the ACOE, CDFG, Oceanside Draft Subarea Plan and Carlsbad HMP to ensure a no-net loss of wetlands. Mitigation for the loss of jurisdictional waters will be conditions of the permits issued by the ACOE and CDFG. The proposed mitigation plan also includes a 5-year monitoring program that includes regular monitoring visits, an annual report on the success of the restoration effort and the need for any remedial actions, and a final report at the end of the 5-year program. These measures ensure the viability of wetlands and have proven effective in avoiding potential impacts to sensitive wetland habitat. As such, potentially significant direct impacts associated with wetlands would be reduced to less than significant with implementation of this mitigation measure.

b) Implementation of the above-described mitigation measure will also reduce direct impacts to sensitive upland habitat to a less than significant level. The mitigation ratios prescribed by this mitigation measure are in accordance with the habitat mitigation requirements of the City of Oceanside's Draft Subarea Plan. It should be noted that mitigation requirements for the Oceanside Draft Subarea Plan are equal to or greater than those of the Carlsbad HMP. These measures ensure that adequate mitigation for upland habitat is implemented, before impacts occur, in a manner acceptable to the cities of Oceanside and Carlsbad and the resource agencies. As such, implementation of this mitigation measure ensures that impacts to upland habitat are reduced to a less than significant level.

c) Implementation of the above-described mitigation measures will reduce indirect impacts to sensitive wetland and upland habitat to a less than significant level. The mitigation measure prohibits use of invasive non-native plants in project landscaping which can reduce habitat values, increase fire risk, change ground and surface water levels, and adversely affect wildlife dependent on native habitat. It also requires that if project grading (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on-site habitat during the bird breeding season (February 15-September 15), a qualified biologist shall conduct pre-construction surveys in the adjacent habitat for the coastal California gnatcatcher, least Bell's vireo, southwestern willow flycatcher, and nesting raptors. The survey shall begin not more than 3 days prior to the beginning of grading activities. The Wildlife Agencies shall be notified if any of these species are observed nesting within 500 feet of proposed grading activities. No activities which would result in noise levels exceeding 60 dBA hourly  $L_{eq}$  within this 500-foot buffer shall be allowed. Background noise (e.g., SR 78) shall be excluded from the 60 dBA calculation. If grading activities are not completed prior to the breeding season, and any of these species are present, and noise levels exceed this threshold, noise barriers shall be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly  $L_{eq}$  and/or the activities shall be suspended. There is also requirement for a biological

monitor to attend preconstruction meetings and be present during grading and construction in close proximity to preserve areas to ensure that appropriate precautions are taken to protect sensitive biological resources on- and off-site. These measures have proven effective in avoiding potential indirect impacts to sensitive wildlife species during construction of a project.

### 5.3 Cultural Resources

**Environmental Impacts:** Although the project site has been subject to a great deal of disturbance from decades of quarry activity, there remains some potential for previously unidentified subsurface cultural resources within the project site. Impacts to such resources would be significant.

**Finding:** Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

**Mitigation Measures:** The following mitigation measures, which are set forth below, as well as in the Final EIR, are feasible and are made binding, through the Project's MMRP, which will ensure implementation of the mitigation measures, and will mitigate the potential direct and indirect Cultural and Paleontological Resources impacts to below a level of significance.

- CR-1* Prior to implementation of the monitoring, a pre-excavation agreement shall be developed between the San Luis Rey Band of Luiseño Mission Indians and the applicant.
- CR-2* The qualified archaeologist and the Native American representative shall attend a pre-grading meeting with the contractors to explain the requirements of the program.
- CR-3* An archaeologist and a Native American monitor shall be on site during all grading, trenching, and other ground-disturbing activities.
- CR-4* If archaeological artifact deposits or cultural features are discovered, grading activities shall be directed away from these deposits to allow a determination of potential importance. Isolates and clearly non-significant deposits will be minimally documented in the field, and grading shall proceed. For any potentially significant artifact deposits, an adequate artifact sample to address research avenues previously identified for sites along the Buena Vista Creek watershed will be collected using professional archaeological collection methods.
- CR-5* If any human remains are discovered, the County Coroner shall be contacted. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains.
- CR-6* Recovered artifactual materials shall be cataloged and analyzed.
- CR-7* A report shall be completed describing the methods and results of the monitoring and data recovery program.

*CR-8* Artifacts shall be curated with accompanying catalog to current professional repository standards at an appropriate curatorial facility, such as the San Diego Archaeological Center, or the collection will be repatriated to the San Luis Rey Band, as specified in the pre-excavation agreement.

**Facts in Support of Findings:** Implementation of the above-described mitigation measure would reduce the potentially significant impact of disturbance of human remains or cultural artifacts during grading activities to a less than significant level. The mitigation measures require that a qualified archeologist be retained to carry out a mitigation program before issuance of a grading permit. The mitigation measure further requires development and implementation of a archeological monitoring program that would require a pre-excavation agreement with the appropriate San Luis Rey Band of Luiseño Mission Indians or other Native Americans as determined by the City, coordination with and supervision of an archeologist and an invited Native American monitor who will be present during the preconstruction meeting as well as initial grading, trenching or other ground-disturbing activities of existing soils. The archeological monitoring program will address how to analyze any cultural material found, the curation or repatriation of any cultural material collected, and the preparation of a report documenting the methods and results of the monitoring program. The monitoring and potential data recovery programs as well as pre-excavation coordination with the Luiseno people is being required at the request of the Luiseno people and has proven to be effective in avoiding impacts from grading on archeological resources.

#### 5.4 Noise

**Environmental Impacts:** Significant impacts to sensitive biological resources may occur if grading activities are conducted during the breeding season.

**Finding:** Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

**Mitigation Measures:** The following measure discussed above under Biological Resources would reduce potential construction noise impacts to the least Bell's vireo and coastal California gnatcatcher to below a level of significance.

*N-1* If project grading (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on-site habitat during the bird breeding season (February 15 through September 15), a qualified biologist shall conduct pre-construction surveys in the adjacent habitat for the coastal California gnatcatcher, least Bell's vireo, southwestern willow flycatcher and nesting raptors. The survey should begin not more than three days prior to the beginning of grading activities. The Wildlife Agencies shall be notified if any of these species are observed nesting within 500 feet of proposed grading activities. No activities which would result in noise levels exceeding 60 dBA hourly  $L_{eq}$  within this 500-foot buffer shall be allowed. Background noise (e.g., SR 78) shall be excluded from the 60 dBA calculation. If grading activities are not completed prior to the breeding season and any of these species are present, and noise levels exceed this threshold, noise barriers should be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly  $L_{eq}$  and/or the

activities shall be suspended. Impacts resulting from noise for non-listed species other than raptors are not considered significant, and mitigation is not warranted.

**Facts in Support of Findings:** Implementation of the above-described mitigation measure will reduce potentially significant impacts associated with construction noise to a less than significant level. This mitigation measure would require pre-construction surveys by a qualified biologist if project grading (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on-site habitat during the bird breeding season (February 15 through September 15). If grading activities are not completed prior to the breeding season and any of these species are present, and noise levels exceed this threshold, noise barriers should be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly  $L_{eq}$  and/or the activities shall be suspended. This mitigation measure will reduce significant construction noise impacts to less than significant.

## 5.5 Air Quality

**Environmental Impacts:** During project grading, the maximum daily  $PM_{10}$  emissions would be above the significance criteria for the maximum allowable daily emissions and would therefore pose a significant, but temporary, impact on the ambient air quality during the reclamation.

**Finding:** Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

**Mitigation Measures:** The following mitigation measures, which are set forth below, as well as in the Final EIR, are feasible and are made binding, through the Project's MMRP, which will ensure implementation of the mitigation measures, and will mitigate the potential air quality impacts for  $PM_{10}$  emissions to below a level of significance.

- AQ-1* Multiple applications of water during grading between dozer/scrapper passes – 34-68 percent reduction
- AQ-2* Paving, chip sealing or chemical stabilization of internal roadways after completion of grading – 92.5 percent reduction
- AQ-3* Use of sweepers or water trucks to remove “track-out” at any point of public street access – 25-60 percent reduction
- AQ-4* Termination of grading if winds exceed 25 mph – reduction not quantified
- AQ-5* Stabilization of dirt storage piles by chemical binders, tarps, fencing or other erosion control – 30-65 percent reduction
- AQ-6* Hydroseeding of graded pads – 30-65 percent reduction

**Facts in Support of Findings:** Implementation of the above described mitigation measures for air quality during reclamation activities would reduce temporary PM<sub>10</sub> emissions impacts to below a level of significance.

## 6. Findings Regarding Impacts that Cannot Be Mitigated to Below a Level of Significance

The Final EIR identifies two subject areas in which the Project would result in an impact on the environment: (1) land use and planning, and (2) air quality which will have significant environmental effects, even after the application of all feasible mitigation measures identified in the Final EIR. The land use and planning impact is the same impact as the air quality impact. Specifically, during project grading, the maximum daily NO<sub>x</sub> emissions would be above the significance criteria, and would therefore result in a significant, but temporary, impact on the ambient air quality during reclamation. Because of this temporary significant effect on air quality, the Project would not be consistent with a policy within the City of Oceanside General Plan, which requires the mitigation of significant impacts. In accordance with CEQA Guidelines Section 15092(b)(2), the City shall not approve the Project unless it first finds under CEQA Section 21081(a) and CEQA Guidelines Section 15091(a) that specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR, and also finds under CEQA Guidelines 15092(b)(2)(B) that the remaining significant effects are acceptable due to overriding considerations as described in CEQA Section 15093.

### 6.1 Land Use and Planning

**Environmental Impact:** The Project would not be consistent with Policy 3.0B of the Land Use Element of the City of Oceanside General Plan, which requires the identification, evaluation and mitigation of significant impacts to the environment. (Temporary impacts associated with air quality would be significant and unmitigable.)

**Finding:** Pursuant to CEQA Guidelines § 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible certain mitigation measures and the project alternatives identified in the EIR.

**Mitigation Measures:** The following mitigation measures, which are set forth below, as well as in the Final EIR, are feasible and are made binding, through the Project's MMRP, which will ensure implementation of the mitigation measures, and will mitigate some potential air quality impacts to below a level of significance, but not necessarily all impacts:

*AQ-7* Scheduling of construction truck trips during non-peak hours to reduce peak hour emissions.

*AQ-8* Use of ARB-certified Tier I or II construction equipment to the extent that such equipment is available for use.

**Facts in Support of Finding:** While these mitigation measures are considered feasible, it is conservatively assumed that these measures would not reduce the emissions of NO<sub>x</sub> to below a level of significance. Refer to the following Section 6.2 for additional discussion.

## 6.2 Air Quality

**Environmental Impact:** During project grading, the maximum daily NO<sub>x</sub> emissions would be above the significance criteria for the maximum allowable daily emissions and would therefore pose a significant, but temporary, impact on the ambient air quality during the reclamation grading period.

**Finding:** Pursuant to CEQA Guidelines § 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible certain mitigation measures and the project alternatives identified in the EIR.

**Mitigation Measures:** The following mitigation measures, which are set forth below, as well as in the Final EIR, are feasible and are made binding, through the Project's MMRP, which will ensure implementation of the mitigation measures, and will mitigate some potential air quality impacts to below a level of significance, but not necessarily all impacts:

*AQ-7* Scheduling of construction truck trips during non-peak hours to reduce peak hour emissions.

*AQ-8* Use of ARB-certified Tier I or II construction equipment to the extent that such equipment is available for use.

**Facts in Support of Findings:** While these two mitigation measures are considered feasible, specific emission reductions cannot be quantified at this time and it is therefore assumed these measures would not reduce the emissions of NO<sub>x</sub> to below a level of significance.

Implementation of other measures would not be feasible in this application. For example, decreasing the length of the construction day or limiting use of equipment would lengthen the duration of construction, as well as construction impacts, but would not reduce overall NO<sub>x</sub> emissions associated with construction of the project. Constraining operating periods or extending the duration of construction could conflict with time parameters required to mitigate impacts on wildlife or avoid construction during the rainy season.

Alternative fuels are not readily available in San Diego County, and would need to be shipped in from outside the local area for use in construction equipment. Shipping in of fuels would add NO<sub>x</sub> emissions rather than decrease NO<sub>x</sub> emissions and would not mitigate the impact. Substitution of gasoline-powered equipment is not feasible as the majority of heavy construction equipment available within the state of California is powered using diesel fuel. Similarly, electrified construction equipment is not readily available for use on construction projects in California.

Add-on technologies, such as particulate filters, would not reduce emissions of NO<sub>x</sub>. Add-on controls have the potential to reduce equipment performance, as well as having safety concerns such as affecting line of sight, and are not considered feasible means of reducing NO<sub>x</sub> emissions.

In summary, there are no other feasible mitigation measures to reduce temporary impacts associated with NO<sub>x</sub> emissions to less than significant levels. A Statement of Overriding Considerations has therefore been prepared.

## 7. Findings Regarding Alternatives

Under CEQA, whenever a public agency considers approving a project for which the EIR concludes that notwithstanding the incorporated mitigation measures, there will nonetheless remain significant impacts that are not avoided or lessened below a level of significance, the public agency must consider and make findings regarding the feasibility of alternatives discussed in the EIR. As stated in CEQA §21002:

“[It] is the policy of the State that public agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures available which would substantially lessen the significant effects of such projects...The legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or mitigation measures, individual project may be approved in spite of one or more significant effects thereof.”

The Final EIR concludes that after incorporation of the mitigation measures outlined in Section 5 above, the Project would still have significant and unmitigable environmental impacts on air quality during project grading, the maximum daily NO<sub>x</sub> emissions would be above the significance criteria, and would therefore result in a significant, but temporary, impact on the ambient air quality during reclamation.

CEQA Guidelines §15091 states that the determination of the infeasibility of alternatives must evaluate any economic, social, or other considerations related to the alternatives and as compared to the projects as proposed in the EIR. “Feasible” is defined in CEQA Guidelines §15364 as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” At the same time, infeasibility is not equated with impossibility, and case law recognizes that an alternative or mitigation measure may also be infeasible if it is undesirable or impractical from a policy standpoint.

In undertaking the comparative analysis called for under CEQA in considering the feasibility of project alternatives, it is also necessary to keep in mind the project objectives as expressed in the Final EIR. The project objectives are as follows:

- Reclaim the remaining unreclaimed 104.2 acres of the site to a safe, usable condition that is readily adaptable for future land uses in accordance with SMARA.
- Retain the existing Buena Vista Creek alignment through the site, preserve the El Salto Falls, and enhance the habitat values of the creek, while meeting requirements for control of erosion and sedimentation, and accommodating current hydrological conditions of the creek.
- Establish time frames, procedures and performance standards for measuring the completion of reclamation activities.
- Achieve complete and final reclamation of the site as required by SMARA and eliminate SMARA-related barriers to alternative land uses.

The Draft EIR for the project examined the following alternatives: Reduced Footprint Alternative

(Alternative 1A), Reduced Footprint Alternative with Balanced Grading (Alternative 1B), Modified Structural Creek Alternative (Alternative 2), and Modified Structural Creek Alternative within Reduced Footprint (Alternative 3). As discussed above, the Project being carried forward for consideration is Refined Alternative 3. The Final EIR determined this to be the environmentally superior alternative to the proposed project described in the Draft EIR. The No Project Alternative was not carried forward for analysis in the Draft EIR since SMARA requires that the former quarry be reclaimed to a usable condition that is readily adaptable for alternate land uses and creates no danger to public health or safety. If the City of Oceanside, as the Lead Agency, adopted this “no project” alternative, the State Mining and Geology Board would be required to step in and ensure that reclamation of the property be conducted in conformance with SMARA.

Similar to the Draft EIR proposed project, Alternative 2 would include grading of the southwestern corner of the site to accommodate necessary fill for reclamation. Alternatives 1A, 1B, and 3 would not require grading of the southwestern corner. Alternative 1A would require the import of fill, while the remaining alternatives would be balanced by on-site cut and fill. The Draft EIR proposed project and Alternative 1A would have one drop structure, Alternative 1B would have two drop structures, and Alternatives 2 and 3 would each have eight drop structures. The Refined Alternative 3 Project would result in fewer impacts overall to the environment than any of the alternatives analyzed in the Draft EIR. Therefore, Refined Alternative 3 is the environmentally superior alternative.

In rejecting the alternatives considered in the Draft EIR, the City has examined the objectives of the project and weighed the ability of the various alternatives to meet those objectives. The decision-makers believe that Refined Alternative 3, described and evaluated in the Final EIR, comes closest to meeting these objectives, with the least environmental impact.

### 7.1 Refined Alternative 3

As stated under “Project Background,” the Draft EIR acknowledged that either Alternative 1B or Alternative 3 would be acceptable to the project applicant as preferred alternatives to the Draft EIR proposed project, and that they are prepared to implement either alternative in place of the project included in the 2007 Amended Reclamation Plan. Based on the comments received during public circulation of the Draft EIR, it was evident that Alternative 3 was the preferred alternative. Nonetheless, Alternative 3 presented certain agencies with a number of concerns that were received in the written comments received on the Draft EIR. As a result, Alternative 3 has been further refined for inclusion in the Final EIR as “Refined Alternative 3” based on comments received from the Wildlife Agencies, the Corps and the City of Carlsbad and is being carried forward as the Project.

**Potential Impacts:** As with the Draft EIR proposed project, Refined Alternative 3 (Project) would be in compliance with the City of Oceanside General Plan, City of Oceanside Zoning Ordinance, Carlsbad General Plan, City of Carlsbad Zoning Ordinance, and the MHCP (including the Oceanside Draft MHCP Subarea Plan and Carlsbad HMP) except for the following: (1) the Draft EIR proposed project would not be consistent with Policy C.12 within the Open Space and Conservation Element of the Carlsbad General Plan due to conflicts with the Hillside Development Regulations of the zoning ordinance associated with grading proposed on natural slopes over 40 percent and manufactured slopes in excess of 40 feet in height within the southwestern portion of the project site; Refined Alternative 3, however, would be consistent with this policy, as the southwestern portion of

the site would not be graded, and (2) Refined Alternative 3 and the Draft EIR proposed project would not be consistent with Policy 3.0B of the Land Use Element in the City of Oceanside General Plan, which requires the identification, evaluation and mitigation of significant impacts to the environment (as described below, the NO<sub>x</sub> emissions during reclamation activities would remain a significant temporary air quality impact).

Potential impacts related to soils, geology and paleontological resources under Refined Alternative 3 would essentially be the same as those described for the Draft EIR proposed project, although the extent of such potential impacts would be reduced, because Refined Alternative 3 would not include grading in the southwestern portion of the site. The level of potential seismic and non-seismic impacts under this alternative also would be the same as those described for the Draft EIR proposed project, with all impacts except for potential settlement concluded to be less than significant with implementation of geotechnical recommendations and conformance with applicable regulatory and industry standards. Impacts to paleontological resources under Refined Alternative 3 would be significant but mitigable.

Potential impacts related to hydrology and water quality under Refined Alternative 3 would generally be the same as those described for the Draft EIR proposed project, although the level and extent of such potential impacts would vary somewhat due to the modified creek configuration and the lack of proposed grading/excavation in the southwestern portion of the site. Specifically, potential impacts related to drainage alteration and erosion/sedimentation would apply to additional and/or different areas under this alternative due to the modified creek configuration, although the nature and level of associated potential impacts and regulatory requirements would not differ notably. All identified hydrology and water quality impacts under Refined Alternative 3 would be less than significant.

Implementation of Refined Alternative 3 would result in fewer impacts to vegetation communities than the Draft EIR proposed project since the southwestern portion of the project site would not be graded. Specifically, direct impacts from implementation of Refined Alternative 3 would total approximately 41.45 acres, which would be 20.39 acres less than the Draft EIR proposed project. Refined Alternative 3 would also result in fewer impacts to Corps and CDFG jurisdictional areas compared to the Draft EIR proposed project. Specifically, Refined Alternative 3 would impact 0.70 acre of Corps jurisdictional areas (1.49 acres less than the Draft EIR proposed project). Impacts to CDFG jurisdictional areas would total 0.96 acre (1.66 acres less than the proposed project). Refined Alternative 3 would result in significant impacts to a small portion of habitat in which two coastal California gnatcatcher pairs and one yellow warbler were observed. Comparatively, the Draft EIR proposed project would result in significant impacts to habitat in which four coastal California gnatcatcher pairs, one yellow warbler, one white-tailed kite and two San Diego black-tailed jackrabbits were observed. The Draft EIR proposed project and Alternative 3 meet the objectives of the Hardline Preserve in this area by maintaining and restoring Buena Vista Creek and adjacent upland buffers within the existing creek channel location. Although the alternatives do not exactly match the boundaries of the Hardline Preserve Areas under the Carlsbad HMP, Refined Alternative 3, similar to the Draft EIR proposed project, is considered consistent with the Carlsbad HMP because it meets the goals and objectives of the HMP for this portion of the plan, providing equivalent type and quantity of habitat areas within the study area. Because the impacted portion of the riparian corridor on site would be revegetated to maintain the current connection across the site, no permanent impacts to wildlife corridors would result from implementation of either Refined Alternative 3 or the Draft EIR proposed project. In fact, the existing riparian area on site would be

widened, which would improve the functions of Buena Vista Creek as a wildlife movement corridor. With regard to indirect impacts (i.e., edge effects), similar to the Draft EIR proposed project, Refined Alternative 3 would not result in significant impacts with the exception of noise, as noise levels throughout the site during reclamation may be in excess of 60 dB, which would be considered significant impacts to nesting least Bell's vireos and/or coastal California gnatcatchers. All significant impacts to biological resources under Refined Alternative 3 would be mitigated to less than significant levels.

Refined Alternative 3 would avoid potential impacts associated with the proposed grading in the southwestern portion of the site where two previous archaeological sites (CA-SDI-5601 and CA-SDI-5651) have been identified. No significant direct impacts to archaeological resources, traditional cultural properties or cultural landscapes have been identified for this alternative. There remains, however, potential for previously unidentified subsurface cultural resources within the site. Similar to the Draft EIR proposed project, the potential for impacts to subsurface cultural resources would remain significant, as the site is located in a location where previous resources have been located. Significant impacts to cultural resources under Refined Alternative 3 would be mitigated to less than significant levels.

Implementation of Refined Alternative 3 would result in less visual impacts than the Draft EIR proposed project. Refined Alternative 3 visual impacts would be reduced relative to the Draft EIR proposed project since (1) grading in undisturbed (natural) areas of the site would be reduced, (2) the creek would be widened an additional 100 feet (which, in turn, would reduce bare, graded areas) and (3) multiple, non-uniform drop structures instead of one large drop structure would create a more natural creek appearance. Other visual impact aspects of Refined Alternative 3 would remain similar to the proposed project. Refined Alternative 3 would not introduce a new or substantially increased aesthetic impact.

Refined Alternative 3 would result in decreased construction traffic compared to the Draft EIR proposed project, as no import or export of fill associated with reclamation activities would be required since earthwork would be balanced on site. Therefore, Refined Alternative 3 would not cause a significant direct or cumulative impact to traffic or circulation.

As with the Draft EIR proposed project, noise is anticipated to be generated by Refined Alternative 3 through grading and construction equipment, including trucks, graders, bulldozers, hoe ram and portable rock drills. The noise generated from this alternative is expected to be slightly lower in the southwestern portion of the site since grading of this area would not occur under Refined Alternative 3. As with the Draft EIR proposed project, no significant noise impacts from grading are anticipated.

As with the Draft EIR proposed project, Refined Alternative 3 would not exceed CO, ROC, SO<sub>x</sub>, PM<sub>10</sub> or PM<sub>2.5</sub> daily and annual thresholds with the incorporation of standard mitigation measures. Similar to the Draft EIR proposed project, emissions of NO<sub>x</sub> from heavy equipment and trucks would be above the maximum daily significance thresholds, however the daily total would be less since there would be no import of soil required for reclamation activities. Thus, emissions of NO<sub>x</sub> would result in a significant but temporary impact on ambient air quality. This impact would remain significant in spite of implementation of proposed mitigation measures added to the Final EIR including: (1) scheduling of construction truck trips during non-peak hours to reduce peak hour

emissions, and (2) use of ARB-certified Tier I or II construction equipment to the extent that such equipment is available. Due to dissipation, NO<sub>x</sub> emissions would not affect sensitive noise receptors. Reclamation equipment and vehicles also would have the potential to emit greenhouse gases, namely, CO<sub>2</sub>, N<sub>2</sub>O and CH<sub>4</sub> that arise due to combustion of fossil fuels. Refined Alternative 3 CO<sub>2</sub> emissions would be lower than those associated with the Draft EIR proposed project.

Impacts associated with hazards and hazardous materials would be similar under Refined Alternative 3 and the Draft EIR proposed project. The proposed transport, use, storage and disposal of hazardous materials are controlled by various local, state and federal agencies through numerous existing regulations and procedures, and therefore no impact associated with hazardous materials is anticipated. Remediation of the project site would be completed prior to the commencement of reclamation activities. Therefore, implementation of Refined Alternative 3 would not result in a significant hazard to the public or the environment due to the release of hazardous materials into the environment. No significant impact from hazards or hazardous materials is anticipated.

In summary, it is demonstrated that all impacts associated with Refined Alternative 3 would be less than or equal to that reported in the Draft EIR for the proposed project.

**Finding:** The Planning Commission finds, pursuant to Public Resources Code 21081(a)(1), that changes or alterations have been required in, or incorporated into, Refined Alternative 3 which avoid or substantially lessen the significant environmental effects as identified in the Final EIR. Such changes have resulted in a project design that is superior to the Draft EIR proposed project and Alternatives 1A, 1B, 2 and 3 that were presented and analyzed in the Draft EIR.

**Facts in Support of Findings:** Refined Alternative 3 would meet the objectives of the project and reduce impacts associated with the Draft EIR proposed project and Draft EIR Alternatives 1A, 1B, 2 and 3 and is being carried forward as the recommended Project.

## 8. Findings Regarding Growth Inducing Impacts

The City finds that the Project will not have growth inducing impacts. Implementation of the Amended Reclamation Plan would facilitate the future development of the remaining portions of the former quarry site in both the cities of Oceanside and Carlsbad; however, this future development is not a part of the proposed project. While future development of that land would result in a range of environmental effects and increased demand for public services and facilities that are associated with "raw land" development, such development would occur in an area that is designated for light industrial in the City of Oceanside and low-medium density residential uses in the City of Carlsbad. The subject site is surrounded by existing urban land uses and major elements of the local and regional transportation network. Future development of the remaining quarry site would, therefore, represent infill development that would complete the community development plans for this area as shown in the Oceanside and Carlsbad General Plans.

Because this proposed development would occur within the existing urban pattern in this part of northern San Diego County and would not require the development of major new infrastructure facilities (such as a wastewater treatment plant or water storage and distribution system) or any amendments to adopted land use plans and policies by the governing jurisdictions, no significant growth-inducing effects are associated with the Project.

## 9. Statement of Overriding Consideration

As discussed in Section 6 of these Findings, the Final EIR concludes that the Project, even with incorporation of all feasible mitigation measures and consideration of alternatives, will nonetheless have significant impacts and unmitigable environmental impacts on air quality during project grading, the maximum daily NO<sub>x</sub> emissions would be above the significance criteria, and would therefore result in a significant, though temporary, impact on the ambient air quality during reclamation. Because of this temporary significant effect on air quality, the Project would not be consistent with a policy within the City of Oceanside General Plan, which requires the mitigation of significant impacts.

The City has selected the environmentally preferable alternative as the recommended Project, and has adopted all feasible mitigation measures with respect to temporary daily NO<sub>x</sub> emission exceedances, which may have substantially lessened the impacts, but have not been successful in reducing them below a level of significance as specific emission reductions from the additional mitigation measures cannot be quantified at this time, and therefore it is assumed these measures would not be sufficient to reduce the emissions of NO<sub>x</sub> to below a level of significance. . Under CEQA, before a project which is determined to have significant, unmitigated environmental effects can be approved, the public agency must consider and adopt a “statement of overriding considerations” pursuant to CEQA Guidelines 15043 and 15093. As the primary purpose of CEQA is to fully inform the decision makers and the public as to the environmental effects of a Project and to include feasible mitigation measures and alternatives to reduce any such adverse effects below a level of significance, CEQA nonetheless recognizes and authorizes the approval of projects where not all adverse impacts can be fully lessened or avoided. However, the agency must explain and justify its conclusion to approve such a project through the statement of overriding considerations setting forth the Project’s general social, economic, policy or other public benefits which support the agency’s informed conclusion to approve the Project.

The City finds that the Project has the following substantial social, economic, policy and other public benefits justifying its approval and implementation, notwithstanding not all environmental impacts were fully reduced below a level of significance:

- 9.1 The Project would comply with the City’s Reclamation Ordinance and fulfill the Surface Mining and Reclamation Act (SMARA) required standards, including, wildlife habitat, erosion control, site stability, water quality, and revegetation standards to complete the reclamation of this former quarry site.
- 9.2 Implementation of the Project would enhance the Buena Vista Creek channel through the site, including erosion control and revegetation of habitat within this former quarry site. The reclamation Project will also provide for permanent conservation easements to protect the sacred El Salto Falls and the Buena Vista Creek areas through the site.
- 9.3 The Project will include construction of detention basins and bio-filtration swales to improve water quality of storm water.
- 9.4 Implementation of the Project using a standard construction schedule would expedite the grading within the limits anticipated by City ordinances and therefore minimize the

length of time construction equipment would be operating on the project site thereby reducing potential nuisances to neighbors associated with grading activities such as dust and noise.

- 9.5 Implementation of the Project will create temporary, construction-related employment opportunities. The Project will implement General Plan policies relating to preservation of natural resources by providing on-site wildlife corridor improvements for the gnatcatcher and linkage to other wildlife corridors.
- 9.6 The Project will eliminate the remaining vestiges of the long-term quarry and industrial products activities at the site.

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1 PLANNING COMMISSION  
2 RESOLUTION NO. 2010- P16

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE  
4 CITY OF OCEANSIDE, CALIFORNIA APPROVING A  
5 REVISED RECLAMATION PLAN ON CERTAIN REAL  
6 PROPERTY IN THE CITY OF OCEANSIDE AND CITY OF  
CARLSBAD

---

7 APPLICATION NO'S: RMA-1-01, REVISION 05  
8 APPLICANT: Hanson Aggregates Pacific Southwest Inc.  
9 LOCATION: South of Highway 78, west of College Boulevard, on site of former  
Rock Quarry

---

10 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
11 RESOLVE AS FOLLOWS:

12 WHEREAS, there was filed with this Commission a verified petition on the forms  
13 prescribed by the Commission requesting a Revised Reclamation Plan under the provisions of the  
14 City of Oceanside Ordinance No. 86-32 ad updated by Ordinance 99-07 and the Sate Surface and  
15 Mining and Reclamation Act.

16 WHEREAS, the Planning Commission, after giving the required notice, did on the 10<sup>th</sup>  
17 day of May, 2010, conduct a duly advertised public hearing as prescribed by law to consider said  
18 application.

19 WHEREAS, an Environmental Impact Report was prepared by the Resource Officer of  
20 the City of Oceanside for this application pursuant to the California Environmental Quality Act  
21 of 1970 and the State Guidelines thereto.

22 WHEREAS, the Final Environmental Impact Report was also reviewed and certified by  
23 the Planning Commission prior to taking action on the Revised Reclamation Plan; and

24 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes  
25 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

26 WHEREAS, studies and investigations made by this Commission and in its behalf reveal  
27 the following facts:

28 //////////////

29 //////////////

//////////

1 FINDINGS:

2 For the Revised Reclamation Plan:

- 3 1. That implementation of this reclamation plan is necessary to prevent and minimize  
4 adverse effects on the environment and protect the public health and safety. The  
5 reclamation plan includes restoration of Buena Vista Creek and stabilization of all slopes  
6 within the quarry. All impacts to sensitive biological resources will be minimized and  
7 mitigated to below a level of significance.
- 8 2. That the reclamation plan provides for the protection and subsequent beneficial use of  
9 the mined and reclaimed land. Geologically stable pads and slopes will be created  
10 within the quarry to ensure that they are safe and available for future use of the property.  
11 The restored creek, including El Salto Falls and other site areas required for biological  
12 mitigation will be protected by a conservation easement in perpetuity.
- 13 3. The proposed mining site will be stable, free of drainage problems coordinated with  
14 anticipated future land use and compatible with the topography and general environment  
15 of the surrounding property. Restoration of Buena Vista Creek will improve water  
16 quality and drainage through the project site and downstream areas, including Buena  
17 Vista Lagoon and the ocean.

18 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
19 approve the Amendment to the Reclamation Plan subject to the following conditions:

20 CONDITIONS:

- 21 1. The Reclamation Plan shall retain the current alignment of Buena Vista Creek (Final  
22 Environmental Impact Report (FEIR) Refined Alternative 3).
- 23 2. Within three months following the approval of this revision, the applicant shall initiate  
24 consultation to modify the creek alignment and determine restoration design with the  
25 Federal and State resource agencies including the U.S. Army Corps of Engineers  
26 (USACOE) 404 Permit, Regional Water Quality control Board (RWQCB) 401  
27 Certification, and California Department of Fish and Game (CDFG) 1603 Agreement.

28 //////////////

29 //////////////

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1 6. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold  
2 harmless the City of Oceanside, its agents, officers or employees from any claim, action or  
3 proceeding against the City, its agents, officers, or employees to attack, set aside, void or  
4 annul an approval of the City, concerning this revised Reclamation Plan (RMA-1-01).  
5 The City will promptly notify the applicant of any such claim, action or proceeding  
6 against the City and will cooperate fully in the defense. If the City fails to promptly  
7 notify the applicant of any such claim action or proceeding or fails to cooperate fully in  
8 the defense, the applicant shall not, thereafter, be responsible to defend, indemnify or  
9 hold harmless the City.

10 PASSED AND ADOPTED Resolution No. 2010-P16 on May 10, 2010 by the  
11 following vote, to wit:

12 AYES:

13 NAYS:

14 ABSENT:

15 ABSTAIN:

16  
17 \_\_\_\_\_  
18 Claudia Troisi, Chairperson  
19 Oceanside Planning Commission

20 ATTEST:

21 \_\_\_\_\_  
22 Jerry Hittleman, Secretary

23 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
24 this is a true and correct copy of Resolution No. 2010-P16.

25 Dated: May 10, 2010

26 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may  
27 be required as stated herein:

28 \_\_\_\_\_  
29 Applicant/Representative

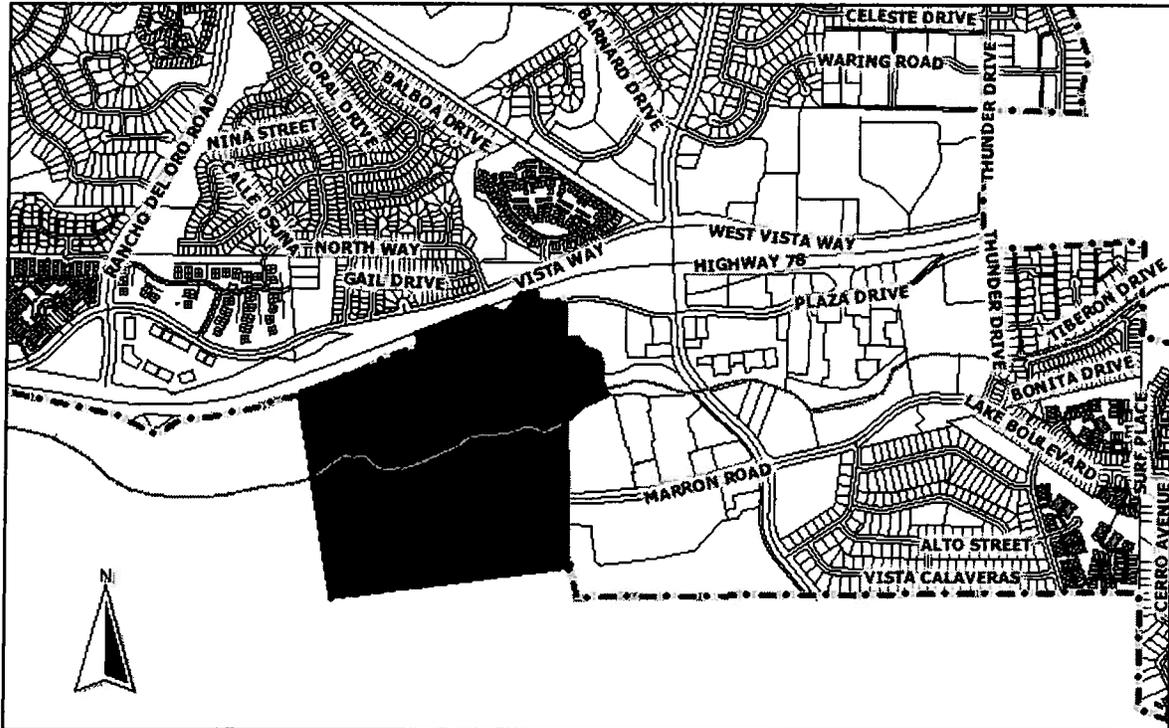
\_\_\_\_\_ Date

TO WHOM IT MAY CONCERN

AFTER READING THE ARTICLE IN THE S.D. TRIBUNE  
ABOUT ES SALTO FALLS AND BUENA VISTA CREEK MY  
WIFE AND I DROVE TO OCEANSIDE TO SEE THE SITE. AFTER  
VIEWING THE AREA WE ARE CONVINCED THE CREEK,  
FALLS AND POOLS SHOULD BE SAVED IN THEIR NOW  
NATURAL STATE. THIS IS A MOST BEAUTIFUL SPOT IN  
A BUSY COMMERCIAL AREA. WITH IMPROVEMENT OF  
THE SURROUNDING AREA IT COULD BECOME A JEWEL.  
PLEASE - SOME EFFORT SHOULD BE MADE TO SAVE  
AND PROTECT THIS NATURAL AND HISTORIC BEAUTY,  
AND NOT BE DEVELOPED

MR + MRS R. ROBERTSON  
5448 TRIPLE CROWN DR.  
BONSALL CA. 92003

RECEIVED  
FEB 06 2000  
Planning Department



**File Number: RMA-1-00 Rev05**

**Applicant: Hanson Aggregates Pacific Southwest, Inc.**

**Description:**

An Amendment to an existing RECLAMATION PLAN (RMA-1-00 Revision 05) and Subsequent Environmental Impact Report on a 104-acre site located in the northeast portion of the City of Carlsbad and the southwestern portion of the City of Oceanside south of State Route 78 and west of College Boulevard – **FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN**

City of Oceanside, Planning Division  
300 N. Coast Highway  
Oceanside, CA 92054 (760) 435-3520

APPLICATION FOR RECLAMATION PLAN  
CITY OF OCEANSIDE  
PLANNING DEPARTMENT (760) 966-4770  
300 NO. COAST HWY, OCEANSIDE, CA 92054

STAFF USE ONLY SN
Accepted By 9/2/05

RMA-1-COREVOS

PLEASE PRINT OR TYPE ALL INFORMATION

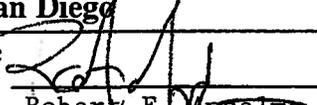
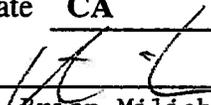
SECTION A - THE APPLICANT

Name Hanson Aggregates Pacific Southwest, Inc. Telephone (858) 277-5481  
Mailing Address P.O. Box 639069  
City San Diego State CA Zip 92163-9069  
Signature   
William L. Berger

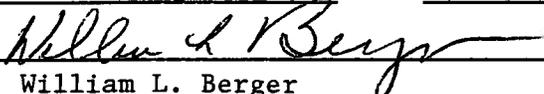
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Planning Department

SECTION B - THE PROPERTY OWNER

Same As Above

Name and Quarry Creek Investors, LLC Telephone (619) 477-4117  
Mailing Address 2750 Womble Road  
City San Diego State CA Zip 92106  
Signature    
Robert F. Maselmo Brian Milich

SECTION C - THE OPERATOR

Name Hanson Aggregates Pacific Southwest, Inc. Telephone (858) 277-5481  
Mailing Address P.O. Box 639069  
City San Diego State CA Zip 92163-9069  
Signature   
William L. Berger

Applicant's Representative: **The Lightfoot Planning Group, Attn: Ann Gunter**  
**5750 Fleet Street, Suite 250, Carlsbad, CA 92008 Telephone: (760) 692-1924**

SECTION D - THE PROPERTY

1. Tax Assessor's Book **168** Page **011** Parcel No. **20**  
Tax Assessor's Book **167** Page **040** Parcel No. **21**
2. Provide a brief locational description and short legal of the land involved in this surface mining operation, including the total acreage.  
**SEE APPLICATION SECTION D-2 ATTACHED**
3. Describe the environmental setting of the site and the surrounding area. Include existing area land use and residential density, soil vegetation, ground water elevation and surface water characteristics average annual rainfall and other pertinent environmental factors.  
**SEE APPLICATION SECTION D-3 ATTACHED**