

AGENDA NO. 3

PLANNING COMMISSION



STAFF REPORT

DATE: July 26, 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 Subsequent Environmental Impact Report (SEIR) 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.

The project was continued from the May 10, 2010 Planning Commission hearing to a July 26, 2010 hearing date to allow the State Department of Conservation - Office of Mine Reclamation (OMR) - to complete their required 30-day formal review of the proposed Reclamation Plan and Final EIR. The Reclamation Plan and Final SEIR were formally transmitted to OMR on May 13, 2010. The City received a letter from OMR on June 17, 2010, which included comments relative to their need to review full size drawings of certain

drawings within the Reclamation Plan, hydrology and water quality, and re-vegetation of the site after reclamation. A letter with responses to all the comments was transmitted to OMR on June 24, 2010. The City received a letter from OMR on June 8, 2010 stating that they had received the City's letter and full size drawings and that their comments had been adequately addressed. They also stated that the approved Final Reclamation Plan will need to be submitted to OMR as part of the City's Final Response to Comments. This would occur after City approval of the Final Reclamation Plan and certification of the SEIR. All aforementioned correspondence is attached to this staff report along with letters received from the public since May.

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 Subsequent Environmental Impact Report (SEIR) 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 SEIR) 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 four-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 SEIR) for the Former South Coast Quarry Amended Reclamation Plan project has been prepared in conformance with the California Environmental Quality Act (CEQA). The Draft SEIR 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 SEIR 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 SEIR 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 SEIR.

Several environmental issues were found to have the potential for significant adverse effects and were evaluated in detail in the Draft SEIR. 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 SEIR (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 on-site 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 (NOx) 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 NOx 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 (CO₂), nitrous oxide (N₂O), and methane (CH₄) 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 (SEIR) 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 SEIR. 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 SEIR, 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 (SEIR) 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 Hittleman
City Planner

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Attachments:

1. Planning Commission Resolution No. 2010-P15
2. Planning Commission Resolution No. 2010-P16
3. Correspondence between the City and the State of California Department of Conservation – Office of Mine Reclamation
4. Public correspondence/letters received after close of SEIR 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
6 FOR THE FORMER SOUTH COAST QUARRY AMENDED
7 RECLAMATION PLAN PROJECT ON CERTAIN REAL
8 PROPERTY IN THE CITY OF OCEANSIDE

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
9 Rock Quarry

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 26th
15 day of July 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 July 26, 2010 by the
16 following vote, to wit:

17 AYES:

18 NAYS:

19 ABSENT:

20 ABSTAIN:

21 _____
22 Bob Neal, 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: July 26, 2010
30 _____

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. 2005111124) (“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 (PM₁₀ 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 PM₁₀ 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_x 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_x 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_x 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_x 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_x 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_x emissions rather than decrease NO_x 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_x. 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_x emissions.

In summary, there are no other feasible mitigation measures to reduce temporary impacts associated with NO_x 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_x 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_x 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_x, PM₁₀ or PM_{2.5} daily and annual thresholds with the incorporation of standard mitigation measures. Similar to the Draft EIR proposed project, emissions of NO_x 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_x 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_x emissions would not affect sensitive noise receptors. Reclamation equipment and vehicles also would have the potential to emit greenhouse gases, namely, CO₂, N₂O and CH₄ that arise due to combustion of fossil fuels. Refined Alternative 3 CO₂ 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_x 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_x 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_x 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.

F. MITIGATION MONITORING AND REPORTING PROGRAM

Introduction

Mitigation Monitoring and Reporting Programs (MMRPs) are required by CEQA Section 21081.6 to be incorporated into the Final EIR for projects having the potential to cause significant environmental impacts. The MMRP describes changes to the project or conditions of project approval that mitigate or avoid significant effects on the environment. This Section F of the Final EIR Volume I provides the MMRP, addressing the current South Coast Quarry Amended Reclamation Plan Project proposed by Hanson Aggregates Pacific Southwest, Refined Alternative 3, which is the preferred alternative being carried forward for approval by the City of Oceanside. 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 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. Please refer to Section D of this Final EIR Volume I for a detailed discussion of the differences between Refined Alternative 3 and the Draft EIR proposed project. A brief description of Refined Alternative 3 is provided below. The project is located within both the cities of Oceanside and Carlsbad. The City of Oceanside is the lead agency for approval of the Amended Reclamation Plan because the City adopted a mining ordinance in 1986 (ordinance 86-32) in compliance with the Surface Mining and Recovery Act of 1975 (SMARA). The City of Carlsbad does not have a local reclamation ordinance and recognizes the City of Oceanside as the state-designated agency for the purpose of reclamation under SMARA.

Project Description Summary

Refined Alternative 3 would reclaim the remaining areas of the former quarry site that have been previously disturbed by mining activities to a condition that is readily adaptable for future land uses and would retain Buena Vista Creek in its current alignment. Proposed grades under the Refined Alternative 3 would remain in a similar range of elevations across the site to the Draft EIR proposed project and alternatives, ranging from approximately 100 to 150 feet above mean sea level (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 creek channel would be reconstructed to a greater width to better accommodate the current 100-year storm flows within the creek channel. Seven natural rock drop structures, ranging from one to three feet in height and including plantings such as willows, would be constructed at irregular intervals along the channel. These structures would flatten the longitudinal creek slope and reduce erosive flow velocities. Riprap would be buried in areas expected to experience erosive velocities during the 100-year storm. Boulders would be sporadically placed throughout all levels of the channel. North and south of the riparian buffer area would be hydroseeded for erosion control. Work within the channel would be coordinated such that existing channel habitat could be sustained.

A 100-foot biological buffer would be placed along each side of Buena Vista Creek, including 80 feet to be revegetated as part of the site reclamation and 20 feet to be revegetated upon final grading for a future end use. A 10-foot-wide planning buffer would be placed outside the biological buffer.

MMRP Format and Implementation

Mitigation measures that would reduce or eliminate potential environmental impacts of the Draft EIR proposed project were identified in the EIR; the mitigation measures identified for the Draft EIR proposed project would be applicable to Refined Alternative 3, although some have been slightly modified to address Refined Alternative 3. The project mitigation measures will become conditions of project approval if Refined Alternative 3 is approved. The City of Oceanside is required to verify that all adopted mitigation measures are implemented properly. To ensure compliance, this MMRP (including checklists) has been formulated. It shall be adopted, along with CEQA Findings, by the City of Oceanside as CEQA Lead Agency and must be administered by City of Oceanside personnel from the Planning and Community Service (Engineering) departments and City of Carlsbad staff, where applicable. Specific responsibilities are delineated for each project in the attached checklist tables. These responsibilities may be delegated to qualified City staff or consultants. This service is provided on a full-cost recovery basis by the City. No authorization to commence any activity on site shall be granted except with the concurrence of the respective City departments.

The checklist, which follows as Table F-1, is intended to be used by the applicant, grading/construction contractors, and personnel from the above-listed City Departments, as the appointed mitigation implementation and monitoring entities. Information contained within the checklist clearly identifies each mitigation measure, defines the conditions required to verify compliance and delineates the monitoring schedule. Following is an explanation of the four columns that constitute each MMRP checklist.

- Column 1 Mitigation Measures: An inventory of each mitigation measure is provided, with a brief description.
- Column 2 Type: Each mitigation measure is classified as either Construction-related Mitigation (CM) or Operational Mitigation (OM), based upon the following definitions:
- Construction-related Mitigation – mitigation that requires monitoring during project construction (e.g., dust control, road improvements)
 - Operational Mitigation – mitigation that requires monitoring after the project becomes operational (e.g., landscape maintenance, lighting)
- Column 3 Monitor: Identifies the senior staff person at the City who is responsible for determining compliance with each mitigation measure and informing the Planning Department regarding compliance. This individual may assign specific monitoring tasks to City staff or consulting specialists (e.g., biological monitor, paleontological monitor).

Column 4 Schedule: As scheduling is dependent upon the progression of the overall project, specific dates are not used within the “Schedule” column. Instead, scheduling describes a logical succession of events (e.g., prior to occupancy, annually, etc.) and, if necessary, delineates a follow-up program.

**Table F-1
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE		TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
LAND USE AND PLANNING					
Biological Resources - 1 through Biological Resources - 7 would reduce significant land use and planning impacts with respect to the Habitat Preservation and Management Requirements.		CM	See Biological Resources - 1 through Biological Resources - 7	Oceanside and Carlsbad	See Biological Resources - 1 through Biological Resources - 7
Biological Resources - 1 through Biological Resources - 7 would reduce significant land use and planning impacts with respect to the Oceanside Draft MHCP Subarea Plan.		CM	See Biological Resources - 1 through Biological Resources - 7	Oceanside and Carlsbad	See Biological Resources - 1 through Biological Resources - 7
SOILS, GEOLOGY AND PALEONTOLOGY					
Soils, Geology and Paleontology - 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 shown on Figure 7 of Appendix B (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.		CM	City Engineer; Project Geotechnical Engineer	Carlsbad	After the completion of grading
Soils, Geology and Paleontology - 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.		CM	City Environmental Planner	Oceanside and Carlsbad	Prior to issuance of a grading permit.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p><u>Soils, Geology and Paleontology - 3.</u> 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.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Prior to inception of grading.
<p><u>Soils, Geology and Paleontology - 4.</u> 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.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<p><u>Soils, Geology and Paleontology - 5.</u> 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. The paleontologist shall immediately notify City of Oceanside staff of such finding at the time of discovery. 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.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<p><u>Soils, Geology and Paleontology - 6.</u> 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 cities of Oceanside and Carlsbad staff to suggest an alternative disposition of the collection.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p><u>Soils, Geology and Paleontology - 7.</u> 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.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Verify compliance within three months of completion of grading.
<p>HYDROLOGY AND WATER QUALITY No mitigation measures are necessary.</p>				
<p>BIOLOGICAL RESOURCES</p>				
<p><u>Biological Resources - 1.</u> 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. Refined Alternative 3 shall include 1.45 acres of riparian creation and the remaining 1.40 acres of mitigation shall be met with restoration of 0.39 acre of impacted riparian habitat and a minimum of 1.04 acres of enhancement of preserved wetlands on site. An additional 10.87 acres of riparian vegetation shall be preserved on site.</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor	Oceanside and Carlsbad	Plans to be approved prior to inception of grading.
<p><u>Biological Resources - 2.</u> Impacts to 1.99 acres of Diegan coastal sage scrub shall be mitigated at a 2:1 ratio (3.98 acres). Alternative 3 shall include 3.68 acres of coastal sage scrub creation along a number of slopes on site as well as 0.3 acre of preservation. Approximately 80 feet of the 100-foot biological buffer will be revegetated as part of the Reclamation Plan. The balance of the biological buffer (approximately 20 feet) would be revegetated in conjunction with any future end use and upon any final grading for such future end use. Refer to Figure D-7 in the Final EIR for the proposed location of Diegan coastal sage scrub creation.</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor	Oceanside and Carlsbad	Plans to be approved prior to inception of grading.
<p><u>Biological Resources - 3.</u> 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 in an amount corresponding to 3.43 acres.</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor	Oceanside and Carlsbad	Payment shall be received prior to inception of grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p><u>Biological Resources - 4.</u> 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 proposed to offset these impacts includes creation of 1.45 acres 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 along Buena Vista Creek with the exception of a potential future road crossing, including southern cottonwood-willow riparian forest, southern willow scrub, freshwater marsh, jurisdictional non-wetland waters/streambeds, and open water, shall be preserved within open space</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor	Oceanside and Carlsbad	Plans to be approved prior to inception of grading.
<p><u>Biological Resources - 5.</u> Impacts to coastal California gnatcatchers shall be mitigated by the on-site preservation and creation of Diegan coastal sage scrub totaling 3.98 acres.</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor	Oceanside and Carlsbad	Plans to be approved prior to initiation of grading.
<p><u>Biological Resources - 6.</u> Impacts to the yellow warbler shall be mitigated by the preservation of created and restored riparian habitat.</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor	Oceanside and Carlsbad	Plans to be approved prior to initiation of grading.
<p><u>Biological Resources - 7.</u> 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</p>	CM	City Planner; City Engineer; Wildlife Agencies; Biological Monitor; Acoustician	Oceanside and Carlsbad	Prior to grading. Periodic compliance verification during and after grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p>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.</p> <p><u>Biological Resources Environmental Design Measures</u></p> <ul style="list-style-type: none"> Temporary fencing (with silt barriers) shall be installed at the limits of project impacts (including construction staging areas and access routes) to prevent additional sensitive habitat impacts and to prevent the spread of silt from the construction zone into adjacent habitats to be avoided. Fencing should be installed in a manner that does not impact habitats to be avoided. The applicant should submit to the cities of Carlsbad and Oceanside and the U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG; collectively "Resource Agencies") for approval, at least 30 days prior to initiating project impacts, the final plans for initial clearing and grubbing of sensitive habitat and project construction. These final plans should include photographs that show the fenced limits of impact and all areas (including riparian/wetland or coastal sage scrub) to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work should cease until the problem has been remedied to the satisfaction of the cities of Carlsbad and Oceanside and the Resource Agencies. Any riparian/wetland or upland habitat impacts that occur beyond the approved fence should be mitigated at a minimum 5:1 ratio. Temporary construction fencing should be removed upon project completion. Employees should strictly limit their activities, vehicles, equipment and construction materials to the fenced project footprint. To avoid attracting predators of the gnatcatcher, vireo and flycatcher, the project site should be kept as clean of debris as possible. All food-related trash items should be enclosed in sealed containers and regularly removed from the site. 	CM	City Engineer	Oceanside and Carlsbad	Prior to grading; Periodic compliance verification during and after grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<ul style="list-style-type: none"> • Pets of project personnel should not be allowed on the project site. • Disposal or temporary placement of excess fill, brush or other debris should not be allowed in Waters of the U.S. or their banks. • All equipment maintenance, staging, and dispensing of fuel, oil, coolant or any other such activities should occur in designated areas outside of Waters of the U.S. within the fenced project impact limits. These designated areas should be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering Waters of the U.S., and shall be shown on the construction plans. Fueling of equipment should take place within existing paved areas greater than 100 feet from Waters of the U.S. Contractor equipment should be checked for leaks prior to operation and repair as necessary. "No-fueling zones" should be designated on construction plans. 	CM	City Environmental Planner	Oceanside and Carlsbad	Periodic compliance verification during and after grading.
<ul style="list-style-type: none"> • A monitoring biologist approved by the Resource Agencies should be on site during clearing and grubbing of habitat that occurs within 200 feet of the grading limits. The monitoring biologist shall conduct weekly site visits during rough grading to ensure that the grading limits have been respected. The biologist must be knowledgeable of coastal California gnatcatcher, least Bell's vireo and southwestern willow flycatcher biology and ecology. The applicant shall submit the biologist's name, address, telephone number and work schedule on the project to the cities of Carlsbad and Oceanside and Resource Agencies at least seven days prior to initiating project impacts. • The monitoring biologist shall periodically monitor adjacent habitats for excessive amounts of dust, and shall recommend remedial measures to address dust control if necessary. The monitoring biologist shall implement a contractor training program to insure compliance with permit conditions. Any violations would be reported to the cities of Carlsbad and Oceanside, and USFWS and CDFG (collectively "Wildlife Agencies") within 24 hours. Weekly reports will be submitted during initial clearing and grubbing, and monthly reports shall be submitted throughout the remainder of the grading of the site. A final report shall be submitted to the cities 				

Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p>of Carlsbad and Oceanside and Wildlife Agencies within 60 days of project completion.</p>				
<ul style="list-style-type: none"> The clearing and grubbing of sensitive habitats should occur outside of the bird breeding season (February 15 through September 15), unless a qualified biologist demonstrates to the satisfaction of the cities of Carlsbad and Oceanside and the Wildlife Agencies that all nesting is complete. A conservation easement shall be placed over those portions of the property required to meet project mitigation obligations and shall include a distance of 100 feet from each side of the bottom of the widened Buena Vista Creek channel as a biological buffer. For those portions of the 100-foot biological buffer beyond the area restored as part of the Reclamation Plan mitigation, the conservation easement shall specify the requirements for planting of the balance of the 100-foot biological buffer in conjunction with the future end use when it has been evaluated and approved. 	CM	City Environmental Planner	Oceanside and Carlsbad	Prior to grading; Periodic compliance verification during and after grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p>The amount of created and enhanced habitat will exceed the amount required for mitigation, recognizing that a road crossing may be required in connection with future end use of the property. The conservation easement will include a provision recognizing this potential need for a future road crossing (though only if required by the future end use of the property). This provision shall limit mitigation obligations to standard mitigation ratios rather than doubling of mitigation ratios as is typically required for impacts to mitigation areas.</p> <p>The conservation easement shall also include provisions for the protection of cultural values associated with the El Salto Falls, a sacred site, and Buena Vista Creek. The specific easement language regarding cultural values shall be reviewed by and accepted by the San Luis Rey Band of Luiseno Mission Indians and is anticipated to include provisions for controlled access by Native American tribe members for traditional gathering, ceremonial uses and similar activities into areas that may otherwise be off-limits for general public access. The final easement language may include general guidelines to be implemented by the open space/conservation manager and may detail permissions and restrictions associated with access to areas within the conservation easement, such as time, duration, frequency, seasonal limits due to nesting/breeding activities, types of uses, and notifications required, with final easement language approval resting with the Resource Agencies.</p>			Oceanside and Carlsbad	Prior to grading; Periodic compliance verification during and after grading.
<ul style="list-style-type: none"> The applicant should prepare and implement a perpetual management, maintenance and monitoring plan for all on-site biological conservation easement areas. The applicant also should establish a non-wasting endowment for an amount approved by the cities of Carlsbad and Oceanside and Resource Agencies based on a Property Analysis Record (PAR; Center for Natural Lands Management 1998) or similar cost estimation method to secure the ongoing funding for the perpetual management, maintenance and monitoring of the biological conservation easement area by an agency, non-profit organization or other entity approved by the cities of Carlsbad and Oceanside and Resource Agencies. The applicant should submit a draft plan including: (1) a description of perpetual management, maintenance and monitoring actions and the PAR or other cost estimation results for the non-wasting 	CM/OM	City Environmental Planner		

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<p>endowment and (2) proposed land manager's name, qualifications, business address, and contact information to the Resource Agencies for approval at least 30 days prior to initiating project impacts. The applicant should submit the final plan to the cities of Carlsbad and Oceanside and Resource Agencies and a contract with the approved land manager, as well as transfer the funds for the non-wasting endowment to a non-profit conservation entity, within 60 days of receiving approval of the draft plan.</p> <ul style="list-style-type: none"> No species on the California Invasive Plant Council's (Cal-IPC's) "Invasive Plant Inventory List" shall be planted on the site, nor shall be included in any erosion control plan, revegetation or landscape plans for the site. Under provisions of SMARA, ongoing financial assurances are required to be in place to cover implementation of the approved Amended Reclamation Plan. Based on the final approved plan, detailed cost estimates will be provided to the City of Oceanside based on all of the site improvements, including the mitigation implementation, maintenance and monitoring. Existing bonds in place as financial assurance for site reclamation will be updated based on the updated cost estimates. These bonds will meet the requirements for bonding by the Resource Agencies. During and following reclamation activities, all exterior lighting adjacent to preserved habitat shall be of the lowest illumination allowed for human safety, selectively placed, shielded and directed away from preserved habitat to the maximum extent practicable. 				
CULTURAL RESOURCES				
<p><u>Cultural Resources - 1.</u> Prior to implementation of the monitoring, a pre-excavation agreement shall be developed between the San Luis Rey Band of Luiseno Mission Indians and the applicant.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Prior to grading.
<p><u>Cultural Resources - 2.</u> The qualified archaeologist and the Native American representative shall attend a pre-grading meeting with the contractors to explain the requirements of the program.</p>	CM	City Environmental Planner	Oceanside and Carlsbad	Prior to grading (preconstruction meetings). Periodic verification of
<p><u>Cultural Resources - 3.</u> An archaeologist and a Native American monitor shall be on site during all grading, trenching, and other ground-disturbing activities.</p>	CM	City Environmental	Oceanside and Carlsbad	

Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
		1 Planner		compliance throughout grading.
<u>Cultural Resources - 4.</u> 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.	CM	City Environmenta 1 Planner	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Cultural Resources - 5.</u> 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. The deposition of the human remains would be included in the pre-excavation agreement.	CM	City Environmenta 1 Planner; Qualified Archaeologist	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Cultural Resources - 6.</u> Recovered artifactual materials shall be cataloged and analyzed.	CM	City Environmenta 1 Planner; Qualified Archaeologist	Oceanside and Carlsbad	Verify compliance within 6 months of completion of grading.
<u>Cultural Resources - 7.</u> A report shall be completed describing the methods and results of the monitoring and data recovery program.	CM	City Environmenta 1 Planner; Qualified Archaeologist	Oceanside and Carlsbad	Verify compliance within 6 months of completion of grading.
<u>Cultural Resources - 8.</u> 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.	CM	City Environmenta 1 Planner; Qualified Archaeologist	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
AESTHETICS				
No mitigation measures are necessary.	N/A	N/A	N/A	N/A
TRAFFIC AND CIRCULATION				
No mitigation measures are necessary.	N/A	N/A	N/A	N/A
NOISE				
No mitigation measures are necessary.	N/A	N/A	N/A	N/A
AIR QUALITY				
<u>Air Quality - 1.</u> Multiple applications of water during grading between dozer/scrapper passes - 34-68 percent reduction	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Air Quality - 2.</u> Paving, chip sealing or chemical stabilization of internal roadways after completion of grading - 92.5 percent reduction	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Verification of compliance after grading.
<u>Air Quality - 3.</u> Use of sweepers or water trucks to remove "track-out" at any point of public street access - 25-60 percent reduction	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Air Quality - 4.</u> Termination of grading if winds exceed 25 mph - reduction not quantified	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Air Quality - 5.</u> Stabilization of dirt storage piles by chemical binders, tarps, fencing or other erosion control - 30-65 percent reduction	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.

**Table F-1 (cont.)
FORMER SOUTH COAST QUARRY AMENDED RECLAMATION PLAN
MITIGATION MONITORING CHECKLIST**

MITIGATION MEASURE	TYPE	MONITOR	RESPONSIBLE CITY	SCHEDULE
<u>Air Quality – 6.</u> Hydroseeding of graded pads – 30-65 percent reduction	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Air Quality – 7.</u> Scheduling of construction truck trips during non-peak hours to reduce peak hour emissions.	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
<u>Air Quality – 8.</u> Use of ARB-certified Tier I or II construction equipment to the extent that such equipment is available for use.	CM	City Environmental Planner; City Engineer	Oceanside and Carlsbad	Periodic verification of compliance throughout grading.
HAZARDS/HAZARDOUS MATERIALS				
No mitigation measures are necessary.	N/A	N/A	N/A	N/A

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PLANNING COMMISSION
RESOLUTION NO. 2010- P16

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

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

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

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

WHEREAS, the Planning Commission, after giving the required notice, did on the 26th day of July, 2010, conduct a duly advertised public hearing as prescribed by law to consider said application.

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

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

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

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

3 FINDINGS:

4 **For the Revised Reclamation Plan:**

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

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

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2 **CONDITIONS:**

- 3 1. The Reclamation Plan shall retain the current alignment of Buena Vista Creek (Final
4 Subsequent Environmental Impact Report (FSEIR) Refined Alternative 3).
- 5 2. Within three months following the approval of this revision, the applicant shall initiate
6 consultation regarding permits for the creek restoration design (FSEIR Refined Alternative
7 3) with the Federal and State resource agencies including the U.S. Army Corps of
8 Engineers (USACOE) 404 Permit, Regional Water Quality control Board (RWQCB) 401
9 Certification, and California Department of Fish and Game (CDFG) 1603 Agreement.
- 10 3. An engineer's estimate of the cost of all grading and improvements, including
11 environmental mitigation, will be required within 30 days of the approval of the revised
12 reclamation plan. A bond will be required for the full amount of the engineers estimate
13 and will have both the City of Oceanside and the State of California named on the bond.
14 The bond will be filed and approved by the City Attorney and City Engineer. Bonds
15 shall assure timely performance of the reclamation plan including the removal of the
16 equipment in Carlsbad.
- 17 4. An agreement shall be filed with the City, prior to approval of reclamation grading plans,
18 to allow the City, following reasonable notice, to enter the property to correct any
19 landscaping or irrigation system deficiencies, any unsafe conditions or any breach of the
20 provisions of the Reclamation Plan where the City has determined that such action is
21 necessary to protect the public health, safety or general welfare.
- 22 5. A covenant or other recordable document approved by the City Attorney shall be prepared
23 by the applicant and recorded prior to the approval of any reclamation grading plans for
24 reclamation. The covenant shall provide that the property is subject to this Resolution, and
25 shall generally list the conditions of approval.
- 26 6. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
27 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
28 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
29 annul an approval of the City, concerning this revised Reclamation Plan (RMA-1-01).
The City will promptly notify the applicant of any such claim, action or proceeding

1 against the City and will cooperate fully in the defense. If the City fails to promptly
2 notify the applicant of any such claim action or proceeding or fails to cooperate fully in
3 the defense, the applicant shall not, thereafter, be responsible to defend, indemnify or
4 hold harmless the City.

5 7. Prior to hauling dirt or construction materials to or from any portion of the proposed
6 construction site within Carlsbad, developer shall apply for and obtain approval from,
7 the Carlsbad City Engineer for the proposed haul route.

8 8. Grading permit for this project is required for work within the City of Carlsbad.
9 Developer shall prepare and submit plans and technical studies/reports, for Carlsbad City
10 Engineer review, and shall pay all applicable grading plan review and grading permit
11 fees per the City of Carlsbad's latest fee schedule.

12 9. Prior to the issuance of a grading permit, developer shall submit to the Carlsbad City
13 Engineer receipt of a Notice of Intent from the State Water Resources Control Board.

14 10. Prior to the issuance of a grading permit for work within the City of Carlsbad, developer
15 shall submit for City of Carlsbad approval a Tier 3 Storm Water Pollution Prevention
16 Plan (TIER 3 SWPPP). The TIER 3 SWPPP shall be in compliance with current
17 requirements and provisions established by the San Diego Regional Water Quality
18 Control Board and City of Carlsbad. The TIER 3 SWPPP shall address measures to
19 reduce to the maximum extent practicable stormwater pollutant runoff during
20 construction of the project.

21 11. A buffer shall be provided from Buena Vista Creek to include a biological buffer with an
22 ultimate overall average width of 100-feet from the bottom of the widened creek
23 channel, along with an additional 10 feet as a planning buffer, so the total buffer width
24 ultimately will total 110 feet from the bottom of the widened creek channel. The
25 Reclamation Plan revegetation design shall revegetate areas up to the top of the creek
26 channel slopes, as needed to meet habitat mitigation requirements of the Reclamation
27 Plan. The balance of the biological buffer (averaging approximately 20 feet) shall be
28 revegetated in conjunction with any future end use and upon any final grading for such
29 future end use. The 10-foot planning buffer would be established beyond the biological

1 buffer at that time, and any allowable uses and specific restrictions on uses within the
2 10-foot planning buffer (i.e. trails, parking, etc.) are to be established at the time of
3 future use proposals. These requirements shall be recorded as CC&Rs against the
4 property as a mechanism to assure future implementation.

5 12. A final "as approved" version of the Reclamation Plan (Refined Alternative 3 in the
6 FEIR) shall be prepared within 30 days of the approval of the revised Reclamation Plan
7 that includes all of the changes outlined in the letter to OMR dated June 24, 2010. This
8 final version shall also incorporate corrections from the errata as noted in the staff report.

9 13. The landowner, including successors in interest, subsequent landowners and/or
10 conservation managers shall assure that Buena Vista Creek through the site, including El
11 Salto Falls, has consistent and regular maintenance that is sensitive to cultural values,
12 including removal of graffiti, litter, and other refuse items that may find their way into the
13 falls and creek. Such requirements shall be incorporated into the perpetual management,
14 maintenance and monitoring plan associated with the conservation easement over Buena
15 Vista Creek through the site, as litter and other debris impairs the importance and integrity
16 of the sacred waters and culturally important areas around the falls and the creek.

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1 14. The conservation easement placed over Buena Vista Creek, including El Salto Falls, a
2 sacred site, shall allow for access by Native American tribe members for ceremonial
3 uses, traditional gathering and similar activities associated with the tribe's cultural
4 values. The San Luis Rey Band of Luiseño Mission Indians shall be consulted regarding
5 specific language to be included in the conservation easement regarding cultural
6 values; the Wildlife Agencies and the Tribe shall agree to the easement language prior to
7 recordation of the conservation easement over the Buena Vista Creek, including El Salto
8 Falls, with ultimate authority of the easement language resting with the Wildlife
9 Agencies.

10 PASSED AND ADOPTED Resolution No. 2010-P16 on July 26, 2010 by the following

11 vote, to wit:

12 AYES:

13 NAYS:

14 ABSENT:

15 ABSTAIN:

16 _____
17 Bob Neal, Chairperson
Oceanside Planning Commission

18 ATTEST:

19 _____
20 Jerry Hittleman, Secretary

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

23 Dated: _____
24

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

28 _____
29 Applicant/Representative

_____ Date



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

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

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

May 4, 2010

Received

MAY 6 2010

VIA EMAIL: planning@ci.oceanside.ca.us
ORIGINAL SENT BY MAIL

Planning Division

Jerry Hittleman
 City Planner
 City of Oceanside
 300 North Coast Highway
 Oceanside, CA 92054

FORMER SOUTH COAST MATERIALS QUARRY
 CA MINE ID #91-37-0016

Dear Mr. Hittleman,

The Department of Conservation's Office of Mine Reclamation (OMR) has received the Final Environmental Impact Report (FEIR) for the Former South Coast Materials Quarry. OMR thanks the City for forwarding this report for our records, and notes that an amended reclamation plan dated February 2010 was included with the documents we received. OMR would remind the City of the review process required for approval of a reclamation plan, which is separate from that of the project review required under the California Environmental Quality Act. Before the City acts to approve the reclamation plan, it must be forwarded for OMR's formal 30-day review.

When submitting the reclamation plan and financial assurance cost estimate to OMR for review, the lead agency is required to certify that the reclamation plan is complete pursuant to section 2774(c) of the Surface Mining and Reclamation Act. Please include a cover letter with a statement such as:

The <mine name> Quarry Reclamation Plan is enclosed for OMR's 30-day review. <Lead agency name> certifies that this submission is in compliance with the applicable requirements of Article 9 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations and the County's mining ordinance.

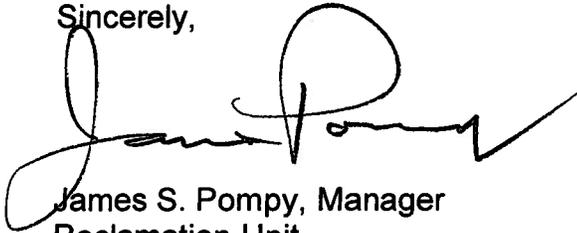
Senate Bill 668, Chapter 869, Statutes of 2006 amended PRC section 2774 with respect to lead agency approvals of reclamation plans, plan amendments, and financial assurances. These requirements are applicable to the reclamation plan. Once OMR

Jerry Hittleman
May 4, 2010
Page 2

has provided comments on the reclamation plan, a proposed response to the comments must be submitted to the Department at least 30 days prior to lead agency approval. The proposed response must describe whether you propose to adopt the comments. If you do not propose to adopt the comments, the reason(s) for not doing so must be specified in detail. At least 30 days prior notice must be provided to the Department of the time, place, and date of the hearing at which the reclamation plan is scheduled to be approved. If no hearing is required, then at least 30 days notice must be given to the Department prior to its approval. Finally, within 30 days following approval of the reclamation plan, a final response to these comments must be sent to the Department. Please ensure that the City allows adequate time in the approval process to meet these new SMARA requirements.

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

Sincerely,

A handwritten signature in black ink, appearing to read "James S. Pompy". The signature is fluid and cursive, with a large initial "J" and "P".

James S. Pompy, Manager
Reclamation Unit



CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

May 13, 2010

Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06
Sacramento, CA 95814
Attention: Bess Hendrickson, Acting Manager

Re: Former South Coast Materials Quarry
CA Mine ID # 91-37-0016

Dear Ms. Hendrickson:

On behalf of the City of Oceanside, we thank the Department of Conservation's Office of Mine Reclamation ("OMR") for its May 4, 2010 letter from Mr. James Pompy.

The following is a brief history of the public/agency review process for the Former South Coast Materials Quarry Amended Reclamation Plan project pursuant to SMARA section 2774, subdivision (c). The City sent OMR a copy of the proposed amendment, and a copy of the draft Environmental Impact Report, on September 19, 2008. OMR thereafter provided a comment letter on November 21, 2008. The City recently forwarded to OMR a copy of its response to those comments on March 8, 2010, as part of the Final Environmental Impact Report together with a hard copy of the updated reclamation plan amendment.

In accordance with SMARA, the City hereby provides the proposed reclamation plan amendment and Final Environmental Impact Report to OMR with this letter. Pursuant to SMARA section 2774(c), the City certifies that this submission is in compliance with the applicable requirements of SMARA, including Article 9 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the City of Oceanside's current mining ordinance No. 99-07. The City has, in the meantime, rescheduled the hearing on the proposed reclamation plan amendment for July 26, 2010, in order to ensure that there is an appropriate amount of time for OMR's review, the City's response to any comments, and subsequent OMR review of those responses.

The City will provide updated financial assurances for the site at a later date based on the version of the proposed reclamation plan amendment that is

actually approved, to facilitate OMR's review as required by SMARA section 2774.

Thank you for your attention to this matter. Please do not hesitate to contact the City if there are any questions during your 30-day review. OMR may provide any further comments to my attention at the address listed below, or via email to me at: jhittleman@ci.oceanside.ca.us.

Sincerely,



Jerry Wittleman
City Planner
City of Oceanside
Development Services Department
Planning Division
300 North Coast Highway
Oceanside Ca 92054

Enclosures:

Amended Reclamation Plan for Former South Coast Materials Quarry,
Refined Alternative 3 Draft dated February 2010 (Volumes 1 and 2) – hard
copy and CD copy

Final Subsequent Environmental Impact Report (Volumes 1-4), SCH #
2005111124, dated February 2010 – CD copy

As noted in your 5/4/2010 letter, you have this document in your
records. We are including this CD version for ease of reference
during your review of the amended Reclamation Plan.



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

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

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

June 17, 2010

Received

JUN 23 2010

Planning Division

VIA EMAIL: planning@ci.oceanside.ca.us
ORIGINAL SENT BY MAIL

Jerry Hittleman
City of Oceanside
Development Services Department, Planning Division
300 North Coast Highway
Oceanside, CA 92054

Dear Mr. Hittleman:

**AMENDED RECLAMATION PLAN FOR FORMER SOUTH COAST MATERIALS QUARRY
DRAFT REFINED ALTERNATIVE 3, VOLUMES 1 AND 2
CALIFORNIA MINE ID# 91-37-0016, RMA-1-00 REVISION 05**

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the Amended Reclamation Plan (Draft, Refined Alternative 3) for the Former South Coast Materials Quarry dated February 2010. This Amended Reclamation Plan will be applicable if Refined Alternative 3, which is the preferred alternative, is selected and approved with adoption of the Final EIR. Refined Alternative 3 has been designed to meet the objectives of the project and to reduce impacts associated with the proposed project as described in the Draft EIR.

The applicant, Hanson Aggregates Pacific Southwest Inc. is proposing to reclaim a 104.2-acre project site. The quarry operated from 1961 to 1995. Mining operations have been completed and the only ongoing use is a concrete recycling operation that will remain in operation until reclamation grading is initiated. The reclamation plan was originally approved in 1991 and amended in 2001. The end use for the site includes both open space and urban uses, including restoration of the Buena Vista Creek channel and enhancement of wildlife habitat.

The Surface Mining and Reclamation Act of 1975 (SMARA) (Public Resources Code section 2710 et seq.) and the State Mining and Geology Board (SMGB) Regulations (California Code of Regulations (CCR) Title 14, Division 2, Chapter 8, Subchapter 1) require that specific items be addressed or included in reclamation plans. The following comments prepared by Leah Gardner, Restoration Ecologist, and Joshua Goodwin,

Engineering Geologist, are offered to assist in your review of this project. We recommend that the reclamation plan be supplemented and/or revised to fully address these items.

Mining Operation and Closure

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

SMARA section 2772(c)(3) requires that the reclamation plan include a specific termination date. It appears that reclamation will be carried out in 4 phases of 2 years each, plus a 5 –year maintenance and monitoring period. A termination date such as December 31, 2018 should be added to the reclamation plan.

Several of the detailed site maps and drawings in the reclamation plan were provided at a greatly reduced scale and were not suitable for meaningful review. Full-scale drawings of the following maps and cross sections should be provided for OMR to completely review the reclamation plan:

- Figure 3-5, Amended Reclamation Grading Plan (please include scaled Cross Sections A-A through E-E and scaled basin drawings).
- Figure 2, Geologic Map located in Section 6, Geotechnical Report.
- Figure 3, Geologic Map (Cross Sections).

Hydrology and Water Quality

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

According to SMARA section 2772(d): “An item of information or a document required pursuant to subdivision (c) that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the lead agency submits the reclamation plan to the director for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subdivision (c), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this article”. Since the reclamation plan relies on an erosion control plan (ECP) to meet the water quality, and erosion and sediment control requirements of SMARA and the SMGB Regulations, the applicable elements of the ECP should be incorporated into the reclamation plan or a copy of the ECP should be included as an appendix to the reclamation plan.

On page 4 of the Drainage Report, Section 7 of the Amended Reclamation Plan, the desiltation basin designs are discussed, however, the spillway designs are not presented per CCR section 3503(e). The Amended Reclamation Plan should include design drawings that demonstrate how erosion of the basin spillways will be prevented.

CCR section 3706(d) requires erosion control methods such as sediment ponds to be designed to handle runoff from not less than the 20 year/1hour intensity storm event. However, the Drainage Report (Section 7) indicates that overflow rates for the basin risers were based on a 10-year storm event analysis. The analysis should be evaluated to ensure that the requirements of CCR section 3706(d) are fully complied with.

Resoiling and Revegetation

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

Much of the information regarding revegetation is contained on Figures 3-7 through 3-12 and in Section 5, Mitigation and Monitoring Report. A section of text should be added to the body of the Amended Reclamation Plan that includes all the necessary information required to address each section of SMARA and the CCRs regarding revegetation. Some of the items to be addressed are discussed below.

CCR Section 3705(c) requires that where surface mining activities result in the compaction of the soil; ripping, discing or other means should be used in areas to be revegetated to eliminate compaction and establish a suitable root zone in preparation for planting. The reclamation plan must address how the site will be prepared for planting and seeding.

CCR section 3705 (h) requires that planting be conducted during the most favorable period of the year for plant establishment. A sentence should be added indicating when planting will take place.

Under the "Criteria for Completion" sections on pages 14-18, the phrase regarding the maintenance *and monitoring* period for revegetation "until acceptance by the City" should be changed to read "until performance standards are achieved". Also, as shown in italics above, the words *and monitoring* should be added to each incidence of the phrase.

CCR section 3705(j) states that if irrigation is used, it must be demonstrated that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances. On page 18 under the "Criteria for Completion" section for Phase 4, only a 1-year maintenance *and monitoring* period is specified. This should either be deleted or changed to read "until performance standards have been achieved."

SMARA section 2773(a) requires that the reclamation plan establish "site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation, and sediment and erosion control." CCR section 3705(m) requires that the reclamation plan include success criteria that can be quantified by cover, density, species-richness, and a sample size that provides a minimum 80% confidence level. The sampling methods should be set forth in the plan and the sample size should provide an 80 percent confidence level at a minimum. Monitoring should be conducted annually until performance standards are achieved, with reports submitted to

the lead agency and DOC. The need for a monitoring plan with annual monitoring reports is also called for in Section 5, Biological Mitigation and Monitoring Report.

Quantitative performance standards must be specified in the reclamation plan for vegetative cover, density, and diversity to be attained. Some performance standards are mentioned for some of the habitat types in Section 5. However, OMR recommends that they be summarized in a table including standards for each vegetation type and inserted into the revegetation section or the performance standards section of the Amended Reclamation Plan, as shown in the example below.

Also, these target values must be specific, not within a range such as 40-65% cover as on page 4, Section 5. Survival percentages can be converted into density values. For instance, if 100 oaks are planted per acre with a requirement of 80% survival, the density standard would be 80 oaks per acre. All values must be per unit area and must pertain to only native perennials.

	% Cover	Density	Species richness
Riparian			
Coastal sage scrub - bench			
Coastal sage scrub - upland			
Erosion control - slopes			
Erosion control – level areas			
Bio-swales			

Regarding the seed mix for hydroseeding for erosion control on flat areas, OMR recommends the addition of some perennial grasses such as purple needle grass (*Nasella pulchra*) or creeping wild rye (*Leymus triticoides*). These grasses are effective at controlling erosion due to their extensive fibrous root systems.

Administrative Requirements

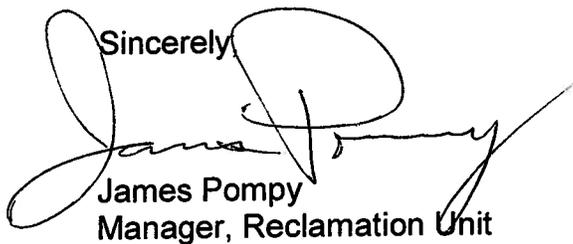
(Refer to SMARA sections 2772, 2773, 2774, 2776, 2777, PRC section 21151.7)

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

Jerry Hittleman
June 10, 2010
Page 5

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

Sincerely,

A handwritten signature in black ink, appearing to read "James Pompy". The signature is written in a cursive style with a large initial "J" and a long, sweeping tail that extends to the right.

James Pompy
Manager, Reclamation Unit



CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

June 24, 2010

Mr. James Pompy
Manager, Reclamation Unit
Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06
Sacramento, CA 95814

RE: Amended Reclamation Plan for Former South Coast Materials Quarry
Draft Refined Alternative 3, Volumes 1 and 2
California Mine ID# 91-37-0016, RMA-1-00 Revision 05

Dear Mr. Pompy:

As required under SMARA Section 2774, the City of Oceanside is providing these responses to the comments received from OMR on June 21, 2010.

This letter also serves as official notice that this Reclamation Plan is scheduled for public hearing before the Oceanside Planning Commission on Monday, July 26, 2010, at 7 pm in the Oceanside City Council Chambers, 300 North Coast Highway, Oceanside CA.

The City appreciates OMR's input, and accepts all of OMR's comments. We have reproduced OMR's comments below for ease of reference, followed by our responses.

Mining Operation and Closure

SMARA section 2772(c)(3) requires that the reclamation plan include a specific termination date. It appears that reclamation will be carried out in 4 phases of 2 years each, plus a 5 -year maintenance and monitoring period. A termination date such as December 31, 2018 should be added to the reclamation plan.

The schedule for the reclamation activities is currently summarized on Figure 3-13 of the Reclamation Plan. That exhibit currently notes that the maintenance and monitoring periods for revegetation are in addition to those time frames. A termination date of December 31, 2018 will be added to Figure

3-13 and to the text of Section 3.5 in accordance with OMR's recommendations.

Several of the detailed site maps and drawings in the reclamation plan were provided at a greatly reduced scale and were not suitable for meaningful review. Full-scale drawings of the following maps and cross sections should be provided for OMR to completely review the reclamation plan:

- Figure 3-5, Amended Reclamation Grading Plan (please include scaled Cross Sections A-A through E-E and scaled basin drawings).
- Figure 2, Geologic Map located in Section 6, Geotechnical Report.
- Figure 3, Geologic Map (Cross Sections).

Full-scale copies of these plans are included with this response letter for your reference and files as requested. The scaled cross sections are part of the Revegetation Plan sheets, so we have included a complete set of those plans in addition to the Amended Reclamation Grading Plan and the Geologic Map and Cross Sections. Please note that these are the same as provided in the materials previously submitted to OMR in the hard copy documents and electronically (on CD).

The 3 desiltation basins shown on the grading plan are drawn to scale (20 feet wide, 40 feet long and 5 feet deep) based on the sizing described on page 4 of Section 7, Drainage Report, of the Reclamation Plan. The standardized basin design details are shown for reference only, and sizing will be as calculated.

Hydrology and Water Quality

According to SMARA section 2772(d): "An item of information or a document required pursuant to subdivision (c) that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the lead agency submits the reclamation plan to the director for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subdivision (c), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this article". Since the reclamation plan relies on an erosion control plan (ECP) to meet the water quality, and erosion and sediment control requirements of SMARA and the SMGB Regulations, the applicable elements of the ECP should be incorporated into the reclamation plan or a copy of the ECP should be included as an appendix to the reclamation plan.

The components of erosion control measures for this Reclamation Plan are shown on the grading plan and revegetation plan, and also include the Storm Water Management Plan (SWMP) that was included as an appendix to the Final EIR provided to OMR with the original review package. As recommended by OMR, this SWMP will be included in the Final Reclamation Plan as a separate appendix. The grading plan incorporates the treatment control BMPs from the SWMP and the revegetation plan will provide for permanent erosion control at the site.

On page 4 of the Drainage Report, Section 7 of the Amended Reclamation Plan, the desiltation basin designs are discussed, however, the spillway designs are not presented per CCR section 3503(e). The Amended Reclamation Plan should include design drawings that demonstrate how erosion of the basin spillways will be prevented.

Based on OMR's comments, the basin designs have been reviewed and the outlet flows are adequately controlled with measures provided to avoid erosion. Water exits the detention basins through a perforated riser, not a spillway, directly into permanent storm drain pipes. Where those pipes outlet into BV Creek there is rip-rap which is illustrated on the reclamation grading plan.

CCR section 3706(d) requires erosion control methods such as sediment ponds to be designed to handle runoff from not less than the 20 year/1 hour intensity storm event. However, the Drainage Report (Section 7) indicates that overflow rates for the basin risers were based on a 10-year storm event analysis. The analysis should be evaluated to ensure that the requirements of CCR section 3706(d) are fully complied with.

In order to assure the 20-year/1 hour intensity storm event requirement is met, and to incorporate OMR's comments, the outlet risers in the desiltation basins will be upsized. The risers and basins will be designed at a minimum to convey the 20-year flow. The pipes that the risers connect to are the permanent storm drains, which have been sized for the 100-year flow. These permanent storm drains were conservatively sized to account for a full range of future development types. The drainage section and the associated exhibits will be revised to show the revised outlet riser sizing to meet the 20 year/1 hour intensity storm event requirement in the final reclamation plan.

Resoiling and Revegetation

Much of the information regarding revegetation is contained on Figures 3-7 through 3-12 and in Section 5, Mitigation and Monitoring Report. A section of text should be added to the body of the Amended Reclamation Plan that includes all the necessary information required to address each section of SMARA and the CCRs regarding revegetation. Some of the items to be addressed are discussed below.

The last paragraph of Section 3.5.5 (page 24) specifies that this reclamation plan is required to comply with all the listed performance standards for revegetation as well as all required environmental mitigation measures. As recommended by OMR, specific additional information will be added as text to the appropriate sections of the Reclamation Plan as noted below.

CCR Section 3705(c) requires that where surface mining activities result in the compaction of the soil; ripping, discing or other means should be used in areas to be revegetated to eliminate compaction and establish a suitable root zone in preparation for planting. The reclamation plan must address how the site will be prepared for planting and seeding.

The following text will be added to the revegetation design/planting specifications in Section 5 of the Reclamation Plan:

All wetland mitigation areas shall be graded to the same elevation as adjacent existing jurisdictional wetlands areas, and/or to within 1 foot of the groundwater table, and shall be left in a rough grade state with micro topographic relief (including channels for wetlands) that mimics natural topography. All upland habitat creation/restoration sites shall be prepared for planting by decompacting the top soil using methods such as mechanical ripping to the appropriate depth in a way that mimics natural upland habitat top soil to the maximum extent practicable while maintaining slope stability.

CCR section 3705 (h) requires that planting be conducted during the most favorable period of the year for plant establishment. A sentence should be added indicating when planting will take place.

The Reclamation Plan does include preferential planting time section 5.2.1.(4) and 5.2.2 (4). For riparian habitat, the following text will be added to the riparian revegetation design/planting specifications in section 5.2.1 of the Reclamation Plan:

Necessary site preparation and planting should be completed immediately upon completion of channel grading. Actual construction and installation dates may vary as needed to consider seasonal hydrological conditions within Buena Vista Creek. Planting will be timed to be implemented during the most favorable period to the extent feasible with the limitations noted above.

Under the "Criteria for Completion" sections on pages 14-18, the phrase regarding the maintenance *and monitoring* period for revegetation "until acceptance by the City" should be changed to read "until performance standards are achieved". Also, as shown in italics above, the words *and monitoring* should be added to each incidence of the phrase.

The recommended text revisions will be made in the Final Reclamation Plan document.

CCR section 3705(j) states that if irrigation is used, it must be demonstrated that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances. On page 18 under the "Criteria for Completion" section for Phase 4, only a 1-year maintenance *and monitoring* period is specified. This should either be deleted or changed to read "until performance standards have been achieved."

As recommended by OMR, this text will be revised for consistency with the requirement for a minimum of 2-years without Irrigation to read, "until performance standards have been achieved."

SMARA section 2773(a) requires that the reclamation plan establish "site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation, and sediment and erosion control." CCR section 3705(m) requires that the reclamation plan include success criteria that can be quantified by cover, density, species-richness, and a sample size that provides a minimum 80% confidence level. The sampling methods should be set forth in the plan and the sample size should provide an 80 percent confidence level at a minimum. Monitoring should be conducted annually until performance standards are achieved, with reports submitted to the lead agency and DOC. The need for a monitoring plan with annual monitoring reports is also called for in Section 5, Biological Mitigation and Monitoring Report.

These requirements are understood and included in Section 3 of the Reclamation Plan. Consistent with SMARA, the current revegetation and monitoring plan requires identification of target species richness, native cover and non-native cover criteria and sample size then monitoring to meet those specific success criteria. The sampling methods are addressed in Section 5. As OMR has recommended, the following underlined text will be added, to require that the final restoration plans have provisions that include, "A qualitative and quantitative vegetation monitoring plan with a map of proposed sampling locations sufficient to meet success criteria and performance standards. Photo points shall be used for qualitative monitoring and stratified, random sampling shall be used for all quantitative monitoring."

The text will also be revised to add DOC to the list of agencies that are to receive copies of the annual mitigation maintenance and monitoring reports.

Quantitative performance standards must be specified in the reclamation plan for vegetative cover, density, and diversity to be attained. Some performance standards are mentioned for some of the habitat types in Section 5. However, OMR recommends that they be summarized in a table including standards for each vegetation type and inserted into the revegetation section or the performance standards section of the Amended Reclamation Plan, as shown in the example below.

Also, these target values must be specific, not within a range such as 40~65% cover as on page 4, Section 5. Survival percentages can be converted into density values. For instance, if 100 oaks are planted per acre with a requirement of 80% survival, the density standard would be 80 oaks per acre. All values must be per unit area and must pertain to only native perennials.

	% Cover	Density	Species richness
Riparian			
Coastal sage scrub - bench			
Coastal sage scrub - upland			
Erosion control - slopes			
Erosion control - level areas			
Bio-swales			

As OMR has recommended, the Final Reclamation Plan will include a table identifying percent native cover, species richness, and percent non-native cover. For OMR's reference, the range of 40-65% is based on input from the U.S. Fish and Wildlife Service and California Department of Fish and Game. The minimum standard of 40% will be used.

Regarding the seed mix for hydroseeding for erosion control on flat areas, OMR recommends the addition of some perennial grasses such as purple needle grass (*Nasella pulchra*) or creeping wild rye (*Leymus triticoides*). These grasses are effective at controlling erosion due to their extensive fibrous root systems.

We thank OMR for this recommendation. For reference, the species suggested by OMR are currently included in the revegetation plant palette, where sloping conditions warrant the use of plants with more extensive root systems (*Leymus triticoides* used in the bio-swailes and desilation basins, and *Nasella pulchra* used as part of the DCSS slope plantings). In other areas, where finished grades for most of the pad areas are 1.0% to 1.7%, the revegetation plan include species designed to provide an appropriate lightweight cover crop for effective erosion control on these flat areas, with minimal need for maintenance or mowing for fuel management.

Administrative Requirements

(Refer to SMARA sections 2712, 2773, 2774, 2716, 2777, PRC section 21151.7)

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

The City of Oceanside will require as a condition of approval that each of these changes be made in the Reclamation Plan. A final "As Approved" version of the plan document and exhibits will be prepared following City approval, and a copy will be provided to OMR for your reference and files.

As noted earlier, our Planning Commission public hearing is scheduled for July 26, 2010 at 7 p.m. in our council chambers. Please don't hesitate to contact us if you have any questions regarding our responses to your comment letter. Thank you for your review and input to help ensure that this document meets the SMARA requirements.

Sincerely,



**Jerry Hittleman
City Planner
City of Oceanside
Development Services Department
Planning Division
300 North Coast Highway
Oceanside, CA 92054**

Enclosures:

Full Scale Prints of Exhibits from Reclamation Plan Document:

- **Amended Reclamation Grading Plan (Sheet 1 of 1 included in Reclamation Plan Document as Figure 3-5)**
- **Revegetation Plan (Sheets L-1 through L-6 included in Reclamation Plan Document as Figures 3-7 through 3-12) (scaled cross sections A-A through E-E on sheets L-5 and L-6)**
- **Geologic Map (Figure 2 of Section 6)**
- **Geologic Cross Sections (Figure 3 of Section 6)**

Copies (without enclosures):

**Joshua Goodwin, Engineering Geologist, OMR
Leah Gardner, Restoration Ecologist, OMR
Ann Gunter, The Lightfoot Planning Group**



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

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

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

July 8, 2010

RECEIVED

JUL 14 2010

VIA EMAIL: JHittleman@ci.oceanside.ca.us
ORIGINAL SENT BY MAIL

**CITY OF OCEANSIDE
DEVELOPMENT SERVICES**

Jerry Hittleman
 City of Oceanside
 Development Services Department, Planning Division
 300 North Coast Highway
 Oceanside, CA 92054

Dear Mr. Hittleman:

**PROPOSED RESPONSES TO COMMENTS
 AMENDED RECLAMATION PLAN FOR FORMER SOUTH COAST MATERIALS QUARRY
 CALIFORNIA MINE ID# 91-37-0016, RMA-1-00 REVISION 05**

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the City of Oceanside's June 24, 2010 response to OMR's comment letter of June 21, 2010. The City's response to comment letter was received by OMR on June 25, 2010 and included a set of full size drawings. OMR's comments have been adequately addressed, however, the Final Reclamation Plan referenced in the response to comment letter will need to be submitted to OMR as part of the City's Final Response to Comments.

Under applicable law, regulation, or code, all applicable documents shall be prepared by a California-licensed professional, include his or her license number and name, and bear the signature and seal of the licensee. Please ensure that all applicable supporting documents (e.g. grading plan) included in the Final Reclamation Plan bear the signature and seal of the licensee.

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

Sincerely,

James S. Pompy, Manager
 Reclamation Unit

COMMENTS



July 1, 2010

Jerry Hittelman, City of OceanSIDE
Van Lynnh, City of Carlsbad

Subject : Cumulative GSS/Sensitive Habitat Impacts at Former South Coast Quarry
Amended Reclamation Plan/ Inadequate Responses to Comments to FSEIR
2005711124

Dear Mr. Hittelman and Mr. Lynch:

We have two concerns remaining with the final proposed amendment to the South Coast Aggregates project and environmental review. These include adequate buffers to protect Buena Vista Creek and the riparian corridor and significant cumulative Coastal Sage Scrub(CSS) and other sensitive habitat impacts that have not been mitigated.

Creek Buffers

Everyone thought there were adequate buffers to the Sacred El Salto falls when the Quarry Creek shopping center was approved 5 years ago- until the bulldozers arrived. After the fact we learned that somehow the buffers that everyone thought were included had not been fully identified as a condition of approval and were not properly identified on the final drawings. The final amendment again seems to provide for buffers, but the details have not been adequately documented. The minimum 100' biological buffer line is not specified. The conditions as written say that the final buffer line cannot be specified at this time- it will be determined later- and only part will be restored to the appropriate habitat. We understand that final grading may impact the actual contours - but the condition for a minimum 100' buffer on each side of the creek needs to be clearly identified as a project condition- with a clear process for reviewing and signing off on that line in the future. There also needs to be some public accountability to assure that has happened.

The project conditions also only require restoring part of the buffer to the appropriate native vegetation. This final phase of reclamation includes extensive changes in the actual creek channel with the construction of drop structures to control velocity and the creation of a stepped back creek channel to provide more capacity. There will be extensive traversing of the buffer zone with heavy

5020 Nighthawk Way - OceanSIDE, CA 92066
WWW.PRESERVECALAVERITA.ORG
Nonprofit 501(c)(3) 101933-0555304

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1a

RESPONSES

1a. The creek buffers have been addressed as part of the Final EIR in response to comments A-3 and K-22, and the 100-foot biological buffer is clearly specified in the Reclamation Plan for Refined Alternative 3 on the conceptual Revegetation Plan (Specifically Figures 3-7, 3-9 and 3-10). In addition, Figure D-8 of the Final EIR illustrates Open Space and Conservation Easement Areas which will be placed over the creek areas, including the full 100-foot buffer as illustrated. Because this is included as part of the project design, restating this in a condition seems redundant. Nevertheless, additional wording will be added to the MMRP as outlined later in this response. (See response 1d.1) The Final EIR also provides information regarding the falls buffer in responses K-13 and K-84.

1b. As previously documented, the finished slopes will be restored to Diegan coastal sage scrub. The width varies based on the channel slope configuration and averages approximately 80 feet within the biological buffer area. The site currently has no buffer along the creek, and no sage scrub occurs along the creek so there will be a net increase in buffering functions over the existing condition. Historically, there also was no coastal sage adjacent to this stretch of the creek, but with the new creek design, incorporating this habitat restoration is considered beneficial.

As noted in the comment, and described within the FEIR, the majority of the creek channel will be heavily disturbed and impacted during construction of the creek improvements needed to implement the reclamation plan design. All of these impacts have been quantified within the FEIR. The FEIR also details how the project design provides for appropriate mitigation and restoration of Diegan coastal sage scrub along the creek channel slopes based on identified impacts. The reclamation of this site is not establishing or implementing any future uses, and therefore there is no future use from which to buffer as part of reclamation. This mitigation area on the channel slopes will establish appropriate habitat areas within these portions of the buffer as part of the reclamation work

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 restored to Diegan coastal sage scrub in conjunction with any future end use and upon any final grading for such future end use. This approach has been agreed to by the Resource Agencies as appropriate given that the final end use has not been determined at this time, and the mitigation will adequately buffer the creek during the interim when no end uses have been established or approved for the site. Language in the conservation easement will specify the requirements for planting of the balance of the 100-foot biological buffer in conjunction with the future end use. If, as suggested in the comment, future development is years away or may never happen, the lack of vegetation within portions of the biological buffer during the time the site remains undeveloped does not create any adverse impacts on the restored creek habitats. It should also be noted that the approximately 20-foot portion of the buffer not being restored as part of the reclamation plan is not needed to mitigate for project impacts to Diegan coastal sage scrub and is not being "counted" toward meeting any restoration obligations of the reclamation plan.

COMMENTS

RESPONSES

1b
cont.

equipment, compacting the soil, changing the contours and effecting the soil associated with this construction. It is not reasonable to just allow placement/restoration of the buffer given the magnitude of the changes that occurred to this landscape from years of mining and the further extensive impacts that will occur in the final phases of reclamation. Buffers can't provide the function of a buffer if left in some unknown future vegetated state. It seems like this project is assuming that future development will take care of restoring part of the buffer. But this may be years - and it may never happen. The years of mining and its cycling operations on this site caused terrible degradation of the creek and the entire downstream watershed. This project should now, at a minimum, assure it leaves this site with an adequate buffer for the creek and that requires proper restoration of the vegetation in the buffer.

Furthermore the provision for a future planning buffer is just a side note. Such buffers are routinely included to assure that the biological buffer is not damaged by future development. We realize that the specific details of such a buffer cannot be determined until the details of such future development are known. However we believe it is essential to identify that any future development will need to include evaluation of the need for a planning buffer to protect the biological buffer that will be built with this project.

Three changes are needed to assure adequate creek buffers: 1. Clarify in the project conditions that a minimum 100' biological buffer will be provided along Buena Vista Creek, and will be marked on final maps and included in conservation easements. 2. The full 100' minimum biological buffer will be restored to native habitat. 3. Add a notation that this project approval does not include planning buffers that may be needed to protect this biological buffer. Such planning buffer will not be done with reclamation but will need to be considered with any future development.

Cumulative CSS and other sensitive habitat impacts

It is our understanding that all such impacts were supposed to be addressed in the final amendment to the Reclamation Plan. The project applicant claims that the mitigation provided in the final amended reclamation actually results in some unspecified number of excess mitigation credits. We believe there are several cumulative impacts to this project site for which mitigation was supposed to have been provided and has not. It is not possible to determine if the final habitat mitigation proposed addresses these unless each such impact is properly documented, the amount of mitigation required specified, and then a determination made that each specific impact has been addressed. We have identified four prior cases where impact occurred but we have found no documentation that any and for full mitigation was provided.

We raised this issue in our comments on the Draft EIR for the Reclamation Plan Amendment. The response to these comments denied there were any such remaining impacts, but failed to provide any evidence in support of that statement. Subsequently we received verification that partial mitigation for the impacts associated with the contaminated soil clean-up were addressed through purchase of mitigation credits at the North County Mitigation Bank. We do not believe this

1c. As explained in the FEIR, the planning buffers have not been finalized because the end use has not been determined. These planning buffers, however, will be approximately 10 feet as agreed to by the Resource Agencies (in recognition of the fact that the biological buffers have been expanded to 100 feet). The final configuration will be determined at the time of approval of the end use for the property, and upon evaluation at that time of such proposed end use.

1d. Response to 3 changes requested:

1. Clarify buffer in project conditions: The 100-foot buffer is already clearly marked and specified on the Reclamation Plan exhibits. A condition clarifying this will be added. Suggested wording to add to current MMRP condition regarding the conservation easement: (this also includes the additional language regarding cultural values previously addressed in staff report)

A conservation easement shall be placed over those portions of the property required to meet project mitigation obligations, and shall include a distance of 100 feet from each side of the bottom of the widened Buena Vista Creek channel as a biological buffer. For those portions of the 100-foot biological buffer beyond the area restored as part of the Reclamation Plan mitigation, the conservation easement shall specify the requirements for planting of the balance of the 100-foot biological buffer in conjunction with the future end use when it has been evaluated and approved.

The amount of created and enhanced habitat will exceed the amount required for mitigation, recognizing that a road crossing may be required in connection with future end use of the property. The conservation easement will include a provision recognizing this potential need for a future road crossing (though only if required by the future end use of the property). This provision shall limit mitigation obligations to standard mitigation ratios rather than doubling of mitigation ratios as is typically required for impacts to mitigation areas.

The conservation easement shall also include provisions for the protection of cultural values associated with the El Salto Falls, a sacred site, and Buena Vista Creek. The specific easement language regarding cultural values shall be reviewed by and accepted by the San Luis Rey Band of Luiseno Mission Indians and is anticipated to include provisions for controlled access by Native American tribe members for traditional gathering, ceremonial uses and similar activities into areas that may otherwise be off-limits for general public access. The final easement language may include general guidelines to be implemented by the open space/conservation manager and may detail permissions and restrictions associated with access to areas within the conservation easement, such as time, duration, frequency, seasonal limits due to nesting/breeding activities, types of uses, and notifications required, with final easement language approval resting with the Resource Agencies.

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1c

2. Restore full biological buffer to native habitat: As noted above, the reclamation plan mitigation areas will revegetate the creek channel side slopes with Diegan coastal sage scrub as part of the project mitigation requirements averaging approximately 80 feet. Provisions will be made in the required conservation easement so that the balance of the 100-foot buffers will be planted at the time future use adjacent to the creek is established, which is when the need for the buffer will occur.

3. Add planning buffer notation: Since the Reclamation Plan does not establish future uses, there is no need for the planning buffer to be implemented as part of the reclamation project, nor does it need to be monitored as part of the reclamation mitigation measures. However, a condition will be added to clarify these future buffer requirements for purposes of disclosure and tracking. Suggested wording:

A buffer shall be provided from Buena Vista Creek, to include a biological buffer with an ultimate overall average width of 100-feet from the bottom of the widened creek channel, along with an additional 10 feet as a planning buffer so the total buffer width ultimately will total 110 feet from the bottom of the widened creek channel. The reclamation plan revegetation design shall revegetate areas up to the top of the creek channel slopes, as needed to meet habitat mitigation requirements of the Reclamation Plan. The balance of the biological buffer (averaging approximately 20 feet) shall be revegetated in conjunction with any future end use and upon any final grading for such future end use. The 10-foot planning buffer would be established beyond the biological buffer at that time, and any allowable uses and specific restrictions on uses within the 10-foot planning buffer (i.e. trails, parking, etc.) are to be established at the time of future use proposals. These requirements shall be recorded as CC&Rs against the property as a mechanism to assure future implementation.

Cumulative CSS and other sensitive habitat impacts

2a. Under Refined Alternative 3, the total DCSS creation needed to meet mitigation requirements is 3.68 acres, and the amount of DCSS to be created will be 5.17 acres. This plan therefore provides an excess of 1.49 acres of DCSS creation. The applicant is not requesting "credit" for this excess mitigation as stated by the comment. This has been clarified on a revised table included with the errata, and will be included in the final "as approved" version of the Reclamation Plan.

2b. Responses to comments K-29 and K-80 in the FEIR addressed and explained each of the specific questions raised in the original comment. Where the current responses expand or add to the prior questions, they are addressed in the following responses. The FEIR addresses all the project impacts, and there are no cumulative impacts that are not addressed. See also Response 2a.

COMMENTS

RESPONSES

2b
cont.

purchase of credits fully mitigated for those specific impacts. Furthermore none of the other identified issues have been adequately addressed. These impacts to sensitive habitat that have occurred over a number of years remain cumulatively significant. The FEIR has failed to address these cumulative impacts.

The following and attachments provide further explanation for four such sets of habitat impacts that have not been adequately mitigated.

1. Unmitigated impacts from the Oceanside portion of the site

These are included in documents from 1991/92 as part of the 1991 approved Reclamation Plan. It includes a map of the proposed area to be revegetated and pages from the MMRP that show the ACCOE was holding a bond to assure completion of this. Part of this area now shows as impacted. Any impacts to this prior mitigation area were unauthorized and should require the 5:1 mitigation for impacts to a mitigation site that are included in the MMCP.

Furthermore any such prior mitigation area should be properly identified in project documents so that if future impacts are proposed in the same area they would be subject to additional mitigation requirements.

See att pp 1-6.

2. Impacts from unauthorized grading in 1996

We have not been able to find anything that shows these impacts from unauthorized grading in 1996 were mitigated. See att pp's 7-9.

3. Toxic soil removal

The credits that were purchased from the NCMAB in 2007 were for the removal of the contaminated soils associated with the ongoing toxic clean-up. It is unclear to us exactly how large the area of impact was, but we believe this also should be mitigated at the 5:1 ratio as an unauthorized take that was done with no supervision or oversight to assure that impacts were minimized or avoided to the maximum extent possible.

4. Impacts associated with expansion of the recycling operation.

The boundaries of the area of impact have gradually been expanded into the CSS on the southwestern portion of the site since the original approval of the CUP in 1960. Att p 10 is a City of Carlsbad aerial top map of the site from 1989- the first such map we were able to find- but already over 20 years after the issuance of the CUP. The boundaries of the area of impact were compared to those from the most recent aerial map from 2005- prior to the removal of the contaminated soil. The area in hach marks all appear to be habitat that has been impacted by the recycling operations between 1989 and 2005- a time when there was no authorization for sensitive habitat impacts.

2f

2c.

The references to documents and maps in this comment are taken out of context, and there are no impacts where mitigation has not been provided. This response provides additional information about the items referenced in the comment to help clarify the history and status from the initial Reclamation Plan. When the original 1991 reclamation plan was approved, CSS was classified as a sensitive habitat by the County of San Diego, but removal was not considered a significant impact that required mitigation. The description of the onsite CSS areas noted it occurred in two small patches, one of which had a diversity of typical sage scrub species (this area was not proposed to be disturbed by reclamation grading) and the other was noted as more disturbed with more limited species diversity. California gnatcatchers were classified as a sensitive bird species at that time, and surveys were conducted - none were observed anywhere on the property.

As part of the state approval of the Reclamation Plan, there was a mitigation monitoring program that was incorporated into the plan. One of these items addressed revegetation performance standards for coastal sage habitat. This reflects the SMARA standards that revegetation areas be of similar quality as the habitat being eliminated due to mining. During processing of CUP C-9-92 for CSS were established by the City of Oceanside. There was a requirement for preservation of 3.1 acres and revegetation of 3.1 acres within the future creek channel. Because the location for such revegetation was associated with the future relocation of Buena Vista Creek, which was to occur in a future phase, the City required that CC&Rs be recorded to assure the acreage of preservation and revegetation were documented, to be implemented with that future work. The exhibit on page 4 of the comment attachments is the graphic recorded with the CC&Rs.

None of this revegetation has yet been completed, because the creek realignment work was not implemented. (That is the whole basis for the current amendment, because the concept for the realignment was subsequently rejected by the Resource Agencies and the City of Oceanside, prior to and in conjunction with the 2001 Reclamation Plan Amendment). Therefore, there can be no impact to an area that was never revegetated. The new creek design associated with the current amendment meets the obligation established by the CC&Rs to "revegetate 3.1 acres of Diegan coastal sage scrub in the upland portion of the riparian restoration portion of the reclamation plan for the site at the time of reclamation plan implementation for Buena Vista Creek." This is addressed in the Reclamation Plan and the FEIR, including the prior response to comment.

2d

2e

2c

2c. (cont.)

The excerpt from the MMRP (pages 5&6 of the comment attachments) notes that a performance bond was to be posted with the City or the Army Corps of Engineers (emphasis added) to assure the 5-year maintenance and monitoring period after successful completion. This is referring to the revegetation of the realigned creek channel, and as noted above, this work was never done. Consultation and permit applications for the realigned creek work were pursued by the applicant through the years, but this design was never supported by the Resource Agencies and when the 2001 Reclamation Plan Amendment was approved by the City of Oceanside, it was formally rejected with direction to keep the existing creek alignment. During all this time, the City of Oceanside has maintained financial assurance bonds for the reclamation work.

Since the 1991/1992 time frame of these earlier approvals, much has changed in the manner in which CSS habitat is treated, and the California gnatcatcher has become a federally-listed species. The impact evaluation and mitigation requirements for the current Reclamation Plan amendment meet all current biological resource standards. The project design and associated mitigation reflects these requirements.

2d. We have been unable to find anything that adequately documents what impacts may have occurred associated with the unauthorized grading. We are not aware of any subsequent action that was taken regarding this old Carlstad Stop Work Order. While this letter indicates that there are actions that were to be taken (i.e. notify the Army Corps and Fish & Game, record a violation notice with the County, require a restoration and revegetation plan), we have been unable to locate any record of any such actions. We must assume that this was resolved to the City's satisfaction, as there is no notice of violation reflected on current title for this property. The oldest title report to which we have ready access is from 2005, and neither it nor current title show any recorded violation notice.

We cannot determine where this violation occurred or how much area was affected, but the project biologist, who would typically be involved in something of this nature involving the resource agencies has no recollection of being consulted on this matter. Likewise, Hanson has no record of enforcement action in their files, and the key individuals contacted do not recall this "incident". We believe that this must have been resolved in some manner satisfactory to staff without the threatened notifications or filings, but have been unable to verify this. There was certainly a time when there was posturing and animosity regarding this project and site activities. This letter from staff may fall into that category, where a hard line was taken and documented to convey a position to the then-current operator. It may be that subsequent discussions and agreements were made to resolve without further action being taken. While in retrospect it would be helpful if the resolution had been documented, that just doesn't always happen.

COMMENTS

RESPONSES

2d. (cont.)

As to the key point made in the comment, that mitigation was required but never provided, we simply have nothing that documents a specific impact or any specific requirements for mitigation.

2e. As noted in the FEIR response, the purchase of mitigation credits associated with CSS take during the soil remediation work was permitted under the Carlsbad HMP with concurrence by the Wildlife Agencies. This was documented through the City of Carlsbad. Approximately 0.21 acre of Diegan coastal sage scrub was initially removed without authorization from either the Cities of Oceanside or Carlsbad. Upon discovering that remediation work had resulted in unauthorized clearing of sage scrub, the City of Carlsbad (City) was notified, along with the U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (CDFG). The 0.21-acre impact area cleared prior to authorization was mitigated at a 5:1 ratio, resulting in a mitigation requirement of 1.05 acres. The 0.44-acre impact area that had been authorized by the Service and City was mitigated at a 2:1 ratio, resulting in a mitigation requirement of 0.88 acre. The total mitigation requirement is 1.93 acres, which was provided at the North County Habitat Bank.

2f. The drawing included as attachment 10 of the comment letter misrepresents site conditions, whether intentionally or due to flawed documentation. By using accurate mapping, historic geo-referenced aerial photos along with overlay of the exhibit from the comment/ attachment it is demonstrated that there is no expansion or encroachment. The process is explained below, and the exhibits are attached at the end of these responses.

No encroachment from recycling operation beyond original mining footprint
Exhibit 1 shows the current reclamation plan grading footprint overlaid on 2006 aerial (11/2006). Limits of disturbance are clearly visible.

Exhibit 2 is the 1990 aerial, which shows the extent of mining activities - this is the period during which this portion of the property was being actively mined. The 1990 photo shows that the extent of disturbance was similar to, but extends beyond, the disturbed area on the 2006 aerial and the currently proposed grading footprint.

COMMENTS

This final amendment to the Reclamation Plan needs to fully address these issues with creek buffers and cumulative habitat impacts. We urge you to make the necessary changes so that this land will in fact be reclaimed as it should be- returning some sense of the rich historic, cultural and natural resources of Buena Vista Creek and this valley.

Sincerely,



Diane Nygaard
Preserve Calaveras

Cc: Janet Stuckrath, USFWS, David Lawhead DFG,
James Pompy Office of Mine Reclamation
Ann Gunther Lightfoot Planning

Att- 10 pages of documents referenced above

RESPONSES

2f. (cont.)

No impact to CSS

This portion of the site was historically farmed, and had no CSS vegetation at the time the original mining permits were issued. At the time of the 1991 Reclamation Plan, biological surveys did not map any CSS habitat in this portion of the site, and the 1990 aerial photo confirms there is minimal vegetation outside the mining footprint. With the 2001 Reclamation Plan Amendment, the biological mapping identified some DCSS areas west of the drainage in this portion of the site, outside the limit of prior disturbance from mining activities. Current biological mapping is even more refined than in 2001, using GPS data. The DCSS in this area is generally in the same location as the 2001 mapping, with added precision in boundaries to reflect higher levels of accuracy and current vegetation conditions. The increased areas of vegetation are visible on the 2006 aerial. Again, these DCSS areas are west of the drainage in this portion of the site, and outside the limit of prior disturbance from mining activities.

Hash-marked areas do not represent impacts

To understand the drawing included as attachment 10 of the comment letter, the drawing was overlaid on the 1990 aerial (where reference points could be easily established, since ground conditions between the 1989 aerial topo image and the 1990 aerial image are very close). The hash marked areas were transferred into GIS, and then overlaid on the 2006 aerial photo (Exhibit 3). This exhibit illustrates that the areas included in the hash marks are a misinterpretation of the photo referenced in the comment. The comment suggests the boundaries represent areas that were not impacted in 1989 but were impacted in a 2005 aerial photo. However, the GIS overlay shows this is not valid - these areas were part of the mining footprint in 1990, and in some places also extend beyond the limits of disturbance visible on the 2006 aerial photo. These hash-marked areas do not represent any disturbance encroachment beyond the original mining footprint, or any sensitive habitat impacts.

Exhibits 1, 2, and 3 are attached at the end of the letter.

Ms. Rita Baker
Page 2

The mitigation monitoring program adopted by the State Mining and Geology Board in Resolution of Approval No. 91-11 requires additional information from the operator. We recommend that this additional information be provided prior to approval and incorporated in an amended reclamation plan. For example, one condition is to mitigate for loss of coastal sage scrub habitat. We also recommend that the amended reclamation plan include the detailed restoration plans required to obtain a Streambed Alteration Agreement (Section 1603 of the Fish and Game Code) and a 404 permit from the U.S. Army Corps of Engineers. The detailed restoration plans and accompanying maps should include, for example, designated setbacks, buffer zones, and channel cross-sections. The actual revegetation plan should also be part of the reclamation plan.

Please send a copy of the amended reclamation plan, permit, and response to our comments to the Mined-Land Reclamation Project office at 801 K Street, Sacramento, CA 95814-3514. The permit issued by you as lead agency under SMARA and the approved documents will be placed in the Mined-Land Reclamation Project files pursuant to the Surface Mining and Reclamation Act.

If you have any questions on these comments or require any assistance with other mine reclamation issues, please contact me at (916) 323-8565.

Sincerely,
James Pompy
James Pompy
Mined-Land Reclamation Project
Manager

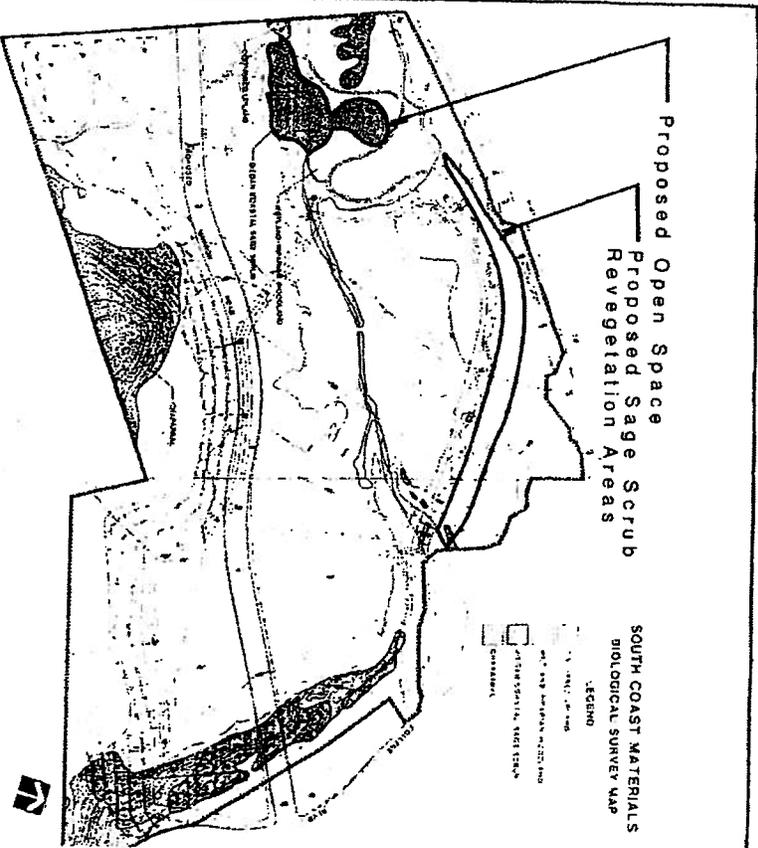
Reviewed by:

JSP

Dated: Jrinda L. Bedrossian
Supervising Geologist
RG 3363, CRG 1064

cc: Mr. Dennis O'Bryant
Chief, Office of Mine Reporting and Reclamation Compliance

3



SOUTH COAST MATERIALS
PROPOSED OPEN SPACE AND REVEGETATION AREAS
Sweetwater
Environmental
JULY 28, 1991
Fig:

4

From EW 0-9-92 E. Hygos
 Reclaim Plan mwp/ Doyle 8/9/92

Substitute species may be used as replacement plantings only with the approval of the project horticulturist. Similarly, naturally invading seedlings may replace dead container plantings at the discretion of the horticulturist.

For all container planted trees the diameter of the canopy must increase at a minimum rate of 70 percent per year. For all container planted shrubs, the diameter of canopy cover must increase at a minimum rate of 30 percent per year. Thus, rates of canopy growth should typically be as follows:

Year	0	1	2	3	4	5
Diameter of Canopy Cover						
Trees	0.2 m	0.3 m	0.6 m	1.0 m	1.7 m	2.8 m
Shrubs	0.2 m	0.25 m	0.3 m	0.4 m	0.6 m	0.7 m

This represents approximately 60 percent of mature canopy cover over 5 years time for trees and about 30 to 80 percent mature canopy cover over 5 years for shrubs.

Hydroseeding

Seventy percent seed coverage and/or adequate erosion control must be achieved after 120 days, or reseeded will have to be repeated as often as necessary during the 5 year monitoring period until this goal is achieved. Seeding will be done at the times specified by the project biologist/horticulturist.

Hydroseed cover will be determined on a visual basis by the project horticulturist/biologist and hydroseeding recommended as necessary to meet the project cover success standards. If requested by the owner or hydroseed contractor as proof of the need to reseed selected areas, percent cover will be determined for five 1-meter quadrats in the dispersed areas. The quadrats will be placed by a qualified botanist to accurately reflect percent cover in the areas of concern.

PERFORMANCE BOND

The developer will post a performance bond with the City of Oceanside or the Army Corps of Engineers that will guarantee any replacement costs (replanted materials, monitoring, or maintenance) for a period of five years after planting. This bond may be released by the

5

ACOE on a proportionate basis after each year of successful project completion. But at least 35 percent of the bond amount will be retained until final project acceptance. The final bond amount will not be released until the project has received final approval from the ACOE. Final project acceptance will be based upon meeting the success criteria defined in the revegetation plan, properly implementing any remedial measures required by the ACOE during the monitoring period, and preparation of an acceptable long-term maintenance/management plan for the revegetation area along with a feasible funding mechanism for this plan. If all or part of the mitigation is not considered successful, the Corps will have the right to complete the work by drawing from the bond amount to the degree necessary to implement the remaining portion of the project. The use of bonds will be preceded by a 60-day notification of intent to the applicant by the Corps.

6



City of Carlsbad

Planning Department

January 25, 1996

Don Hickehler
Regulatory Affairs Manager
South Coast Materials Co./Slim J. Harris Co.
P. O. Box 586324
Oceanside, CA 92058

SUBJECT: NOTICE OF GRADING VIOLATION FOR SOUTH COAST ASPHALT

On January 12, 1996, a STOP WORK ORDER was issued by the City of Carlsbad Engineering Department for grading work that was being conducted on property located within the City's jurisdiction. This grading, which consists of thousands of cubic yards of earthwork, was being conducted without a grading permit or approved discretionary actions. This letter is intended to inform you that the Planning Department also considers this grading operation to be a serious violation of several policies discussed below.

1. The parcel of land which was graded has no discretionary approvals which would allow grading or mining to occur. This includes Conditional Use Permit (CUP 9) issued in 1961 for the operation of the asphalt plant. The master plan that was initiated in the early 1980s was withdrawn and did not, therefore, contain any entitlements.
2. On April 17, 1992 a letter from the City of Oceanside was hand delivered to Ed McCoy, your representative from the Lightfoot Planning Group. Attached to this letter was a memo from the Oceanside Planning Department stating agreement with your Reclamation Plan for the quarry in Oceanside. This plan had been conditionally approved by the State Mining and Geology Board. However, the Oceanside memo stated that the [Reclamation] plan is only a conceptual plan and will have to meet all discretionary actions as required by those areas under the separate jurisdiction of the City of Oceanside and the City of Carlsbad. The State Board informed the operator he will have to go back to the agencies as the plan did not give the operator any vesting or grant. NO work can be performed based upon the State approved plan that is referenced. The only approved construction is under the City of Oceanside existing Grading Plan #1087 and Landscaping Plan #1-1588-1583A. The grading work done on your property is not consistent with this policy.

2

GRADING VIOLATION FOR SOUTH COAST ASPHALT

January 25, 1996
Page 2

2. The subject site, is designated as "constrained open space" due to existing wetlands/riparian scrub resources and is included on the General Plan Land Use Map as Open Space. As such, the grading is inconsistent with a number of programs in the Open Space and Conservation Element of the General Plan which includes the following:
 - a. C.20, page 24 which prohibits the processing or approval of any development application which would decrease the size or diminish the environmental quality of open space as it is shown on the "Conceptual Open Space & Conservation Map". The determination that there would be no decrease in size or quality must be made prior to the occurrence of grading.
 - b. B.7 and 8, page 27 which requires minimizing impacts to sensitive environmental resources.
 - c. C.12, page 28 which requires that grading be accomplished in a manner that will retain the appearance of natural hillsides.
 - d. C.24 and 25, page 29 which requires minimizing encroachment into wetland and riparian areas and that such actions are coordinated with appropriate state and federal protection agencies.
 - e. C.33, page 29 which requires assuring that, at minimum, there is not net loss of wetlands acreage or value, and that the net gain of wetlands acreage is the long-term goal of the City.
 - f. C.20, page 35 which states that water resources including floodplains and lagoons must be conserved and protected.
3. Any development of this site, including grading, will require approval of a specific plan and related discretionary actions as well as approval of a Local Facilities Management Plan for Zone 25. An environmental impact report must be processed concurrently. None of these actions were requested or approved by the City.
4. The grading also has major erosion potential since it occurred during the rainy season. This creates the possibility of large amounts of siltation into the Buena Vista Creek as well as the Buena Vista Lagoon itself. Siltation into the creek has been a concern since the June Applegate study which was prepared at the same time as your early master/specific plan.

In addition to these problems, you have also created a serious breach of trust with staff. When staff met with you on December 13th, 1995, no indication was made of your grading intentions. The important open space, biological, and habitat considerations on

8

RADING VIOLATION FOR SOUTH COAST ASPHALT
January 25, 1996
Page 3

Your property have always been clearly communicated to you. Staff has always provided clear direction that the creek should remain as open space. Four weeks after our meeting, knowing our position, your firm proceeded to grade the subject site in violation of City ordinances. Such an action does not inspire confidence in planning negotiations with your company.

It is the City's policy to cooperate with all involved agencies, therefore, a copy of this letter will be sent to the Department of Fish and Game, and the Army Corps of Engineers. We suggest you contact them at once to begin correction of your violation.

You should immediately begin preparation of a restoration plan, revegetation plan, and any bonding deemed appropriate by the Engineering Department. The City will not accept any applications for discretionary actions on your site until the restoration and revegetation plans are completely implemented. In addition, a violation notice will be sent to the County Recorder. This notice will be reflected on any future title report and will affect ability for future City permits and entitlements.

You should also contact Michele Masterson, Engineering Inspection, at 438-1181, extension 4315 and myself at extension 4451. We will discuss with you the steps necessary to restore the site to its original state as well as any additional mitigation measures which may be required.

Sincerely,



ADRIENNE LANDERS
Senior Planner

AL:k

- c: Marty Orenyak
Michael Holzmilller
Lloyd Hubbs
Gary Wayne
David Hauser
Dick Cook
Michele Masterson



COMMENTS

RESPONSES



July 6, 2010

Jerry Hittleman, City of Oceanside
Van Lynch, City of Carlsbad

Subject : Additional Cumulative CSS/Sensitive Habitat Impacts at Former South Coast Quarry Amended Reclamation Plan/ Inadequate Responses to Comments to FSEIR 2005111124

Dear Mr. Hittleman and Mr. Lynch:

Our letter of July 1, 2010 inadvertently failed to include the single largest cumulative habitat impact that has not been addressed on the Hanson Aggregates site- the failed CSS restoration on the north facing slopes adjacent to the Quarry Creek Shopping Center.

It is our understanding that these slopes were revegetated with the original reclamation work several years ago. Further blasting occurred on portions of the slopes as part of the site changes when the Quarry Creek Shopping Center was constructed. The slopes were then partially revegetated a second time.

We do not recall any time when the site coverage, plant mix and overall condition of the plant material on these slopes could be considered a successful Coastal Sage Scrub restoration. The attached photos document the current condition of these slopes.

The steep slope, large area with little top soil, high percentage of non-native plants, and poor condition of the sparse native plants effect the majority of this portion of the site. From our review of the site we would estimates that only about 1/3 of this area could be considered even a de-graded CSS habitat.

The photos include :

- P1 long distance view from Haymar- photos 1-4 east to west
- P2 medium distance vies from Walmart lot photos 5-6 east to west
- P3/4 close views along property fence s photos 9-19 east to west

5020 Nighthawk Way - Oceanside, CA 92056
WWW.PRESERVECALAVERA.ORG
Nonprofit 501(c)3 ID#33-0955504

COMMENTS

PLEASED ALSO NOTE THAT BECAUSE OF THE STEEPNESS/HEIGHT OF THESE SLOPES THERE IS A SIGNIFICANT ISSUE WITH CONTROL OF STORM WATER. THE LARGE CONCRETE BROWDITCH CARRIES AN EXCESS VOLUME OF HIGH VELOCITY FLOW DURING EVEN A VERY SMALL RAINFALL. TO OUR KNOWLEDGE THE BMP'S AT THE BASE OF THIS SLOPE HAVE WASHED OUT THREE TIMES IN THE LAST FEW YEARS- CAUSING FURTHER HABITAT DAMAGE. IF THIS CONDITION IS NOT CORRECTED WITH THIS FINAL AMENDMENT THERE WILL CERTAINLY BE FURTHER FAILURES- THAT WILL DAMAGE AREAS THAT ARE SUPPOSED TO BE RESTORED HABITAT IN THE FUTURE PHASES OF RECLAMATION IN ADDITION TO THE ONGOING DEGRADATION OF THESE SLOPES.

THIS FINAL AMENDMENT TO THE RECLAMATION PLAN NEEDS TO FULLY ADDRESS ADEQUATE RESTORATION OF THESE SLOPES- THAT TWICE WERE SUPPOSED TO BE RESTORED TO CSS AND STILL REMAIN IN A HIGHLY DEGRADED CONDITION THAT CONTRIBUTES TO EXCESS VOLUME/VELOCITY OF RUN-OFF.

THESE SLOPES ARE BEING COUNTED AS PART OF THE NATURAL HABITAT ON SITE SO THEY NEED TO BE RESTORED TO AN ACCEPTABLE CONDITION. THESE SLOPES WERE DEGRADED WITH THE MINING OPERATION AND HAVE NOT BEEN RETURNED TO THE CONDITION THAT HAS BEEN DESCRIBED IN THE ORIGINAL APPROVED RECLAMATION PLAN OR IN THIS AMENDED VERSION.

THIS CANNOT BE CONSIDERED AN ACCEPTABLE RECLAMATION WITH THESE SLOPES IN THEIR CURRENT CONDITION.

WE URGE YOU TO INCLUDE ADEQUATE RESTORATION OF THESE SLOPES IN THIS FINAL AMENDMENT TO THE RECLAMATION PLAN.

Sincerely,

Diane Nygaard
Preserve Calavera

Cc: Janet Stuckrath, USFWS, David Lawhead DFG,
James Pompy Office of Mine Reclamation
Ann Gunter Lightfoot Planning

Att- 4 pages of photos described above

RESPONSES

3. This issue was also addressed in the FEIR, responses to comments K-29 and K-86. As noted, this slope planting was not mitigation for any CSS impacts, and was not ever intended or represented as being a CSS "restoration." Regardless of the quality of habitat or success of the revegetation effort, this does not qualify as a habitat impact. The 1991 Reclamation Plan provided for erosion control planting of the south slopes, and used a mix of native and naturalized plant species. The 2001 Amended Reclamation Plan used native plant materials in the revegetation efforts on these south slopes as a restoration mix. Again, this was not intended to be CSS restoration for mitigation purposes. The 2001 Amended Reclamation Plan is quite clear regarding the challenges involved with planting rock. Input from the landscape architect, agronomists, native revegetation plant experts and the landscape contractor was used to maximize the success for this slope planting. As expected, and as is typical of slopes with little soil, vegetation has been slow to develop on the south slope areas - yet planting cover continues to improve. The sighting of a gnatcatcher utilizing portions of the south slope provides an indication that the long term prognosis for this slope revegetation is positive. Contrary to the opinion stated in the comment, the revegetation on the south slopes is considered to be quite successful.

Since approval of the 2001 Reclamation Plan Amendment, reclamation has been completed for Phases 1 and 2A of the property, which includes the South Wall areas. These areas are shown and described in the current amendment for reference purposes. No additional work is necessary in these areas.



2006 Aerial

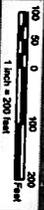


EXHIBIT 1

Shaw
Engineering
1100
Cheng Court
46108

EXHIBIT 1



2006 AERIAL PHOTO OVERLAY STUDY
WITH RECLAMATION PLAN GRADING





100 50 0 100 200
1 inch = 200 feet
Feet

EXHIBIT 2



1990 AERIAL PHOTO OVERLAY STUDY
WITH RECLAMATION PLAN GRADING



Prepared by:
Hatch Mott MacDonald
CSDM, dated 05/04/06
CWSG, CWSG/06/04/06



2006 Aerial



EXHIBIT 3

EXHIBIT 3



1990 AERIAL PHOTO OVERLAY STUDY
WITH RECLAMATION PLAN GRADING &
BOUNDARY FROM PRESERVE CALAVERA EXHIBIT



Author:
Eugene A. Smith, P.E.
Chris Conover, P.E.

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

RECEIVED
SEP 02 2005
Planning Department

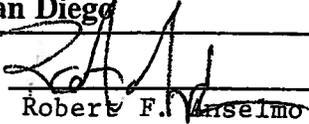
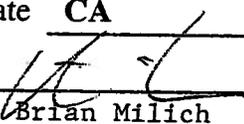
SECTION B - THE PROPERTY OWNER

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. Anselmo 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

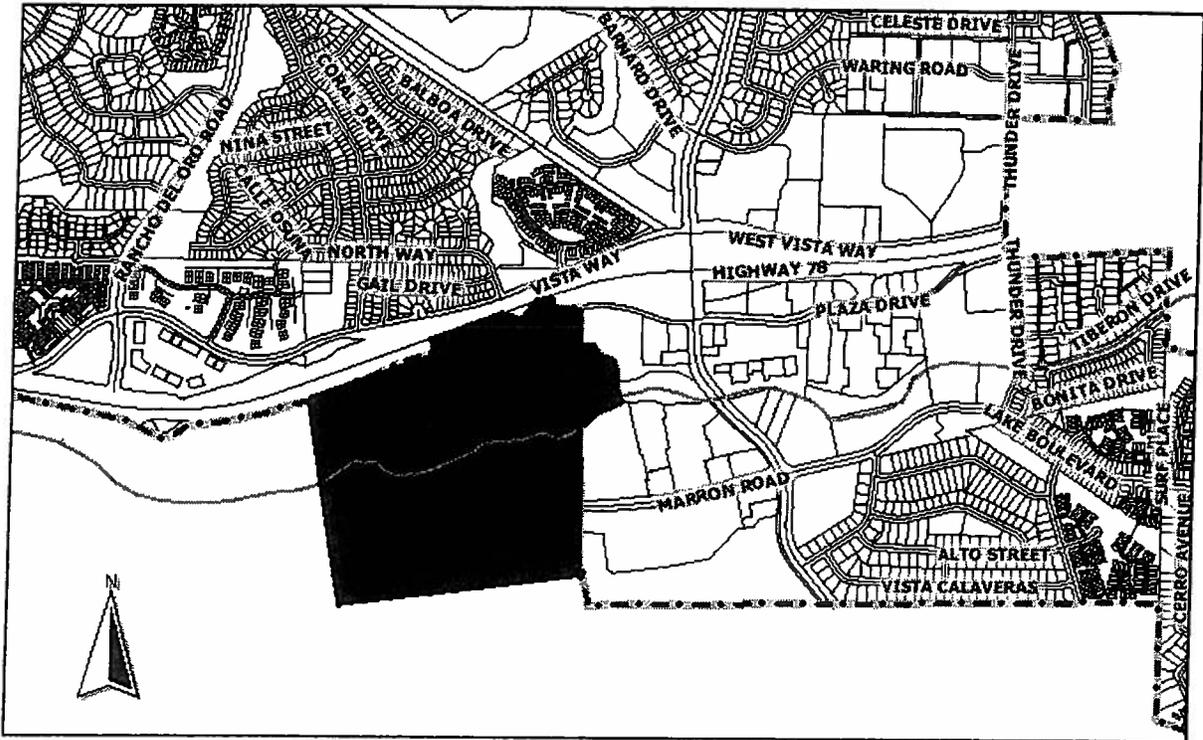
Telephone: (760) 692-1924

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



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