

Final

ROBLAR ROAD QUARRY

Supplemental Environmental Impact Report
SCH # 2004092099

Prepared for
County of Sonoma Permit and
Resource Management Department

March 2019



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ESA
550 Kearny Street, Ste 800
San Francisco, CA 94108
415.896.5900
www.esassoc.com

D160752



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CHAPTER I

Introduction

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Reclamation Plan and a Use Permit for Alternative 2 as modified by the Board (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 cubic yards per year. The Final EIR included the May, 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR.

The Roblar Road Quarry is owned by Barella Family, LLC. The Applicant for the currently-proposed modifications to the Quarry Use Permit is John Barella Land Investments. The Quarry address is 7175 Roblar Road, Petaluma. The Quarry property includes Assessor’s Parcel Numbers 027-080-009 and 027-080-010.

Under the approved Modified Alternative 2, all project truck traffic generated by the Quarry will use the Applicant’s identified alternative haul route. This alternative haul route will consist of an improved section of Roblar Road from the Quarry access road entrance west to the point where the haul route turns overland off Roblar Road onto a private off-road segment named Access Road 2. Access Road 2 will connect to Valley Ford Road. From there, Quarry trucks will use designated public roads to and from U.S. 101. The Quarry on-site access road and entrance to the Quarry site will be developed the same as that originally proposed and analyzed in the Final EIR.

The original Alternative 2 that was described in the Final EIR consisted of two new temporary private off-road segments (named “Access Road 1” and “Access Road 2”), an improved section of Roblar Road between Access Road 1 and Access Road 2, and the use of various other existing public roads. However, the Board’s modification to Alternative 2, which was analyzed prior to Board approval of the Quarry project (ESA, 2010) precludes the construction of Access Road 1 (which would have crossed land encumbered by a Sonoma County Agricultural and Open Space Conservation Easement), and instead requires the Applicant to implement Roblar Road widening improvements from the Quarry access road west to Access Road 2.

The Use Permit requires that the Applicant improve the approximately 1.6-mile-long Modified Alternative 2 haul route section of Roblar Road to meet current County road design standards, including, but not limited to, two 12-foot-wide vehicle travel lanes, two 6-foot-wide paved shoulders (as well as associated striping/signage to meet Class II bicycle facilities), and two 2-foot-wide rocked shoulders. Moreover, the roadway will be improved as needed to meet pavement structural requirements per Caltrans Design Manual standards. The Use Permit requires

realignment of an existing “S-curve” on Roblar Road to reduce the horizontal curvature at this location, relocation of existing overhead electrical utilities, and modifications to stormdrain facilities.

The approved Modified Alternative 2 haul route will depart from Roblar Road at Access Road 2, where it will extend southwest through private property (Neve property) for approximately 2,100 feet between Roblar Road and Valley Ford Road. Stormdrains will be installed for the road crossing of two drainages on the Neve property. Access Road 2 will consist of two paved 14-foot-wide travel lanes plus drainage improvements on each side. From this point, Quarry trucks will travel east on Valley Ford Road, Pepper Road (west of Mecham Road), Mecham Road, and a combination of Stony Point Road, SR 116, Railroad Avenue and/or Old Redwood Highway to/from U.S. 101. Quarry haul trucks will not be allowed to use Roblar Road east of the Quarry access road entrance, or Pepper Road east of Mecham Road.

Under the approved Modified Alternative 2, 100 percent of materials produced at the Quarry will be either directly used by the Applicant or sold under contract. As such, all Quarry haul trucks generated at the Quarry will be those associated with the Applicant’s own truck fleet, or private haulers under contract with the Applicant, and where the specified haul route will be imposed in the contract. The use of the specified alternative haul route will be enforced by the Applicant, subject to penalties and/or contract termination, depending on the nature and/or frequency of a deviation of the specified haul route by a driver.

Under the approved Modified Alternative 2, all aspects of on-site Quarry characteristics and operations will be identical to that originally proposed, including the maximum permitted production rate (570,000 CY per year), total volume of aggregate that could be mined (11.4 million CY over the 20-year use permit), mining approach and techniques, location and design of all Quarry-related facilities, and interim and final reclamation.

A. Proposed Project Changes

The Applicant now seeks to modify its Use Permit (PLP03-0094), as follows:

Modify the Design of the Intersection of Stony Point Road / Roblar Road and Associated Condition of Approval 44 and Final EIR Mitigation Measure E.1. Condition of Approval (COA) 44 and Final EIR Mitigation Measure E.1 require installation of a signal at the Stony Point Road / Roblar Road intersection, including widening all approaches to the intersection, including shoulders, lengthening the northbound left-turn lane, and adding a southbound left-turn lane. The Applicant indicates that the County’s preliminary design for improvements at this intersection would impact vegetated drainage features outside the paved and/or hardscaped areas, and affect biological habitat. Impacts of the intersection upgrade were previously examined in an adopted 2005 Initial Study/Mitigated Negative Declaration (Sonoma County PRMD), which found that all project impacts, including impacts to biological resources, would be reduced to less than significant with implementation of specified mitigation measures. The Final EIR refers to these mitigation measures and requires their implementation in Mitigation Measure E.9, which was adopted as COA 86.

The Applicant proposes a modified design that can generally be accomplished within the existing paved and/or hardscaped area, thus minimizing impacts to adjacent vegetated drainage features and potential biological habitat.

Modify the Design to the Modified Alternative 2 Roblar Road Haul Road, and Associated Conditions of Approval 49 and 59.a, and Final EIR Mitigation Measure E.3a. Conditions of Approval 49 and 59 and Final EIR Mitigation Measure E.3a and E.4a require that the improvements to Roblar Road (between the Quarry access road and Access Road 2) include, among other requirements, two 12-foot-wide vehicle travel lanes and two 6-foot-wide shoulders, two 2-foot-wide rock shoulders, and associated striping to meet Class II bike facilities. The Applicant indicates that given the limited width of the existing right of way; the proximity of Americano Creek to Roblar Road, other proximal wetlands and/or linear drainage features to Roblar Road; and other factors, that the required road improvements on Roblar Road are impractical, unnecessary and infeasible.

The Applicant instead proposes to construct improvements to Roblar Road that would include two 11-foot-wide vehicle travel lanes, two 3-foot-wide paved shoulders, and two 2-foot-wide rock shoulders; and not include Class II bike lanes. There would also be minor modifications to the previously proposed alignment of Roblar Road between the Quarry access road and Access Road 2.

Realign Americano Creek Channel and Construct Wetland Enhancement Area on the Quarry Site, and modify associated Conditions of Approval 101 and 133. The widening of Roblar Road required in Final EIR Mitigation Measure E.3a would directly impact a section of Americano Creek located on the Quarry property adjacent to Roblar Road, and require this creek segment to be relocated. In order to accommodate the required widening of Roblar Road, the Applicant proposes to realign the creek channel further from the edge of the improved Roblar Road, and improve the habitat complexity along this section of Americano Creek, including establishing riparian vegetation along both sides of the realigned segment of creek.

B. Environmental Review for Project Changes

The California Environmental Quality Act (CEQA) Guidelines Section 15160 provides for variations in EIRs so that environmental documentation can be tailored to different situations and intended uses, and these variations are not exclusive. CEQA Guidelines Section 15163(a) indicates that a Supplement to an EIR, rather than a Subsequent EIR, may be prepared if:

- 1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and
- 2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

The applicable conditions in Section 15162 that would trigger supplemental or subsequent review are as follows:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The County conducted a review of the Applicant's proposed modifications to the Use Permit COA, and determined that they have the potential for new or substantially more severe significant impacts. The County has also determined that only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. Therefore, the County determined that a Supplement to the previous EIR is appropriate.

Draft Supplemental EIR

Following determination that a Supplement to the previous EIR is the appropriate level of CEQA review, the County prepared a Draft Supplemental EIR (Draft SEIR). The Draft SEIR examines the proposed modifications to the Use Permit COA and analyzes whether the proposed modifications, or changes to the setting in which the Quarry project would take place, could result in a new or substantially more severe significant impact, compared to the impacts identified in the Final EIR. Where a new or substantially more severe significant impact is identified, the Draft SEIR specifies mitigation measures for reducing or avoiding the impact, and considers whether the mitigation measures have the ability to reduce the impact to less than significant. CEQA Guidelines Section 15163(b) indicates a Supplement to an EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

Circulation and Review of the Draft SEIR

CEQA Guidelines Section 15163(c) indicates a Supplement to an EIR shall be given the same kind of notice and public review as is given to a draft EIR (outlined in Section 15087). Also, Section 15163(d) indicates a Supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR.

On September 24, 2018, the County released the Draft Supplemental EIR (DSEIR) for public review and comment. The DSEIR circulated for 45 days; the comment period closed on November 7, 2018. On October 16, 2018, the Board held a Public Hearing to take oral comment on the Draft SEIR.

In this Final SEIR, the County responds to all substantive comments on the adequacy of the analysis contained in the Draft SEIR, but not to comments on the previous environmental documents. Consistent with CEQA Guidelines Section 15163(d), prior to consideration of approval of the project, the County shall consider the previous EIR as revised by the Supplement to the EIR. The County must certify the Final Supplement to the EIR and adopt a mitigation monitoring and reporting program (MMRP) for mitigation measures identified in the report in accordance with the requirements of PRC Section 21081. A draft MMRP is included in this Final SEIR as Appendix A.

C. Organization

This Final SEIR is organized as follows:

Chapter I: Introduction provides a review of the Quarry project approved by the Board, and explains how it varies from the project and alternatives examined in the Final EIR. The Introduction briefly describes the modifications to mitigation measures and Use Permit COA now being proposed by the Applicant. This chapter also reviews the CEQA requirements for a Supplemental EIR.

Chapter II: List of Commenters provides a list of all agencies, organizations, and individuals who submitted written comments on the Draft SEIR and who provided oral comment at the Public Hearing.

Chapter III: Master Responses: where several commenters commented on the same subject or raised the same issues, a Master Response provides a comprehensive response. One Master Response is included in this chapter, addressing multiple issues raised in several comment letters, all related to the Applicant's proposed changes to the required improvements to Roblar Road, and bicycle and traffic safety.

Chapter IV: Comments and Responses to Comments contains copies of all comment letters received during the 45-day circulation period, a transcript of the Public Hearing, and responses to all comments.

Chapter V: Revisions to the Draft SEIR compiles all changes to Draft SEIR Chapter 3, Environmental Setting, Impacts, and Mitigation Measures, that were prompted by comments on the Draft SEIR, and in addition revisions and corrections initiated by County staff.

Chapter VI: Report Prepares identifies County staff, the County's EIR consultant team, and the project Applicant.

Appendices include the draft MMRP (Appendix A), a letter received after the close of the public comment period from the Applicant's attorney (Appendix B), and a large number of documents that were attached to one of the comment letters (Appendix C-1 and C-2). Appendices C-1 and C-2 are bound separately.

References

ESA, 2010. *Memorandum, ESA to Sonoma County PRMD, subject: Roblar Road Quarry Alternative Haul Route Alignment*. October 19, 2010.

CHAPTER II

Agencies and Persons Commenting on the Draft SEIR

A. Agencies and Persons Commenting in Writing

The following agencies, organizations and individuals submitted written comments on the Draft Supplemental Environmental Impact Report (Draft SEIR) during the public review period.

Letter	Person/Agency and Signatory
Agencies and Organizations	
A	Scott Morgan, Director, State Clearinghouse (Governor's Office of Planning and Research)
B	Patricia Maurice, Branch Chief, California Department of Transportation (CalTrans), District 4
C	Scott Briggs, on behalf of the Applicant
D	Stephen Butler, Clements, Fitzpatrick & Kenilworthy Inc., Attorney Representing the Applicant
E	Arthur Coon, Millar Star Regalia Law, Attorney Representing the Applicant
F	Nancy Graalman, Director, Defense of Place
G	Michael Molland, Molland Law, Attorney Representing Citizens Advocating for Roblar Road Quality (CARRQ)
H	Richard Harm, President, Petaluma Wheelmen Cycling Club
I	Alisha O'Loughlin, Executive Director, Sonoma County Bicycle Coalition
Individuals	
J	Margaret Hanley
K	Sean Butler
L	Keith Devlin
M	Rue Furch
N	Angela Levinger
O	Claudia Steinbeck Mcknight
P	Justin Merrick
Q	Barry Weinzveg
R	Jane Neilson
S	Edward Ryska
T	Harriet Saunders
U	David and Donna Spillman

B. Persons Commenting at the Public Hearing

A Public Hearing on the Draft SEIR was held by the Sonoma County Board of Supervisors on October 16, 2018. The following individuals provided spoken comments on the Draft SEIR (commenters whose names could not be determined from the audio/visual taping of the Public Hearing are designated “Woman” and “Gentleman”):

- Woman One
- Margaret Hanley
- Sue Buxton
- Jason Merrick
- Gentleman One
- Joe Morgan, Sonoma County Bicycle and Pedestrian Committee
- Woman Two
- Daniel (last name inaudible)
- Stephen Butler

CHAPTER III

Master Response

A. Master Response 1: Roadway Geometry and Bicycle and Traffic Safety on Roblar Road

Various comments address the Applicant's proposed changes to roadway geometry for the widening of Roblar Road required by Use Permit Condition/Mitigation Measure 49 and Condition 59, particularly with regard to bicycle and traffic safety issues. Numerous comments express concern for the safety of bicyclists, pedestrians, autos, and emergency vehicles and workers, if the Applicant's proposed narrower lane and shoulder width are implemented in lieu of the geometry required in the existing Use Permit Conditions of Approval. Some of the specific concerns expressed in the comments include the possibility of increased risk of conflicts between bicyclists and Quarry haul trucks because of the reduced clearance between bicyclists travelling on a narrower shoulder adjacent to a narrower travel lane; the increased potential for haul trucks, especially double-trailer trucks, to "off-track" from the roadway onto the shoulder where bicycles may be present; a potentially dangerous condition when two trucks pass each other in opposite directions at the same time as passing a bicyclist; and the increased risk of accidents involving bicycles and motor vehicles due to fog, speed, darkness, distracted drivers, and wildlife on the roadway. Commenters also express concern regarding traffic safety, for many of the same reasons as for bicycle safety, and also because of the increased possibility of conflicts between Quarry haul trucks and vehicles, including emergency vehicles, temporarily parked on a narrower shoulder. Several commenters state that the Applicant's design would not be consistent with Sonoma County General Plan and Sonoma County Bicycle and Pedestrian Plan policies or American Association of State Highway and Transportation Officials (AASHTO) guidelines.

Meanwhile, the Applicant's representative and attorneys express in their comments (comment letters C and E) a commitment to the roadway geometry specified in Mitigation Measure 3.4-3 in Section 3.4, Transportation and Traffic, in the Draft SEIR, in lieu of their proposed geometry (in particular, Mitigation Measure 3.4-3 requires 4-foot wide paved shoulders instead of the Applicant's proposed 3-foot wide paved shoulders, and an 11-foot wide left turn lane at Access Road 2, instead of 10-foot wide); state their position that this geometry is equally safe to that currently required in Use Permit Conditions 49 and 59 (which require 12-foot wide travel lanes, 6-foot wide paved shoulders striped and signed to meet Class II bikeway standards, and 2-foot wide rocked backing – see Figure 2-6 in Chapter 2, Project Description, of the Draft SEIR); that it is consistent with General Plan policies and AASHTO guidelines; that it has the support of the Sonoma County Bicycle and Pedestrian Advisory Committee; and that approval of their proposed geometry, as modified by Mitigation Measure 3.4-3, would not result in a new or substantially

more severe impact to bicycle or traffic safety. Based on their contention that the narrower travel lanes and paved shoulders (32-foot wide road) are equivalent, they contend that the 40-foot wide roadway required in the existing Condition of Approval is not proportional to the severity of the impact. The Applicant is arguing that protecting the public from the impacts of the project by requiring improvements is unconstitutional.

This master response addresses all these comments. The response first reviews bicycle and traffic safety impact discussions and conclusions from the 2010 Final EIR and the Draft SEIR. The response then reviews the relationship between roadway and shoulder width and bicycle and traffic safety by examining source documents in which roadway geometry standards are considered and recommended. The conclusion is reached that the Draft SEIR properly identifies Impacts 3.4-3 and 3.4-4 as significant and unavoidable, due to the significant decrease in safety of narrower travel lanes and shoulders, particularly on roadways carrying relatively large volumes of traffic, including large trucks, at high speeds, and where paved shoulders are intended to be used by bicyclists. Finally, the response considers the feasibility and effectiveness of additional mitigation measures to reduce Impacts 3.4-3 and 3.4-4.

Review of 2010 Final EIR and Draft SEIR Impacts of Haul Trucks on Bicycle and Traffic Safety on Roblar Road

The 2010 Final EIR concluded that Impacts E.3 (addressing bicycle and pedestrian safety) and E.4 (addressing traffic safety) would be significant and unavoidable because of the uncertainty of the feasibility of the road widening requirement for safety along the 6.5 mile haul route (Mitigation Measure E.3a/E.4a). An override was avoided, however, because under Alternative 2 these impacts would be reduced to less than significant because the mitigation measure would be feasible for the shorter length of road requiring upgrade. This conclusion was also reached in an analysis conducted for Modified Alternative 2 (ESA, 2010). In approving Modified Alternative 2 in 2010, the Sonoma County Board of Supervisors adopted findings that both Impacts E.3 and E.4 would be reduced to less than significant with implementation of the mitigation measures specified in the 2010 Final EIR, including Mitigation Measure E.3a/E.4a, requiring that the road be widened to meet safety standards. This measure was adopted as Condition/Mitigation Measure 49 and forms the basis for Condition 59, both of which the Applicant now proposes to change. On the basis of compliance with these requirements, the Board of Supervisors found that Impacts E.3 and E.4 would be less than significant, as mitigated.

The Applicant's proposal is to modify the existing approval, which requires the Applicant to improve Roblar Road to provide two 12-foot-wide vehicle travel lanes, two six-foot-wide paved shoulders, two two-foot-wide unpaved (rock) shoulders, and associated striping/signage to meet Class II bike facility standards. The Draft SEIR concludes in Impacts 3.4-3 and 3.4-4 that the narrower travel lane and shoulder widths proposed by the Applicant would result in new significant bicycle and traffic safety hazards from Quarry truck traffic on Roblar Road. The Applicant mentions that the road condition is an existing condition, which is of course correct. The Applicant's current proposal, however, creates new risks, compared to both the approved Modified Alternative 2 (i.e., the current use permit) and existing conditions on Roblar Road, because the dramatic increase in trucks on a substandard road will not be accompanied with road

improvements sufficient to reduce the project's safety impacts to a level that is less than significant. This raises the issue of whether and how the Quarry use can be made compatible with road safety. The Quarry would cause an increase in truck traffic on Roblar Road (i.e., an average of about 27 one-way trips per hour [about 302 per day], and a peak of about 43 one-way trips per hour [about 480 per day]), and could increase the risk of accidents due to potential conflicts between Quarry traffic and bicyclists, pedestrians, and other vehicles. The new and significant risks arise from the project approval because of the large number of trucks that are proposed to be added to a road that does not meet safety standards. The new impact also arises under CEQA Guidelines Section 15162, both when comparing the existing conditions to the proposed project without mitigation, and when comparing the relative decrease of safety between the prior approval analyzed in the 2010 Final EIR and the current unmitigated proposal.

For these reasons, the Draft SEIR includes Mitigation Measure 3.4-3, which requires the following:

- Minimum 11-foot wide travel lanes and 11-foot wide left-turn lane at Access Road 2;
- Minimum 4-foot-wide paved shoulders;
- Minimum 1-foot-wide unpaved (rock) shoulders;
- Final design of the horizontal curves shall be determined using AASHTO methodology, as determined by the DTPW, to accommodate all project trucks through the curves to prevent off-tracking, while maintaining an acceptable clearance to bicycles and vehicles in the opposing lane; and
- If any component of an adequate design requires additional right of way, and if the Applicant is unable to obtain this additional right of way from willing sellers, then any condemnation required must be paid for solely by the Applicant.

The Draft SEIR finds that, while this design would be consistent with allowable exceptions to applicable roadway geometry standards, the 11-foot wide travel lanes would not meet the General Plan standards and AASHTO guidelines for 12-foot travel lanes. The 4-foot wide paved shoulders would not meet the safety requirement for minimum 5-foot wide Class II bikeways as specified in the Sonoma County Bicycle and Pedestrian Plan. Because the Applicant's proposed roadway geometry would result in a new significant impact to bicycle safety, and Mitigation Measure 3.4-3 would not reduce the severity of the impact to a less-than-significant level, the Draft SEIR concludes that the impact would be significant and unavoidable. The same conclusion is reached for Impact 3.4-4, addressing traffic safety on Roblar Road, and for the same reason.

Relationship of Roadway and Shoulder Width to Bicycle and Traffic Safety

In the discussion of Impact 3.4-3, the Draft SEIR highlights that safety underlies roadway geometry standards. Generally, wider travel lanes and wider shoulders are safer. In AASHTO's "A Policy on the Geometry of Highways and Streets" (the "Green Book"), recommendations for lane and shoulder width for rural collector roads such as Roblar Road are tied to roadway design speed and volume (AASHTO, 2011, Table 6-5). Roblar Road meets the Green Book criteria for a

40-foot roadway (12-foot wide travel lanes and 8-foot wide shoulders) as required in the existing Use Permit Condition/Mitigation Measure 49 and Condition 59. The Applicant's proposed design for a 32-foot wide roadway would not conform to this guidance. The Green Book does, however, provide for exceptions to the 40-foot roadway cross-section standard. The relevant exceptions are:

1. On roadways to be reconstructed, an existing 22-foot traveled way may be retained where alignment and safety records are satisfactory.
2. Shoulder width may be reduced for design speeds greater than 30 mph as long as a minimum roadway width of 30 feet is maintained.

The discussion of Impact 3.4-3 in the Draft SEIR notes that the recent collision rate on Roblar Road between Valley Ford Road and Stony Point Road is lower than the rate for Sonoma County as a whole, and is also lower than the rate for two-lane rural roadways state-wide.

With regard to the better-than-average collision rate on Roblar Road, the concern expressed by many commenters is that the addition of an estimated average 302 Quarry haul truck trips per day (480 peak daily haul truck trips) will increase the risk of accidents on the 1.6-mile section of Roblar Road that Quarry haul trucks would use. This is a reasonable and logical assumption, since the addition of haul trucks would increase both average vehicles per day, and the percent of vehicles that are large trucks (**Table MR-1**), both factors that correlate with greater safety risks. In addition, the regular use of Roblar Road by bicyclists indicates that lane widths narrower than the standard 12 feet and paved shoulders narrower than 6 feet could lead to increased conflicts between Quarry haul trucks and bicycles. The addition of an extremely large number of wide trucks on a narrow road increases the risk of accidents, including accidents resulting from conflicts between bicyclists and truck traffic.

TABLE MR-1
EXISTING DAILY TRAFFIC COUNT PLUS PROJECTED QUARRY TRAFFIC
ROBLAR ROAD, 0.65 MILES WEST OF CANFIELD ROAD

	Existing ^a			Existing + Average Quarry Traffic ^b		
	Avg Daily Traffic	Total Trucks	Total Truck %	Avg Daily Traffic	Total Trucks	Total Trucks %
Weekdays	1,705	40	2.3%	2,037	342	16.8%

NOTES:

^a 2017 average daily traffic and truck counts from Draft SEIR Table 3.4-1.

^b Daily Quarry trip generation (average production day) estimated at 332 trips, including 302 haul truck trips, from 2010 Final EIR Table IV.E-6.

As noted above, the basis of the width standards established by AASHTO is that there is a general nexus between lane width and traffic safety, with wider lanes generally providing safer conditions, especially for higher speed limits, higher traffic volume and a higher percentage of large vehicles: “[t]he lane width of a roadway influences the comfort of driving, operational characteristics, and, in some situations, the likelihood of crashes” (AASHTO, 2011, p. 4-7).

While the Green Book allows exceptions to the standards, this does not mean that the narrower widths allowed by the exceptions are equally safe; just that in certain circumstances they are judged to be minimally adequate. They are an acceptable compromise where conditions indicate that they can be used safely.

With regard to paved shoulders intended to accommodate bicycle use, the AASHTO *Guide for Development of Bicycle Facilities* (AASHTO, 2012)¹, clearly equates paved shoulder width with safety:

For any given roadway, the determination of the appropriate shoulder width should be based on the roadway's context and conditions in adjacent lanes. On uncurbed cross sections with no vertical obstructions immediately adjacent to the roadway, paved shoulders should be at least 4 ft (1.2 m) wide to accommodate bicycle travel. Shoulder width of at least 5 ft (1.5 m) is recommended from the face of a guardrail, curb, or other roadside barrier to provide additional operating width, as bicyclists generally shy away from a vertical face. It is desirable to increase the width of shoulders where higher bicycle usage is expected. Additional shoulder width is also desirable if motor vehicle speeds exceed 50 mph (80 km/h); if use by heavy trucks, buses, or recreational vehicles is considerable; or if static obstructions exist at the right side of the roadway. (AASHTO, 2012, p. 4-7)

Roblar Road, with a prima facie speed limit of 55 mph, and with the addition of a large number of wide and heavy Quarry haul trucks, will meet at least two of the AASHTO criteria described above (i.e., speeds in excess of 50 mph, and use by heavy trucks) for wider shoulders to accommodate bicyclists. Furthermore, Section 4.6.4 of the AASHTO *Guide for Development of Bicycle Facilities* also notes that “a bicyclist’s preferred operating width is 5 ft (1.5 m).” Therefore, under most circumstances, the recommended width for bike lanes is 5 ft (1.5 m),” and that where speeds are higher than 45 mph and there are heavy vehicles, bike lanes wider than 5 feet are desirable. The Federal Highway Administration agrees (FHWA, 2013).

A recent study completed by Texas A&M University Transportation Institute for the Texas Department of Transportation and the Federal Highway Administration (Dixon et al, 2017) specifically examines design of shoulders to accommodate bicycles and pedestrians on low-volume, high-speed rural roads. “Analysis of the Shoulder Widening Need on the State Highway System: Technical Report” includes a literature review, a review of national and state roadway standards, and a statistical analysis of crashes involving pedestrians and bicycles on Texas rural highways. The report finds that higher speeds and higher traffic volumes both increase the risk of accidents involving pedestrians and bicyclists, and that wider shoulders decrease this risk. The report concludes, in pertinent part:

As speed limits are held constant and shoulder widths are increased, the bicycle or pedestrian injury crashes will decrease (Dixon et al, 2017, p. 54).

¹ While this edition of the Guide for Development of Bicycle Facilities post-dates adoption of the 2010 Sonoma County Bicycle and Pedestrian Plan, Policy 2.02 of the Plan states that, “Use the most recent version of Chapter 1000 of the Caltrans Highway Design Manual, AASHTO’s ‘Guide for the Development of Bicycle Facilities’, and the ‘California Manual on Uniform Traffic Control Devices’ (MUTCD) as general design guidelines for design, construction and maintenance of Sonoma County bikeways.”

As the risk to non-motorized users increases due to high speeds or volumes, the shoulder widths should increase to accommodate additional space (Dixon et al, 2017, p. 75).

Safety is not an “on/off” switch as suggested by the Applicant, and additional width provides additional safety. Conversely, reducing available shoulder width has the environmental impact of increasing safety risks to the public. Based on a statistical analysis of Texas crash data, the Texas report finds that shoulder widths greater than 5 feet have fewer pedestrian and bicyclist injuries. This notably conforms to the minimum width in the *Sonoma County Bicycle and Pedestrian Plan*. Consequently, the report states that a 6-foot wide usable shoulder is an advisable minimum. For each 5-mph increment in the speed limit above 55 mph on rural 2-lane highways, the report recommends an increase of shoulder width of 1.68 feet, a width increase pegged to the incremental increase in risk (Dixon et al, 2017, p. 76). Other conditions, such as the presence of barriers running parallel to the roadway in close proximity to the shoulder, rumble strips, and vertical drop-offs at the edge of the paved shoulder should also be considered, and roads with these features may require shoulders with additional width.

The review and conclusions in the Technical Report indicate that wider shoulders improve bicycle and pedestrian safety, and that certain conditions indicate the need for additional width. Such conditions will be present on Roblar Road once the Quarry begins operation and commences hauling: there would be an average of over 2,000 vehicles per day (existing traffic plus Quarry traffic), nearly 17 percent of which will be large trucks (Table MR-1); and a prima facie speed limit of 55 miles per hour.

The conclusions and recommendations in the Technical Report, as well as AASHTO guidance documents, all support the conclusion in the Draft SEIR that Impacts 3.4-3 and 3.4-4 would remain significant and unavoidable, even with the adjustments to lane and shoulder width required by Mitigation Measure 3.4-3: a narrower road is a more dangerous road, and the Applicant’s proposed narrower road would not fully mitigate the impact on bicycle and traffic safety of over 300 Quarry trucks trips per day on Roblar Road. Furthermore, the existing requirements in Use Permit Condition/Mitigation Measure 49 and Condition 59 for 12-foot wide travel lanes and 6-foot wide paved shoulders with striping and signage for a Class II bikeway are clearly proportional to the severity of the project’s safety impact, as recognized by safety guidance. The existing Use Permit directly tailors the limited improvements required (1.6 miles) to directly address the impacts caused by the project. While it may be possible to override the safety standard in the *Sonoma County Bicycle and Pedestrian Plan* if sufficient evidence of infeasibility is presented by the Applicant, the need for an override to approve the current proposal, even as mitigated, is clear.

Feasibility

Several commenters made comments about the feasibility or infeasibility of the currently approved Use Permit, or alternatively, on the feasibility of widening the 1.6 mile road segment’s shoulder to 5 feet instead of 4 feet, such that an override would not be required. With regard to the Applicant’s statement that achieving the applicable standards is infeasible, and various commenters’ contention that either the previously approved project or additional widening to

meet the 5-foot standard in the *Sonoma County Bicycle and Pedestrian Plan* is in fact feasible, the Draft SEIR does not address the issue of feasibility or infeasibility of the Use Permit Conditions of Approval that the Applicant proposes to modify. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility with respect to the previously adopted measures, and/or a finding that the increase of one foot to achieve two 5-foot shoulders is not feasible. Alternatively, the Board of Supervisors can deny the proposal to significantly relax the safety mitigation previously imposed.

“Feasible” under CEQA, means “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” Pub. Res. Code section 21061.1; CEQA Guidelines Section 15364. No technological or environmental factors make meeting County standards infeasible. The submitted correspondence does indicate that one neighbor has declined to enter into a transaction with the Applicant. Condemnation is legally feasible in these circumstances and condemnation and widening cannot be rejected simply on the grounds that condemnation might be required. In other words, condemnation on its own will not make the mitigation infeasible. Condemnation does involve expenses that could be relevant to economic feasibility, and it could involve delays that would be relevant to the period of time in which the project can be implemented.

With respect to economic infeasibility, under CEQA additional costs or lost profitability must be sufficiently severe to render it impractical to proceed with the project. The magnitude of the difference between the project and the alternative will determine the feasibility of the mitigation. The applicable legal standard is whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent person would not proceed with the mitigated project. The relevant feasibility determinations, which may involve matters of policy, is for the Board of Supervisors. CEQA does not require this economic determination to be made in an EIR.

Feasibility of Other Mitigation Approaches for the Significant Impact

Some commenters, including members of the Board of Supervisors, asked about the feasibility of reducing speed as a mitigation measure. As noted above, there are acknowledged speed issues on this road segment and the need to increase shoulder width is, in part, related to the introduction of a large number of trucks on a narrow road that is typically travelled at high speeds. The County has limited authority to modify speed limits and can only do so in response to a speed study. Currently, State law requires the Department of Transportation to include in the California Manual on Uniform Traffic Control Devices a requirement that local authorities, when setting speed limits, round speed limits to the nearest 5 miles per hour of the 85th percentile speed of traffic as determined by an engineering and traffic survey. State law authorizes a local authority to round the speed limit down to the lower 5 miles per hour increment in some instances but prohibits that speed limit from being further reduced for any reason. Per the direction of the Board of Supervisors, the Department of Transportation and Public Works is in the process of conducting the required study. However, speed limit reductions are not anticipated.

With respect to buffered bike lanes, The National Association of City Transportation Officials (NACTO) provides guidance on buffered bike lanes, recounted below (NACTO, 2019). Buffered bike lanes are conventional bicycle lanes paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane. A buffered bike lane is allowed as per the Manual of Uniform Traffic Control Devices (MUTCD) guidelines for buffered preferential lanes (MUTCD section 3D-01).

NACTO lists benefits of buffered bike lanes as follows:

- Provides greater “shy distance” between motor vehicles and bicyclists;
- Provides space for bicyclists to pass another bicyclist without encroaching into the adjacent motor vehicle travel lane;
- Provides a greater space for bicycling without making the bike lane appear so wide that it might be mistaken for a travel lane or a parking lane;
- Appeals to a wider cross-section of bicycle users;
- Encourages bicycling by contributing to the perception of safety among users of the bicycle network.

According to NACTO, typical applications for buffered bike lanes include the following:

- Anywhere a standard bike lane is being considered;
- On streets with high travel speeds, high travel volumes, and/or high amounts of truck traffic;
- On streets with extra lanes or extra lane width.

Based on MUTCD standards, NACTO states that buffered bike lanes have the following required features; additional features are recommended by NACTO:

- Required:
 - Bicycle lane word and/or symbol and arrow markings (MUTCD Figure 9C-3) shall be used to define the bike lane and designate that portion of the street for preferential use by bicyclists;
 - The buffer shall be marked with 2 solid white lines. White lines on both edges of the buffer space indicate lanes where crossing is discouraged, though not prohibited. For clarity, consider dashing the buffer boundary where cars are expected to cross at driveways.
 - The buffer area shall have interior diagonal cross hatching or chevron markings if 3 feet in width or wider.
- NACTO Recommendations:
 - If used, interior diagonal cross hatching should consist of 4” lines angled at 30 to 45 degrees and striped at intervals of 10 to 40 feet. Increased striping frequency may increase motorist compliance;

- The combined width of the buffer(s) and bike lane should be considered “bike lane width” with respect to guidance given in other documents that don’t recognize the existence of buffers;
 - Where buffers are used, bike lanes can be narrower because the shy distance function is assumed by the buffer. For example, a 3 foot buffer and 4 foot bike lane next to a curb can be considered a 7 foot bike lane;
 - Buffers should be at least 18 inches wide because it is impractical to mark a zone narrower than that;
 - On intersection approaches with no dedicated right turn only lane, the buffer markings should transition to a conventional dashed line. Consider the use of a bike box at these locations.
- NACTO lists the following maintenance considerations for buffered bike lanes:
 - Buffer striping may require additional maintenance when compared to a conventional bicycle lane;
 - Buffered bike lanes should be maintained free of potholes, broken glass, and other debris;
 - If trenching is to be done in the bicycle lane, the entire bicycle lane should be trenched so that there is not an uneven surface or longitudinal joints.

Table MR-2 compares clearance, or “passing distance,” between bicycles and large vehicles for conventional bike lanes and buffered bike lanes. As shown in the table, given the Applicant’s proposed 32-foot cross-section for the widened segment of Roblar Road, a buffer could be accomplished using an 18-inch wide buffer and 2½-foot (30-inch) wide bicycle travel lane in lieu of the 4-foot paved shoulder required in Mitigation Measure 3.4-3. This would allow for 11-foot wide motor vehicle travel lanes and 1-foot rock backing at the outside edge of the pavement. By moving bicyclists farther from the vehicle travel lane, this would increase passing distance for cars and trucks, compared to both the Applicant’s proposed design and the mitigated design. Assuming a 10-foot wide truck (with mirrors)² in the middle of the travel lane, the passing distance from a 2-foot wide bicycle and rider in the middle of the buffered bike lane would be 2 feet, 3 inches (27 inches); without a buffer, the passing distance would be 18 inches. It would, however, also move bicyclists perilously close to the edge of the pavement. While the buffer would increase the passing distance compared to the same cross section without a buffer, large trucks would still have to cross the center line of the road in order to maintain the 3-foot passing distance required by Vehicle Code 21760.

By widening the bicycle lanes to 5-foot width with no buffer, and increasing the total width of the roadway to 34 feet, the passing distance would be 2 feet, with both bicycle and truck in the middle of their lanes. In this configuration, 3-foot passing distance could be achieved if a

² California Vehicle Code Section 35100 specifies maximum vehicle width. With mirrors, this is 122 inches (10 feet, 2 inches):

35100. (a) The total outside width of any vehicle or its load shall not exceed 102 inches.

35109. Lights, mirrors, or devices which are required may extend beyond the permissible width no more than 10 inches on each side.

bicyclist were to move closer to the edge of the pavement, and a truck were to move closer to the center line while passing.

TABLE MR-2
TRUCK PASSING DISTANCE FROM BICYCLISTS FOR DIFFERENT ROAD GEOMETRIES (ALL FIGURES ARE FEET)

Road Geometry	Vehicle Travel Lane Width	Buffer Width	Bicycle Travel Lane Width	Rock Backing Width	Passing Distance ¹	Can Truck Pass Bicyclist @ 3-feet without Crossing Center Line?
32-foot cross section, as proposed	11	n.a.	3	2	1.00	No
32-foot cross section, as mitigated	11	n.a.	4	1	1.50	No
32-foot cross section, as mitigated with buffer	11	1.5	2.5	1	2.25	No
34-foot cross section	11	n.a.	5	1	2.00	No
40-foot cross section, as required	12	n.a.	6	2	3.00	Yes
40-foot cross section, with buffer	12	2	4	2	4.00	Yes

NOTE:

¹ Passing distances assume 10-foot wide truck (with mirrors) and 2-foot wide bicycle and rider, both traveling in the middle of their respective lanes

SOURCE: ESA, NACTO, 2019

For the currently required 40-foot cross-section, the 6-foot wide bike lane could consist of a 2-foot wide buffer and 4-foot wide bicycle travel area. With this cross-section, the passing distance would be 4 feet. Without a buffer, the passing distance would be 3 feet. In either case, under the currently required cross-section, a 10-foot wide truck could maintain a passing distance of 3 feet without crossing the center line.

Three Feet for Safety Act

Several commenters inquired whether the Three Feet for Safety Act requires a particular design standard; several commenters suggested that it does. The Act does not require any design standards. The Act does, however, clearly recognize that three feet are required for passing safely. A paved shoulder less than 5 feet wide will put pressure on project trucks to violate the Act. For this reason, and because of the metrics above, approval of a 4-foot wide paved shoulder would require an override.

References

American Association of State Highway and Transportation Officials (AASHTO), 2011. *A Policy on Geometric Design of Highways and Streets*. 2011.

AASHTO, 2012. *Guide for the Development of Bicycle Facilities*. Fourth Edition, 2012.

Dixon, Karen, Ph.D., Kay Fitzpatrick, Ph.D., Raul Avelar, Ph.D., and Subasish Das, Ph.D., 2017. *Analysis of the Shoulder Widening Need on the State Highway System: Technical Report*. Prepared by Texas A&M Transportation Institute in cooperation with the Texas Department of Transportation and the Federal Highway Administration. May, 2017. <http://tti.tamu.edu/documents/0-6840-1.pdf>

ESA, 2010. *Memorandum, ESA to Sonoma County PRMD, subject: Roblar Road Quarry Alternative Haul Route Alignment*. October 19, 2010.

Federal Highway Administration, 2013. *FHWA Course on Bicycle and Pedestrian Transportation*. https://safety.fhwa.dot.gov/ped_bike/univcourse/pdf/swless19.pdf

National Association of City Transportation Officials (NACTO), 2019. *Urban Bikeway Design Guide: Buffered Bike Lanes*. <https://nacto.org/publication/urban-bikeway-design-guide/bike-lanes/buffered-bike-lanes/> Accessed January 14, 2019.

Sonoma County, 2010. *Sonoma County Bicycle and Pedestrian Plan*, August 24, 2010.

Sonoma County, 2016. *Sonoma County Year 2020 General Plan*, 1990, last amended August 2016.

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CHAPTER IV

Comments on the Draft SEIR and Responses

This chapter contains copies of the comment letters on the Draft Supplemental Environmental Impact (Draft SEIR) received during the public review period, and the individual responses to those comments. Each written comment letter is designated with a letter (A through U) in the upper right-hand corner of the letter. Oral comments on the Draft SEIR are also included in the transcript of the Public Hearing at the October 16, 2018 meeting of the Sonoma County Board of Supervisors.

Within each written comment letter, individual comments are labeled with a number in the margin. Immediately following each comment letter is an individual response to each numbered comment.



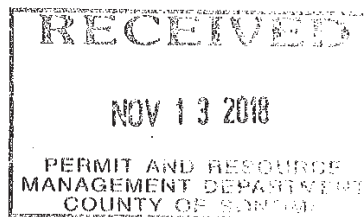
EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

November 8, 2018



Blake Hillegas
Sonoma County Permit and Resources Management Department
2550 Ventura Avenue
Santa Rosa, CA 95404

Subject: Roblar Road Quarry Draft Supplemental EIR UPE16-0058/Prior file PLP03-0094 - SCH
#2004092099
SCH#: 2004092099

Dear Blake Hillegas:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on November 7, 2018, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
1-916-322-2318 FAX 1-916-558-3184 www.opr.ca.gov

Document Details Report State Clearinghouse Data Base

SCH# 2004092099
Project Title Roblar Road Quarry Draft Supplemental EIR UPE16-0058/Prior file PLP03-0094 - SCH #2004092099
Lead Agency Sonoma County

Type SIR Supplemental EIR

Description Use Permit modification to an approved Quarry (annual production of 570,000 tons per year) requesting changes to Conditions of Approval and Mitigation Measures #44, 49, 59, 101, and 133. These conditions involve modifications to: 1. the approved preliminary design for the required signalization of the Roblar Rd/Stony Point Rd intersection; 2. The approved travel lane and shoulder width of a 1.6 mi segment of Roblar Rd (required to be reconstructed); and 3. Encroachments into wetlands and riparian areas associated with the required widening of Roblar Rd and the proposed relocation of Americano Creek.

Lead Agency Contact

Name Blake Hillegas
Agency Sonoma County Permit and Resources Management Department
Phone 707-565-1392 **Fax**
email
Address 2550 Ventura Avenue
City Santa Rosa **State** CA **Zip** 95404

Project Location

County Sonoma
City Cotati, Petaluma
Region
Lat / Long 38° 18' 59.3" N / 122° 48' 09.5" W
Cross Streets Canfield Rd
Parcel No. 027-080-009
Township **Range** **Section** **Base**

Proximity to:

Highways
Airports
Railways
Waterways Americano Creek, Ranch Tributary
Schools
Land Use vacant residence, cattle grazing; LEA 160 acre density, mineral resource, riparian corridor, VOH, Z

Project Issues Biological Resources; Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 3; Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 4; Office of Emergency Services, California; Regional Water Quality Control Board, Region 3; Air Resources Board, Transportation Projects; Department of Toxic Substances Control; Native American Heritage Commission

Date Received 09/24/2018 **Start of Review** 09/24/2018 **End of Review** 11/07/2018

Letter A. State Clearinghouse

- A-1 This comment from the State Clearinghouse acknowledges that the County has complied with CEQA review requirements, and that no comments from State agencies were submitted through the Clearinghouse.

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life!*

October 23, 2018

Mr. Blake Hillegas, Senior Planner
Sonoma County
Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

SCH# 2016082041
04-SON-2018-00333
GTS ID 12829

Roblar Road Quarry – Supplemental Environmental Impact Report (SEIR)

Dear Mr. Hillegas:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans' *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Travelled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the SEIR.

Project Understanding

The proposed project would make several changes to the Use Permit Conditions of Approval for the originally-proposed Quarry project. The proposed changes to the Use Permit include the following:

1. Modify the Design of the Intersection of Stony Point Road/Roblar Road. The existing Use Permit requires the applicant to make improvements to the Stony Point Road/Roblar Road intersection, including installing four-way signals, widening all approaches to the intersection, and adding left-turn lanes, according to a design previously prepared by the County. However, the applicant proposes a different design for the intersection improvements.
2. Modify the Design of Roblar Road Improvements. The Use Permit requires the applicant make improvements to Roblar Road from the Quarry entry to Access Road 2. These improvements include widening Roblar Road to provide two 12-foot-wide vehicle travel lanes with six-foot-wide paved shoulders, two-foot-wide rock shoulders, and associated striping to meet Class II bicycle facilities. The applicant, citing their inability to obtain necessary right-of-way for the required improvements including Class II bike lanes, instead proposes to construct two 11-foot-wide travel lanes, two three-foot-wide paved shoulders and two, two-foot-wide rock

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Mr. Blake Hillegas, Senior Planner
 Sonoma County
 October 23, 2018
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shoulders. There would also be modifications to the previously proposed alignment of Roblar Road between the Quarry access road and Access Road 2.

3. Realign Americano Creek Channel and Construct Wetland Enhancement Area on the Quarry Site. In order to accommodate the required widening of Roblar Road, the Applicant proposes to realign the channel of Americano Creek, which runs directly adjacent to Roblar Road along a portion of the Quarry property. The Applicant would create a new channel, farther from the edge of the improved Roblar Road, and would grade and plant the banks of the new channel to establish wetlands and riparian vegetation. Access to the project site is provided via an existing Roblar Road/Access Road 2 intersection. The site is located approximately 5.3 miles southwest of the State Route (SR) 116/Stony Point Intersection.

Multimodal Planning

The applicant should work with Sonoma County, as the Lead Agency, and the Sonoma County Regional Parks Department to ensure that modifications to Stony Point Road do not preclude implementation of the Petaluma Sebastopol Trail as envisioned in the *2018 Petaluma Sebastopol Trail Feasibility Study*. We recommend reverting to the intersection design features from the County Preliminary Design-Condition/Mitigation Measure 44 (Table 2-1). Please submit a copy of the final staff report and conditions of approval to Caltrans for our review.

Lead Agency

As the Lead Agency, the County of Sonoma is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the draft environmental document.

Mr. Blake Hillegas, Senior Planner
Sonoma County
October 23, 2018
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Should you have any questions regarding this letter, please call Stephen Conteh at 510-286-5534 or stephen.conteh@dot.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Pat Maurice', with a stylized flourish at the end.

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Letter B. California Department of Transportation (CalTrans)

- B-1 The County appreciates CalTrans' explanation of the modernization of their approach to evaluating and mitigating transportation impacts. Implementation of SB 743 (2014) requires lead agencies, beginning in July 2020, to use significance thresholds for transportation impacts based on the potential for a project to increase vehicle miles traveled (VMT), rather than the commonly-used level of service (LOS) standard. The Draft SEIR uses the LOS standard, consistent with current County practice and the certified 2010 Final EIR for the Roblar Road Quarry. In addition, VMT is not anticipated to change from the original approval.
- B-2 The summary of the project provided in this comment is accurate, except that access to the project site will not be provided via an existing Roblar Road/Access Road 2 intersection. The intersection of Roblar Road with planned Access Road 2 is located approximately 1.6 miles southwest of the project driveway. Access Road 2 will connect Roblar Road with Valley Ford Road, as shown in Draft SEIR Figure 2-2. The project site will be accessed via a new access road that will intersect with Roblar Road, as shown in the same Figure 2-2.
- B-3 The Petaluma-Sebastopol Trail Feasibility Study (Sonoma County Regional Parks, 2018) shows that the preferred design and alignment for the planned bicycle-pedestrian trail includes a Class 1 multi-use path along the west side of Stony Point Road through the Roblar Road intersection. The study anticipates that to accommodate this path, which would have a width of 12-16 feet, Stony Point Road would need to be shifted to the east, in order to avoid the Washoe House. As suggested in the comment, this makes the currently-approved intersection design more compatible with the trail, as planned, though the currently-approved design has a shoulder width of only 8-10 feet, 2-4 feet less than the minimum width for the trail. The County acknowledges CalTrans' preference for the currently-approved design.

The Draft SEIR (Impact 3.4-2 in Section 3.4, Transportation and Traffic) examines whether the Applicant's proposed design for the Stony Point Road/Roblar Road intersection, including its proposed minimum 4-foot wide shoulders, would impact bicycle safety compared to the currently-approved design. The Draft SEIR finds that it could, because the 4-foot width does not meet Class II bikeway safety standards, as specified in the Sonoma County 2010 Bicycle and Pedestrian Plan, which calls for five-foot shoulders. The Draft SEIR includes Mitigation Measure 3.4-2, which requires widening the paved shoulders on Stony Point Road to a minimum of five feet within the limits of the intersection improvement at Roblar Road unless such widening would disturb ditches. The Draft SEIR finds that this would mitigate the bicycle safety impact to less than significant, even if the 5-foot width could not be achieved all the way through the intersection.

It is noted that the Petaluma-Sebastopol Trail Feasibility Study was accepted by the Board in 2018, well after the original approval of the Quarry in 2010. The County's preliminary design from 2005 and the Applicant's proposed design modifications include Class II bicycle facilities, but do not include the planned, but not yet funded Class I bike path on Stony Point Road, which would require substantial design modifications, additional right of way, and additional environmental review. The Applicant's proposed design, which limits the intersection upgrade to the already-hardscaped area, would not preclude future modifications to the intersection, including a Class I bike lane, if and when funding is secured.

- B-4 The County is aware of its mitigation responsibilities and requirements for the Mitigation Monitoring and Reporting Program (MMRP). The draft MMRP is included in this document as Appendix A.

October 25, 2018

Blake Hillegas
Sonoma County Permit Center
2550 Ventura Avenue
Santa Rosa, CA 95403

Subject: Applicant Comments on September 2018 Draft Supplemental Environmental Impact Report (DSEIR), Roblar Road Quarry

Dear Blake,

On behalf of the Project Applicant, Barella Family, LLC, please find below our project-team Comments on the September 2018 Draft Supplemental Environmental Impact Report, Roblar Road Quarry. In addition to our page-specific comments on the DSEIR presented below, please note that we will address the DSEIR's treatment of the issue of infeasibility (specifically, the important issue of infeasibility of the mitigation measures) in a separate comment letter.

Comments on September 18, 2018 Draft Roblar Road Quarry (DSEIR)

Comment 1.

DSEIR page S-1, first paragraph: This discussion should also reference the Board's adoption of the Reclamation Plan and call out all the document components of the Final EIR (i.e., the May 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the September 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR).

Comment 2.

DSEIR page S-3, paragraph 3: This discussion of the realignment of Americano Creek as an element of our proposed modifications to the Use Permit gives the false impression that this creek realignment and riparian vegetation enhancement is required specifically as a result of our requested project modifications. In fact, as we discussed numerous times with the County and the DSEIR consultant, this realignment is a consequence of the Board decision to negate the use of Access Road 1 when the Board approved the project. The non-approval of Access Road 1 eliminated an original project element which would have shifted the project driveway access onto Roblar Road to a point west of where Americano Creek lies adjacent and very close to the southern edge of Roblar Road. This original project element was included specifically to avoid road reconstruction and widening where it would impact Americano Creek. Instead, the approved project requires use of the originally proposed driveway location which accesses onto Roblar Road east of this constrained section of Roblar Road and requires that Roblar Road be widened from this driveway intersection westward where there is insufficient ROW to recon-

struct and widen Roblar Road without impacting Americano Creek. Accordingly, the approved project would, therefore, impact Americano Creek. The applicant's proposed creek realignment and conceptual planting plan will allow for creek enhancement by creating riparian vegetation on both sides of the creek. We also note that construction of a 40-foot road, rather than our requested 32-foot road, would reduce in width or in some areas possibly eliminate the existing riparian buffer adjacent to Roblar Road.

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cont.

Comment 3.

DSEIR page S-3, paragraph 5: This paragraph states that "The proposed modifications to the Use Permit, if approved and implemented, could result in several new or more severe adverse environmental impacts, compared to those identified in the Final EIR." We believe this statement is incorrect, and that it strongly mischaracterizes and overstates DSEIR findings.

The DSEIR identifies only two impacts (Impact 3.4-3 related to bicycle safety, and Impact 3.4-4 related to traffic safety) which it indicates could remain significant and unavoidable after mitigation. But in the section addressing significance after mitigation for Impact 3.4-3, the DSEIR states that: "The DTPW as well as the SCBPAC have reviewed the proposed project and determined that, as mitigated (i.e., subject to construction of the 1-4-11-11-4-1 road design), it would be adequate for bicycle and traffic safety." And for Impact 3.4-4 the DSEIR states that "The DTPW has determined that the proposed project would not be unsafe with respect to traffic safety impacts." Therefore, the only basis provided in the DSEIR for the potential for significant and unavoidable bicycle and/or traffic safety impacts after construction of a 32-foot-wide road (1-4-11-11-4-1), now recommended as mitigation, are two policy considerations: first, that the proposed 11-foot wide travel lanes "would not meet the general AASHTO 12-foot lane recommendation...", and second, that "the proposed bicycle lanes would not meet the general specifications of the Sonoma County Bicycle and Pedestrian Plan, which would provide additional protections that include a 5-foot paved lane (vs. the 4-foot paved shoulder now recommended as mitigation (Policy 2.08))."

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Regarding the first policy consideration, the DSEIR assertion that the proposed 11-foot-wide travel lanes would not meet general AASHTO recommendations is incorrect. AASHTO recommends 11-foot-wide travel lanes for rural collectors having a speed limit up to 50 mph. Condition of Approval 59 requires that Roblar Road be designed for a speed limit of 45mph.

Regarding the second policy consideration, namely that Sonoma County policy calls for a 5-foot paved lane for Class II bikeways, we note that General Plan Policy CT-3t specially requires that such bikeway improvements be included as part of all improvement projects along road segments with existing or proposed bikeways **to the maximum extent feasible** (underlined and bolded herein for emphasis). Project feasibility, or more specifically the infeasibility of constructing a 40-foot-wide road, is the main basis for requesting Use Permit modifications to the mitigation requirements for the reconstruction and widening of Roblar Road. Further support is provided for the safety of a 32-foot road. First, as noted on page 3.4-3 of the DSEIR in the Sec-

tion entitled "Collision History," the recorded accident rate on the affected section of Roblar Road is approximately half the average accident rate on Sonoma County rural roads. Page 3.4-3 Section entitled "Pedestrian and Bicycle Traffic" also points out that typical daily bicycle activity on Roblar Road in our project area ranges from 6-17 bicycles per day, or less than two bicycles per hour in the course of a day's daylight hours. And finally, the applicant submitted a report to the County (CHS Consulting Group, 2016) which provides substantial evidence that a 32-foot road section will adequately address road safety concerns.

In summary we believe that: 1., the lack of sufficient public ROW; 2., the increased hydrologic and biological impacts associated with the 40-foot-wide road as compared to our proposed 32-foot-wide road; 3., DSEIR findings that a 32-foot-wide road will adequately mitigate both bicycle and traffic safety; 4., the very low typical level of bicycle activity; 5., the lower than average accident rate on this section of Roblar Road, and 6., the fact that 11-foot-wide travel lanes are in fact consistent with AASHTO Standards for our required 45 mph design speed, taken together, provide a compelling case for not relying upon policy considerations (that is, a 4-foot vs. a 5-foot paved shoulder) as the basis for finding significant and unavoidable traffic and bicycle safety impacts after mitigation. Accordingly, we believe these facts bring into question the DSEIR conclusion that bicycle or traffic safety impacts could remain significant and unavoidable after mitigation, a conclusion which would seemingly require a Board override of questionable, unlikely impacts.

For all the reasons summarized above, we agree with and hereby commit to pursue the Roblar Road improvements recommended in DSEIR Mitigation Measure 3.4-3, should those be approved by the County. To this point see also our October 25, 2018 letter (attached) to Mr. Joe Morgan, Sonoma County Bicycle and Pedestrian Advisory Committee (SCBPAC), in which we commit to the "1-4-11-11-4-1" road geometry specifically recommended by the SCBPAC.

Comment 4.

DSEIR page S-4, paragraph 3, final sentence: We recommend rewriting this sentence to read "The following mitigation measure, in tandem with other mitigation, would reduce this impact to less than significant."

Comment 5.

DSEIR page S-6, Impact 3.3-1, first bullet: As shown on the bottom of DSEIR page S-5, mitigation measure 133 requires avoidance of "all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant's plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017.

The first bullet on DSEIR page S-6 requires the installation of construction fencing around the two seasonal wetlands identified on [Final EIR] Figure IV.D-1 to protect these features from all construction and operation activities. The upgrading of Roblar Road, under either scenario, would directly impact a portion of the large wetland that is included in the “seasonal wetlands on the valley floor adjacent to Americano Creek” shown on [Final EIR] Figure IV.D-1. This mitigation measure should be revised to acknowledge that the roadway improvements will impact an area of one of the seasonal wetlands that is part of the jurisdictional wetlands located in the southwest corner of the property. This impact would have occurred under the project as originally approved by the Board.

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cont.

The first bullet also requires fencing of the North Pond, as identified as one of the two seasonal wetlands shown on [Final EIR] Figure IV.D-1. Although construction and operation of this man-made feature will avoid impacting the North Pond, we are proposing measures to enhance this pond to improve its suitability as breeding habitat for the California tiger salamander.

Comment 6.

DSEIR page 1-3, paragraph 1, line 7: We recommend that the beginning words of the second sentence “The Applicant indicates that” be deleted, such that this sentence reads “Given the limited width of the existing prescriptive right-of-way...”

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Comment 7.

DSEIR page 1-3, paragraph 3: See Comment 2.

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Comment 8.

DSEIR page 2-1, Section 2.1 Introduction: We request the addition of a new second sentence to this paragraph as follows: “The 2010 Use Permit remains valid and in effect, and has been recognized by the County as “used” by the applicant, thus preventing any automatic expiration of the 2010 Use Permit in the future.”

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Comment 9.

DSEIR page 2-8, first paragraph following bullets, sentence 1 and Note 2 at bottom of the page: This sentence correctly notes that the requested modifications to the signal design at the intersection of Roblar and Stony Point roads are a result of the fact that the County’s intersection design would impact vegetated drainage features outside paved and/or hardscape areas, and may adversely affect biological habitat for sensitive species. Note 2 at the end of the sentence and presented at the bottom of page 2-8 states that the 2005 IS/MND for the County’s design for a signal at the intersection of Stony Point and Roblar roads identified mitigation measures to reduce potential impacts to wetlands and special-status species to less than significant. While true in 2005,

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this Note neglects to explain that subsequent changes to the status of special-status species, and stormwater runoff requirements, would now cause this previous, 2005 signal design to result in significant, unmitigated environmental impacts. This is the very reason why an equally effective but modified signal design is requested in this Use Permit modification.

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cont.

Comment 10.

DSEIR page 2-10, Table 2-1, Table row 7 (Left Turn Lanes: Stony Point Road), Table column 4 (Applicant's Proposed Design): The discussion of taper lengths is incorrect as written. This text should be rewritten to say: "The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with the preliminary signal design shown on Figure 2-5 on DSEIR page 2-9." This text change will then make this Table discussion consistent with the discussion in the last paragraph on page 2-8.

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Comment 11.

DSEIR page 2-22, Section 2.6: As explained in our application for Use Permit modifications (see also Comments 2, 5, 14, and 16), this DSEIR discussion of our recognized need to modify Conditions 101 and 133 neglects to point out that when the Board approved the project without Access Road 1, the approved project then required that Roblar Road be reconstructed and widened west of the existing driveway where Americano Creek currently runs along and in very close proximity to the southern edge of Roblar Road. Accordingly, the project as approved would unavoidably require construction within 50 feet of the top of bank of Americano Creek (pertinent to Condition 101). And regarding some of the initial language of Condition 133, including the first bullet, we believe it currently contains language that is a holdover from when it was assumed Access Road 1 would be included as part of the project. Had Access Road 1 been approved, improvements to Roblar Road would not have been required where it lies immediately adjacent to Americano Creek, and in the area on the southern edge of Roblar Road between where Americano Creek enters onto the quarry property and the entrance road to the quarry.

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Comment 12.

DSEIR page 2-26, Section 2.7, Project Approvals: This discussion should be modified to reflect the Board's assumption of Original Jurisdiction regarding project approvals, negating the need for Board of Zoning Adjustments action.

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Comment 13.

DSEIR page 3.2-1, Section 3.2.2: The Applicant continues to believe and again asserts that the correct CEQA baseline for the Supplemental EIR is "assumed buildout" of the project as approved by the existing and valid 2010 use permit, i.e., the project as originally approved without our proposed modifications. The Applicant asserts that CEQA impacts of the proposed modifica-

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tions should be measured by the delta between the assumed buildout of the 2010 approvals and the proposed modifications.

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cont.

Comment 14.

DSEIR page 3.3-4, first paragraph in the section entitled “Impacts and Mitigation Measures, last sentence: This final sentence indicates that “the impact discussion below focuses on the Applicant’s proposed relocation of Americano Creek and modification of Condition 101 and Condition/Mitigation Measure 133, as desired in Chapter 2, Project Description.” However, the subsequent impacts discussion on DSEIR pages 3.3-4 through 3.3-13 includes no additional discussion of Condition 101. This must be corrected for reasons summarized below.

DSEIR Pages 2-22 through 2-26 of the Project Description do, as indicated above, discuss Condition 101, and our proposed revisions to Condition 101 made necessary by the fact that as currently written Condition 101 precludes grading or land disturbance within 50 feet of top of banks of the waterways, except for stream crossings. It is critical that Condition 101 be modified since any reconstruction and widening of Roblar Road west of the quarry driveway will violate Condition 101 as currently written (see also Comment 11).

As indicated in our application to modify certain Roblar Road Use Permit Conditions of Approval, Condition 101 is a holdover from when the Project Alternative 2 included Access Road 1. Access Road 1 was proposed in order to avoid the widening and reconstruction of Roblar Road along that portion of Roblar Road, west of the originally proposed quarry driveway, where Americano Creek lies immediately adjacent to and south of Roblar Road. Access Road 1 would have bypassed this area, crossing Ranch Tributary before intersecting Roblar Road, thus eliminating impacts of road widening on Americano Creek. The Access Road 1 crossing of Ranch Tributary was, in fact, the reason Condition 101 included the words “except for stream crossings.”

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When the Board rejected Access Road 1 (because it would have traversed lands encumbered by an Open Space easement) the resulting approved project requires that Roblar Road be reconstructed and widened for a distance of about 1.6 miles west from the original quarry driveway. As discussed in our application, and in our DSEIR Comments 2, 5, 11, and 16, the required reconstruction and widening of Roblar Road adjacent to Americano Creek cannot be completed without grading and land disturbance within 50 feet of top of bank of Americano Creek. Accordingly, we proposed that the first sentence of Condition 101 be modified as follows (**new text in bold underline**):

“Except for stream crossings **and the proposed realignment of Americano Creek**, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways, **as feasible**.”

The requested text changes simply allow for the required reconstruction and widening of Roblar Road along Americano Creek, as required for the project as approved by the Board. And as not-

ed in DSEIR Impacts 3.3-1, 3.3-2, and 3.3-3, 3.3-4, 3.3-5, 3.3-6, and 3.3-7, our proposed re-alignment and enhancement of Americano Creek in this area, with associated mitigation, will not result in any new or substantially more severe impacts to wetlands and riparian areas, special status reptiles or amphibians, special status birds, badgers, special-status bats, or special-status fish. In summary, the requested modification of Condition 101 will allow for Roblar Road to be widened and reconstructed along Americano Creek as required, and will not result in any new or substantially more severe environmental impacts. In contrast, Condition 101 as currently written would violate the Board-approved reconstruction and widening of Roblar Road along Americano Creek.

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cont.

Comment 15.

DSEIR page 3.3-4, Footnote 1 at bottom of the page: Regarding the reference to the absence of invasive plant species, this reference needs to be qualified to pertain to those species that have a HIGH rating as an invasive plant species by the California Invasive Plant Council (Cal-IPC). It would be impossible to keep out all non-native plant species considered invasive at some level based on the Cal-IPC rating system. For example, Italian ryegrass (*Festuca perennis*) is a facultative plant species (occurs equally in wetlands and uplands) that occurs in seasonal wetlands and vernal pools throughout the region, is commonly planted as a hay crop, and is rated as MODERATE as an invasive species by Cal-IPC.

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Comment 16.

DSEIR page 3.3-6, Mitigation Measure 3.3-1, Revised Mitigation Measure 133: In light of discussion provided previously in Comments 2, 5, and 11, we request that the underlined portion of the third sentence of the mitigation measure be revised (revisions shown in **bold**) to read “except for secondary improvements described herein, and as shown in the Applicant’s plans for the relocation of Americano Creek including related roadway improvements, specifically the drawing....” These text changes will make this mitigation measure feasible.

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Comment 17.

DSEIR page 3-3-7, first bullet at top of the page: As noted previously in our Comments 2, 5, 11, 14, and 16, we remain concerned that as written this bullet does not recognize that jurisdictional wetlands and riparian habitat in the southwestern corner of the property will necessarily be impacted by the widening of Roblar Road. Further, one of the two seasonal wetlands referenced in DEIR Figure IV.D-1 is the North Pond, which will be enhanced as a component of project mitigation as described by the Applicant in correspondence between our project biologist, Ted Winfield, Ph.D., and the County and ESA environmental document consultant team. Exclusionary fencing will be installed, as feasible, to maximize habitat protection while still allowing for the reconstruction and widening of Roblar Road, and mitigation enhancement efforts at the North Pond. Our comment 16 suggests revised text for Mitigation Measure 133.

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Comment 18.

DSEIR page 3.4-3, second paragraph in Section entitled “Pedestrian and Bicycle Traffic”: This section says that typical bicycle activity on the section of Roblar Road impacted by this project ranges from 6 to 17 bicycles per day. We believe this extremely low, typical level of bicycle activity brings into question the DSEIR conclusion that a significant and unavoidable bicycle safety impact could remain following mitigation (i.e., construction of the recommended 32-foot road), and thereby also brings into question the need, as the SEIR is currently written, for the Board to Override bicycle safety per DSEIR Impact 3.4-3. See also our Comment 3.

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Comment 19.

DSEIR pages 3.4-6 - 3.4-7: Mitigation Measure 3.4-1 requires alternative signalization infrastructure at the intersection of Stony Point and Robber roads. Condition 44 to the 2010 approvals is inconsistent with Mitigation Measure 3.4-1 since the condition relies on now antiquated county preliminary design plans. Condition 44 should be modified to be consistent with Mitigation Measure 3.4-1.

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Additionally, Mitigation measure 44, as presently written states that “an offset of the payment mitigation fees may be considered.” This language should be modified to require an offset inasmuch as the intersection improvements are included in the County’s current CIP for which county-wide mitigation fees are collected.

Comment 20.

DSEIR page 3.4-8, Footnote 1: As we noted in Comment 3, this Footnote states that General Plan policy does NOT establish hard and fast standards for bikeways, but instead provides for recommended bikeway designs to the maximum extent feasible, recognizing physical, geographic, and environmental constraints to bikeway construction.

Notwithstanding the quotation of General Plan Policy CT-3t on page 3.4-8 and CT-3t’s acknowledgment that bikeway improvements are required to “the maximum extent feasible,” the DSEIR erroneously concludes that an alleged violation of bikeway design standards not only exists, but rises to the level of a General Plan Policy inconsistency resulting in a significant impact (see paragraphs 4 and 5 on DSEIR page 3.4-11). We assert that this conclusion is spurious for two reasons. First, the conclusion flies in the face of the General Plan’s acknowledgment that county design standards are not absolute but must be implemented to the “maximum extent feasible.” Second, with respect to any conclusion in the SEIR that failure to achieve absolute conformity with county design standards results in General Plan inconsistency, this conclusion is not supported by the law or facts.

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“An action, program or project is consistent with the General Plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. . . State law does not require perfect conformity between a proposed project and the applicable general plan. . . [citation omitted] In other words ‘it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan.’” (*Pfeiffer v. Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1563.) It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan.”

“Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes.” (*Pfeiffer* at p. 1563).” “It is beyond cavil that no project could completely satisfy every policy in the [general plan], and that state law does not impose such a requirement.” (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719-720.)

Based on the foregoing, the DSEIR should be clarified to conclude that the minor modifications now proposed to the project are consistent with the County General Plan. The width of bicycle infrastructure is subject to the overarching principal of feasibility and may be further found consistent with the County General Plan based upon the furthering of county land use goals related to resource protection and a reduction in the loss of agricultural land, among other things. Furthermore, the proposed width of bicycle lanes now proposed does not impede a wider width at a later time should such expanded width be deemed necessary or desirable.

Comment 21.

DSEIR page 3.4-9, first paragraph: The DSEIR states that Impact E.3 was found to be mitigated to a level insignificance and thus no impact override was necessary. Notwithstanding language elsewhere in Resolution 10-0903 to the contrary, Section 1.04 of Exhibit “C” to the Resolution contained an impact override for “those impacts found to be significant and unavoidable and potentially significant and unavoidable as set forth in the Final 2010 EIR and Record of these proceedings.” To our knowledge, the potentially significant impact relating to bicycle safety was not deleted from the 2010 Final EIR.

Comment 22.

DSEIR page 3.4-9, paragraphs 2 and 3: A major factor in requesting a modified design for the reconstruction and widening of Roblar Road is the lack of sufficient public right of way (ROW) to construct a 40-foot-wide road and necessary drainage and grading requirements outside the 40-foot-wide roadway alignment.

The DSEIR incorrectly states “With respect to Roblar Road to the west under the approved alternative, the applicant had asserted that he could obtain sufficient right of way to widen the 1.6

mile segment of Roblar Road and that condemnation would not be required.” This is patently untrue.

On pages 11-27 and IV. E-34 the May 2008 DEIR for the approved project, it was represented that the county right of way width between Valley Ford Road and Orchard Station Road was 50 feet. These representations were based on 2008 personal communications with Mr. Giovannetti of the county’s Public Works Department, not the applicant (see paragraph 3 on DEIR page IV. E-34).

On or about October 19, 2010, the applicant’s engineer submitted a letter to the county with respect to the construction of Roblar Road within the represented 50 foot right of way. A copy of that letter is attached. That letter stated, in pertinent part, “We have reviewed the option of improving Roblar Road to county standards within the existing 50’ right of way referred to in the EIR. . . our preliminary review indicates that it is feasible to construct the road improvement within the existing 50’ right of way. . . .” While such a conclusion regarding feasibility may well have been true at the time, this is no longer the case for two reasons. First, the county’s representation about having 50 feet of right of way has subsequently been shown to be erroneous. Second, the AC dikes and fill slopes referenced in Mr. Carlenzoli’s letter would impact linear features which are now protected by more intensive environmental regulations. The DSEIR should be revised to make it clear that it was the county’s representation, not the applicant’s, that asserted that 50 feet of right of way existed along the referenced 1.6 mile section of Roblar Road.

In addition, land ownership along the section of Roblar Road to be improved has changed, impacting the ability to acquire ROW in certain areas. Further, it was not recognized at the time that there was insufficient ROW to construct a 40-foot-wide road along the portion of Roblar Road just west of the quarry property which lies constrained between the Wilson property to the south, encumbered by an Open Space Easement, and lands on the north side of Roblar Road owned by an unwilling seller.

Comment 23.

DSEIR page 3.4-10 - 3.4-11: The discussion beginning in paragraph 3 on page 3.4-10, and continuing to page 3.4-11, regards whether our proposed 32-foot-wide road meets AASHTO Standards. The DSEIR notes that the “Applicant’s proposed alternative road design would not conform to the guidance in the latest edition of the AASHTO publication” on the basis that AASHTO requires 12ft-wide travel lanes. However, AASHTO recommends 11ft-wide travel lanes for rural collectors having a speed limit up to 50mph and Condition of Approval 59 requires that Roblar Road be designed for a speed limit of 45mph.

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cont.

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Comment 24.

DSEIR page 3.4-12, paragraph entitled "Significance after Mitigation": As explained in both Comments 3, 18, and 19, we believe there a number of considerations which we believe challenge the DSEIR conclusion that Impact 3.4-3 would remain significant.

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Comment 25.

DSEIR page 3.4-13, paragraph near top of page entitled "Significance after Mitigation": As explained in Comments 3, 18, and 19, we believe there a number of considerations which we believe challenge the DSEIR conclusion that Impact 3.4-4 would remain significant.

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Comment 26.

DSEIR page 3.7-4, first paragraph of section 3.7.4 entitled "Land Use and Agricultural Resources": The DSEIR correctly notes that the transfer of a permanent conservation easement on a separate exchange site was not required because the Applicant chose to delay the development of the Quarry until after the Williamson Act Contract on the mining site had expired. As a result of the expiration of the Williamson Act Contract, deletion of the requirement for the transfer of a conservation easement was reflected in the "Project Description" preamble to Exhibit "E" of the December 14, 2010, approval of Board Conditions and Mitigation Monitoring accompanying Board Resolution 10-0903. The deletion of the conservation easement transfer condition on December 14, 2010, is further evidenced by comparing the December 14, 2010, "Project Description" with the "Project Description" accompanying the April 1, 2010 and December 17, 2009, Draft Conditions of Approval which, at that time, both required the conservation easement transfer. Notwithstanding deletion of the requirement for a conservation easement transfer as part of the 2010 approvals, Condition No. 120 of the 2010 approvals was inadvertently and erroneously included in Exhibit "E" to Board Resolution 10-0903. That condition purports to still require an easement transfer. We request that the DSEIR acknowledge that the 2010 clerical error should be corrected by deleting Condition 120 to Exhibit "E" of the 2010 approvals to achieve consistency with the DSEIR's correct conclusion that "this measure was not adopted as a COA."

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Closing

We thank you for the opportunity to provide these comments.

Sincerely,



Scott R. Briggs, Ph.D.

CC: John Barella

Arthur Coon
Stephen Butler
Geoff Coleman
Ted Winfield
Brian Sobel

Attachment A: October 25, 2018 letter to Mr. Joe Morgan, Sonoma County Bicycle &
Pedestrian Advisory Committee

ATTACHMENT A

October 25, 2018

Mr. Joe Morgan
2nd District Member, Sonoma County Bicycle & Pedestrian Advisory Committee (SCBPAC)
% Sonoma County Transit
Attn: Steven Schmitz
355 West Robles Avenue
Santa Rosa, CA 95407

Subject: SCBPAC Concerns expressed regarding the Draft Supplemental EIR for the Roblar Road Rock Quarry Project

Dear Mr. Morgan,

On behalf of John and Andrea Barella, project applicant, and the entire Roblar Quarry Project Team, I write to you to address concerns expressed both by you at the October 16, 2018 Hearing on the DSEIR. In light of how the DSEIR describes our requested modifications to the project Use Permit, specifically regarding requested changes to how Roblar Road will be reconstructed, we fully understand your concerns.

I write to assure you that we very much appreciate SCBPAC's consideration of our requested project modifications to Roblar Road, and SCBPAC's support of a road geometry consisting of two 11-foot-wide travel lanes, two 4-foot-wide paved shoulders, and 1-foot of rock backing on each side of the reconstructed road. Most importantly, we hereby confirm for the record that we fully support this recommended road geometry.

We too were initially surprised by the DSEIR's description of our requested Use Permit modifications to the design for the project-affected portion of Roblar Road, until we reviewed the timing of key steps during our request to modify the Use Permit. Our application to the County requesting modifications to the Use Permit (which was originally approved by the Board of Supervisors back in 2010) consisted of two application documents, our initial Application dated July 18, 2016 and our Supplemental Information application dated September 21, 2016. While preparing these application documents we met numerous times with County planning and public works staff to discuss our reasons for requesting changes to certain Conditions of Approval, and our thoughts regarding revised Conditions. Relevant here was our request to modify the condition requiring widening and reconstruction of a portion of Roblar Road to provide a total road width of 32 feet instead of 40 feet. At that time, Public Works staff indicated they would not support less than 2-feet of rock backing for the shoulders. So, although our applications to modify the Use Permit noted that our requested 5-foot shoulders could include either 4-feet of paving with 1-foot rock backing, or 3-feet of paving with 2-feet of rock backing, at that time it focused on the 3-2 shoulder option Public Works staff indicated they would require.

There followed the November, 2016 and January, 2017 SCBPAC meetings. In light of SCBPAC's resulting recommendations Public Works staff indicated they would accept 1-foot of rock backing to provide for 4-feet of shoulder paving. From that point forward this is the geometry the Roblar Quarry Project team has been pursuing, and all of our post-January-2017 efforts have focused on designing a road with 4-feet of paved shoulder. In short, to the extent the DSEIR suggests we currently seek anything different, the SEIR consultant simply relied upon the "dated" information included in our original 2016 application, and did not account for the more recent developments. The DSEIR recommends the 1-4-11-11-4-1 road geometry recommended by the SCBPAC, which is now supported by Public Works, and we hereby clarify that we fully support and intend to implement the SEIR's recommendation in that regard subject to approval by the Board of Supervisors.

In closing, we again express our appreciation to the SCBPAC for its willingness to reasonably consider and balance the many physical, environmental and other constraints to widening Roblar Road, through its support of a feasible alternative that minimizes impacts while still providing for bicycle and pedestrian safety.

Y
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cont.

Sincerely,



Scott R. Briggs, Ph.D., Roblar Quarry Project Team Consultant

CC: John Barella
Geoff Coleman
Stephen Butler
Arthur Coon

Letter C. Scott Briggs, on behalf of the Applicant

- C-1 At the suggestion of the commenter, the text on page S-1 of the Draft SEIR is amended as follows (note also the correction to the statement regarding the annual limit, which was misstated as “tons” instead of “cubic yards”):

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Reclamation Plan and a Use Permit (Use Permit PLP03-0094) for a modified version of one of the alternatives to the originally-proposed Quarry project described in the Final EIR, Alternative 2 (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year. The Final EIR included the May, 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR.

- C-2 The commenter notes that the Applicant’s original proposal was not permitted due to the project impacts. As stated in the paragraph cited by the commenter, the relocation is for the purpose of accommodating the required widening of Roblar Road. As stated in Chapter 2, Project Description, of the Draft SEIR (page 2-2), the Applicant has stated that their proposed modifications to the Use Permit, “...are necessary to resolve conflicts between Conditions, to make implementation of Conditions feasible, and/or to reduce potential impacts associated with their implementation.” At this time, the proposal to relocate the creek channel stems from the Applicant’s contention that there is not sufficient right-of-way available to widen Roblar Road on the side opposite the creek, as described on page 2-22 of the Draft SEIR.
- C-3 The commenter suggests that the Draft SEIR mischaracterizes its own findings, and appears to suggest that the findings be changed. As shown in Table S-1 in the Executive Summary of the Draft SEIR, the Draft SEIR identifies seven new or more severe significant impacts that can be mitigated to less than significant, and two new or more severe impacts that would remain significant and unavoidable after mitigation. The statement on page S-3 of the Draft SEIR that, “[t]he proposed modifications to the Use Permit, if approved and implemented, could result in several new or more severe significant adverse environmental impacts, compared to those identified in the Final EIR” is therefore accurate in its use of the term “several.”

With regard to the issue of lane width and bicycle safety raised in the rest of the comment, please see Master Response 1. With respect to speed, please refer to Response C-23.

- C-4 Impact 3.4-5, in Section 3.4, Transportation and Traffic, is a carry-over of the portion of Impact E.2 from the 2010 Final EIR, focusing only on the Stony Point Road/Roblar Road intersection. As discussed on pages 3.4-13 and 3.4-14 in Section 3.4, the 2010 Final EIR specified Mitigation Measure E.2a to address the Quarry’s contribution to a long-term

- cumulative impact on intersection level of service at this intersection. The 2010 Final EIR found, however, that this mitigation measure, requiring a right turn lane from southbound Stony Point Road onto Roblar Road, may not be feasible (because of the presence of the historic Washoe house, and uncertainty about the potential to obtain additional right of way on the east side of Stony Point Road). Neither the currently-approved County design of the intersection, nor the Applicant's proposed design, includes a right turn lane. No other mitigation was offered in the 2010 Final EIR. Therefore, the statement on page S-4 that new Mitigation Measure 3.4-5 would reduce the impact (not in tandem with other mitigation, since no other mitigation is specified) to less than significant is accurate.
- C-5 The seasonal wetlands, described in the comment and shown on Figure IV.D-1 in the 2010 Final EIR, are shown on the Applicant's figure for relocation of Americano Creek (Figure 2-8 in the Draft SEIR). The modified language of Condition of Approval 133 included in Draft SEIR Mitigation Measure 3.3-1 (allowing disturbance of wetlands consistent with the Applicant's proposed relocation of the creek) would enable disturbance of these features, if necessary.
- With regard to North Pond, this feature is not shown on Draft SEIR Figure 2-8. It is shown (but not labeled as "North Pond") in 2008 Draft EIR Figure IV.1, and is shown and labeled as such and described in Recirculated Draft EIR Figure IV.D-2. North pond is one of two ponds in which California tiger salamander larvae were discovered in 2010. The Quarry project, as approved, would eliminate the other CTS breeding pond, Center Pond. This is addressed in Impact D.11 in the 2010 Final EIR. Mitigation Measures D.11a and D.11b were specified to mitigate this impact. These measures were adopted as Conditions of Approval 143 and 144.
- To clarify that conditions governing protection of wetlands are not intended to prevent the Applicant from enhancing the value of aquatic habitat in North Pond, subject to resource agency approval, the following text is added to Mitigation Measure 3.3-1, as an additional change to the text of Condition/Mitigation Measure 133: "Nothing in this condition or other conditions will preclude enhancements to the North Pond subject to resource agency approvals."
- C-6 The cited passage from the Draft SEIR accurately reflects the Applicant's stated purpose for the proposed modifications to the Use Permit Conditions of Approval. The Applicant appears to be suggesting that the SEIR should make a finding that the original Use Permit is infeasible. This is a determination to be made by the Board of Supervisors based on the relevant economic considerations. It should be noted that the Applicant has stated that he will go ahead with the original Use Permit if the modification is disapproved.
- C-7 Please see the response to Comment C-2.
- C-8 The commenter correctly notes that the current Use Permit is valid and in effect. Notwithstanding various statements about infeasibility, the Applicant has stated that it will go ahead with the original Use Permit if the modification is disapproved. No change in the Draft SEIR is required.

- C-9. The 2005 Initial Study/Mitigated Negative Declaration for the Stony Point Road/Roblar Road intersection improvements (Sonoma County PRMD, 2005) anticipated the need to obtain permits for the relocation of the ditches on the east side of Stony Point Road:

To widen Stony Point and Roblar Roads the roadside ditch on the south side of Roblar Road and the ditches on the east side of Stony Point Road will require filling and relocation. The relocation of the roadside ditches will require permits from the ACOE [Army Corps of Engineers] and the RWQCB [Regional Water Quality Control Board]. All permits will be obtained prior to construction and permit conditions will be implemented into the project plans and specifications (Sonoma County PRMD, 2005, page 13).

If signalization of the intersection were to proceed according to the approved County preliminary design, the permitting process could include, in addition to ACOE and RWQCB, the U.S. Fish and Wildlife Service, the federal agency with responsibility for the California Tiger Salamander. Permits would specify conditions consistent with current regulatory requirements. Additional environmental review could be required.

- C-10 If the Applicant's proposed intersection design is approved, the final design of the entire intersection, including the northbound left turn lane, will be reviewed and subject to final approval by DTPW, per Mitigation Measure 3.4-1 (see Draft SEIR Section 3.4, Transportation and Traffic). Therefore, the reference to CalTrans standards in Table 2-1 in Chapter 2, Project Description cited by the commenter is not needed. The table is revised as shown on the following page.
- C-11 The commenter is correct that the Board of Supervisors did not approve the Access Road 1 proposal when it considered the Use Permit currently in effect. The modifications to Condition 133 specified in Draft SEIR Mitigation Measure 3.3-1 would enable the relocation of Americano Creek, as proposed.
- C-12 While the point made in this comment, that the Sonoma County Board of Supervisors maintains Original Jurisdiction over the project, is correct, no revisions are required in the Draft SEIR.
- C-13 As discussed on page 1-4 of the Draft SEIR,

This Supplement to the Roblar Road Quarry Final EIR examines the proposed modifications to the Use Permit COA and analyzes whether the proposed modifications, or changes to the setting in which the Quarry project would take place, could result in a new or substantially more severe significant impact, compared to the impacts identified in the Final EIR. Where a new or substantially more severe significant impact is identified, this Supplemental EIR specifies mitigation measures for reducing or avoiding the impact, and considers whether the mitigation measures have the ability to reduce the impact to less than significant.

The passage cited by the commenter on page 3.2-1, which the commenter requests modification of, is consistent with this approach, and requires no modification. Under CEQA Guidelines Section 15162, both the changes to existing conditions and the changes to the approved project are relevant to the required impact analysis.

**TABLE 2-1
COMPARISON OF INTERSECTION DESIGN FEATURES**

Design Feature	Existing Condition	County Preliminary Design-Condition/ Mitigation Measure 44	Applicant's Proposed Design
Traffic Control	Stop sign on Roblar Road. No controls on Stony Point Road	4-way traffic signal, including signal for driveway opposite Roblar Road	4-way traffic signal, including signal for driveway opposite Roblar Road
Travel Lanes: Stony Point Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Travel Lanes: Roblar Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Paved Shoulders: Stony Point Road (each side of road)	4 feet	8 to 10 feet	minimum 4 feet
Paved Shoulders: Roblar Road (each direction)	1 to 1.5 feet	6 feet	3 feet
Bike Lanes (each direction)	None	8 – 10 feet	4-foot-wide paved shoulder in each direction on Stony Point Road for use by bicyclists
Left Turn Lanes: Stony Point Road	Southbound: None; Northbound: 10 feet wide and 70-80-foot-long stacking length	Southbound: 11 feet wide and 50- 20- foot-long stacking length; Northbound: 11 feet wide and over 250- 90-foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.	Southbound: 11 feet wide and 50- 40- foot-long stacking length; Northbound: 11 feet wide and 120- 50- foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.
Turn Lanes: Roblar Road	Single lane widens to accommodate turns	Same as Existing	Same as Existing
Driveway on east side of intersection	at south end of intersection	relocated north, opposite Roblar Road	not relocated
Drainage Ditches	Existing ditch on east side of Stony Point Road and on portions of Roblar Road	Portions of existing ditches on Stony Point Road filled and relocated	Existing ditches not filled

SOURCE: Sonoma County PRMD, 2005; BKF Engineers, 2016, W-Trans 2015.

C-14 In response to the comment, the discussion of Impact 3.3-1 and Mitigation Measure 3.3-1 in Section 3.3, Biological Resources, of the Draft SEIR is revised as follows:

Impact 3.3-1: The proposed relocation of Americano Creek would involve construction and grading activities that could disturb or remove wetland and riparian habitat. (*Beneficial Impact / No New or Substantially More Severe Significant Impact, After Mitigation*)

Final EIR Impact D.1 concluded that the Quarry project would directly impact wetlands, other waters, and riparian habitat, resulting in the permanent fill of

potentially jurisdictional wetlands or other waters of the U.S. and waters of the State. The Final EIR specified Mitigation Measures D.1a (mitigate the filling or excavating of jurisdictional wetlands by conducting a formal wetland delineation, compensating for loss of jurisdictional wetlands at specified ratios, and implementation of a five-year monitoring program with applicable performance standards¹); D.1b (avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary [i.e., Ranch Tributary] and the southwestern corner [i.e., seasonal wetlands on valley floor adjacent to Americano Creek] of the property); and D.1c (monitor base flows in Ranch Tributary and if necessary augment them with releases of stored surface water) to reduce the Quarry project impacts to wetlands and riparian habitats to a less-than-significant level. These mitigation measures were adopted as Conditions/Mitigation Measures 132, 133, and 115 respectively. Condition 101 was also adopted. Condition 101 states that, “Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways.”

The proposed relocation of Americano Creek to accommodate the required widening of Roblar Road would result in the filling of the existing Americano Creek channel along most of its course on the Quarry project site, and relocation of the creek away from Roblar Road. Most of the existing riparian habitat adjacent to the south side of the existing creek would not be disturbed. A review of the 2015 USACE wetland delineation for the Quarry property and roadway alignment (U.S. Army Corps of Engineers, 2015) and the proposed relocation of Americano Creek shown in Figure 2-8 in Chapter 2, Project Description, shows that approximately 750 feet of Americano Creek would be filled to accommodate Roblar Road widening. This would fill an estimated 0.40 acre (17,599 s.f.) of waters of the State, which includes 0.18 acre (7,701 s.f.) of waters of the U.S. The 2015 USACE wetland delineation did not clarify the extent of federally-jurisdictional wetlands within the waters of the U.S.; hence, for this assessment, the entire 0.18-acre area was presumed to support federally jurisdictional wetlands. These jurisdictional areas include a portion of the riparian area along the south side of the existing creek, which is a part of an approximately 0.90-acre riparian area that supports native willows [arroyo willow (*Salix lasiolepis*), Pacific willow (*S. lucida* spp. *lasindra*), and red willow (*S. laevigata*)]. Only a portion of this riparian area would be removed to accommodate road widening and creek relocation. The remainder of this riparian area would not be disturbed. In addition, the realigned channel would fill (remove) an approximately 0.05-acre seasonal wetland identified as SW-17 (Figure 2-8 in Chapter 2, Project Description).

As part of the proposed modifications to the Use Permit, a realigned Americano Creek channel would be created that measures approximately 935 feet long with

¹ Performance standards specified for the monitoring program for creation of compensatory wetlands include: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.

a 14-foot wide creek bed covering approximately 0.30 acre and an additional 0.45 acre of low flood terraces. The creek banks would be vegetated with willows and other native species as identified in the Applicant's "Conceptual Planting Plan for Americano Creek Realignment" (Winfield, 2017; included as Appendix A; hereafter, "Planting Plan"). A new roadside ditch would be created adjacent to the widened Roblar Road.

The Applicant proposes to modify Condition/Mitigation Measure 133 to state that all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the Quarry site would be avoided "as feasible." The Applicant also proposes to modify Condition 101 to provide an exception to the prohibition against grading and land disturbance in proximity to waterways. ~~These changes~~ This change would enable the widening of Roblar Road and the proposed relocation of Americano Creek, since both the road widening and creek relocation would necessarily impact existing wetlands and occur within 50 feet of Americano Creek. This would increase the severity of Final EIR Impact D.1, by increasing the extent of wetlands that would be filled.

Condition/Mitigation Measure 132, which requires compensatory mitigation for the fill of jurisdictional waters, applies to the proposed modifications to the Use Permit, and would be effective in compensating for the increased loss of wetlands. While there would be a temporary loss of function on approximately 750 linear feet of Americano Creek while revegetated areas become established, creek relocation would not cause a long-term loss of wetland functions or habitat values because: 1) a greater area of wetlands would be created than filled: about 0.23 acres of wetland (0.18 acres of existing channel and associated riparian vegetation, plus 0.05 acres of seasonal wetland) would be filled, and about 0.30 acres of wetland/stream channel would be created. In addition, 0.45 acre of low flood terraces (waters of the State) would be created; 2) with implementation of the Planting Plan, the enhanced areas would provide similar or better habitat values than the existing creek; and 3) long-term monitoring provided in Mitigation Measure D.1a (COA 132) would ensure that the restored areas meet minimum performance criteria and adequately enhance functions and values of the created riparian corridor. Therefore, with the continued application of Condition/Mitigation Measure 132, the proposed modifications to the project would not result in any new or substantially more severe significant impacts to wetlands or riparian habitat. However, the Applicant's proposed modification of Condition/Mitigation Measure 133, which would add "as feasible" to the requirement to avoid wetlands and riparian habitat, would introduce uncertainty regarding the extent of wetland and riparian habitat that would be disturbed or destroyed. This could cause a new or more severe significant impact to wetlands and riparian habitat. Therefore, the Applicant's proposed revisions are rejected, and other revisions to Condition/Mitigation Measure 133 are specified below as mitigation.

In addition, Condition/Mitigation Measure 133 has been revised to confirm that the referenced 100-foot setback from critical habitat (Chapter 26A County Code) does not apply retroactively to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of relevant critical habitat in the General Plan. The Roblar Road Quarry was approved by the Board of Supervisors in December, 2010. The site was included in a federal critical habitat rulemaking by the U.S. Fish and Wildlife Service in August, 2011. On October 23, 2012, the Board of Supervisors adopted map amendments to the Open Space Element of the General Plan to designate critical habitat for the California Tiger Salamander. However, these setback provisions were not intended to be applied retroactively, and independent of any setbacks, the mitigation measures already mitigated the impact to California Tiger Salamanders to a level that is less than significant. The approved Quarry project includes Condition/Mitigation Measure 143 and 144 to mitigate potential impacts to CTS to less than significant as noted below under Impact 3.3-3.

The Applicant's proposed modifications to Condition 101 are also rejected, and this condition is modified as specified below (new changes to the text below are indicated with double underline and double strike-through).

Mitigation Measure 3.3-1a: Revise wording of Condition/Mitigation Measure 133 as follows to confirm that the referenced 100-foot setback to critical habitat does not apply retroactively and to allow creek relocation, but with specific parameters for wetland and riparian habitat disturbance (additions to the text of the adopted Condition are underlined):

133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent toAmericano Creek) of the property, except as shown in the Applicant's plans for relocation ofAmericano Creek, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for RealignedAmericano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017. Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:

- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on [Final EIR] Figure IV.D-1 except for the wetland that would be impacted by the relocation ofAmericano Creek to protect these features from all project construction and operation activities.;
- Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Condition 161);

- Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property, unless otherwise approved by resource agencies.
- Except as stated above for the relocation of Americano Creek, the project Applicant shall maintain the minimum allowed 200-foot and 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) respectively and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code), provided, however, that setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the General Plan.

Mitigation Measure 3.3-1b: Revise wording of Condition 101 as follows to allow the widening of Roblar Road and relocation of Americano Creek in proximity to waterways:

101. Except for stream crossings and also except as shown in the Applicant's plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.

Significance with Mitigation: The additional revisions to Condition/Mitigation Measure 133 and Condition 101 would ensure that disturbance of wetlands and riparian habitat would be restricted to the areas shown in the Applicant's plans for relocation of Americano Creek and evaluated in this document. This would ensure that all impacts to wetlands and riparian areas are adequately mitigated. The additional specification regarding setbacks from designated critical habitat would clarify that the Quarry project is consistent with Chapter 26A of the County Code. Therefore, with implementation of Mitigation Measures 3.3-1a and 3.3-1b, the impact would be less than significant.

- C-15 The footnote cited by the commenter references performance standards contained in Condition/Mitigation Measure 132, which is based on Mitigation Measure D.1a from the 2010 Final EIR. These performance standards for created, restored, or enhanced wetlands to compensate for the loss of wetlands include a general standard for exclusion of invasive species. Neither Mitigation Measure D.1a nor Condition/Mitigation Measure 132 specify the type or category of invasive species that must be excluded. It is anticipated that these details will be contained in permit conditions in the applicable wetland permits. As noted in Mitigation Measure D.1a, these permits will include a Section 404 Clean Water Act permit from the Army Corps of Engineers, Section 1603 Streambed Alteration

Agreement from the California Department of Fish and Wildlife, and/or Section 401 water quality certification from the Regional Water Quality Control Board. In order to clarify this, and in response to the comment, the following text is added to footnote 1 on page 3.3-4 of the Draft SEIR: “It is anticipated that absence of invasive species within compensatory wetlands will be demonstrated by the applicant to the extent required by applicable CDFW, USFWS, Water Board, and/or Army Corps of Engineers permit requirements.”

- C-16 Please refer to the responses to comments C-2, C-5, and C-14. The modified language of Condition 133 contained in Mitigation Measure 3.1-1a, and the new modified language of Condition 101 contained in Mitigation Measure 3.1-1b (see response to comment C-14) together enable the Applicant’s proposed design for road widening and Americano Creek relocation. However, to clarify that allowed disturbance of wetlands includes disturbance related to the widening of Roblar Road, Mitigation Measure 3.3-1 is further modified to include the following revision to Condition/Mitigation Measure 133 (new addition to the text is double-underlined); the same revision is added to Condition 101 in Mitigation Measure 3.1-1b; see Chapter 5 for all revisions to the text of the Draft SEIR)

133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant’s plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, “Americano Creek Relocation” dated September 1, 2017 and the “Conceptual Planting Plan for Realigned Americano Creek” prepared by Ted Winfield, Ph.D., dated August 21, 2017. Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas.

- C-17 Please see responses to comments C-5 and C-16.
- C-18 Please see Master Response 1.
- C-19 The Applicant appears to reference Condition of Approval 44, and suggests it is inconsistent with Mitigation Measure 3.4-1. In the event of approval, Mitigation Measure 3.4-1 would replace Condition of Approval 44.
- C-20 Please see Master Response 1. The commenter appears to suggest that feasibility analysis be included only in analysis of the General Plan, and not with respect to the issue of whether an override is justified. Such an approach would not be in the interests of safety and would not analyze the environmental risks posed by the proposal as CEQA requires.
- C-21 The commenter is incorrect in stating that the 2010 Final EIR includes a Statement of Override for a significant and unavoidable impact on bicycle safety. The 2010 Final EIR concluded in Impact E.3 that the project, as proposed, could have a significant and unavoidable impact on bicycle safety. This impact, however, was effectively mitigated to a less-than-significant level when the Board of Supervisors elected not to approve the

project with this significant impact, and instead approved an alternative. The 2010 ESA Memo (ESA, 2010), which is part of the Administrative Record for the 2010 Final EIR, states clearly that for Modified Alternative 2, the impact to bicycle and pedestrian safety could feasibly be mitigated to less than significant, even though the modified alternative would increase the distance of roadway requiring upgrading compared to the originally described Alternative 2.

Under CEQA Guidelines Section 15093, a Statement of Override is required for an approved project, not versions of the project that are not approved. Indeed, in Resolution 10-903 the Board of Supervisors specifically elected not to approve the project with an override for bicycle safety impacts, and those significant impacts in the original approval were in fact avoided. The resolution does not include an override for Impact E.3. Neither is Impact E.3 included in resolution Exhibit B, the findings for Potentially Significant Impacts that Cannot be Fully Mitigated. Impact E.3 is, however, included in Exhibit A, the findings for Potentially Significant Impacts that Can be Mitigated to a Less-Than-Significant Level. The Board of Supervisors, in approving the Quarry project in 2010, did not determine that the approved Modified Alternative 2 would result in a significant and unavoidable impact on bicycle safety. Therefore, the commenter is incorrect in stating that an override exists for Impact E.3.

- C-22 The commenter claims that a major factor in requesting a modified design for reconstruction and widening of Roblar Road is the lack of sufficient public right-of-way (ROW) to construct a 40-foot paved road and necessary drainage and grading requirements outside of the approved 40-foot roadway alignment. The commenter states that the Draft SEIR incorrectly states “with respect to Roblar Road to the west under the approved alternative, the Applicant had asserted that he could obtain sufficient ROW to widen the 1.6-mile segment of Roblar Road and that condemnation would not be required” (Draft SEIR page 3.4-9).

The commenter goes on to argue that the 2008 Draft EIR represented that there is a 50-foot ROW on Roblar Road between Orchard Station Road and Valley Ford Road and the Applicant’s engineer indicated it was feasible to improve Roblar Road to County Standards based on the represented 50-foot ROW.

The commenter then asserts that the prior feasibility determination is no longer valid because 1) the County’s representation of a 50-foot ROW was in error and 2) land ownership along the section of Roblar road to be improved has changed, impacting the Applicant’s ability to obtain ROW in certain areas.

The comment is correct in one respect, but misleading and incorrect in others. The commenter’s assertion that the 2008 Draft EIR represented a 50-foot wide ROW along the approved 1.6-mile segment of Roblar Road is correct. This representation was based on preliminary review by the Department of Transportation and Public Works. However, based on further review of the ROW issue, the Department of Transportation and Public Works had determined that the ROW is not necessarily 50 feet wide, and this was

discussed with the Applicant well before the prior approval. In some cases, the ROW along the approved Roblar Road Haul Route is less than 50 feet. When, the limitations of the ROW were discovered, this issue was brought to the attention of the Applicant in the context of the prior approval process.

Thus, what is incorrect and misleading in the commenter's statement is the suggestion that a mistake was carried into the Board of Supervisor's original decision to issue the current use permit. This is incorrect. To the contrary, the Board of Supervisors required the Applicant to obtain the required ROW in the Conditions of Approval (Condition of Approval/Mitigation Measure 49), and the only new information present is the Applicant's statement that doing so has encountered obstacles. In the prior process, and knowing that the ROW was more constrained than 50 feet, the Applicant indicated at the time he could obtain ROW necessary to reconstruct and widen the 1.6-mile segment of Roblar Road approved under Modified Alternative 2. The rationale for mitigating traffic and bicycle/pedestrian safety impacts E.3 and E.4, and for finding that those impacts were mitigated to a level that was less than significant, was the finding that Mitigation Measures E.3.a and E.4.a were feasible.

The findings of feasibility based on the 1.6-mile segment contrasted with the findings with respect to the 6.5-mile proposal that the Board of Supervisors rejected. The broader implementation of Roblar Road reconstruction and widening was recognized to be potentially infeasible (widening on approximately 6.5 miles of roadway from Stony Point Road to Valley Ford Road), but the Board of Supervisors rejected this alternative. The widening of Roblar Road required for the 1.6-mile segment approved under Modified Alternative 2 was recognized to be feasible because the Applicant indicated he could secure the necessary ROW. As such, the Applicant agreed to Condition of Approval/Mitigation Measure 49, which requires the Applicant to obtain additional ROW or easements, as necessary, in order to accomplish the required roadway widening:

49. Prior to the commencement of mining, the Applicant shall obtain easements/right of way (if necessary) and improve Roblar Road (between the on-site project access road and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide [paved] shoulders with traffic index of 10.5, and associated striping/signage to meet Class II bike facilities.

The Applicant was thus well-aware at the time of approval of the project (Modified Alternative 2) that the existing ROW was not sufficient to implement the required design.

It is also important to note that the 2010 Final EIR disclosed that approximately 60 feet of ROW would be needed to accommodate the required 40-foot wide road and associated drainage improvements. Thus, even though there is not a 50-foot roadway easement on Roblar Road, the Applicant was well aware that additional ROW would be needed, not only to reconstruct and widen Roblar Road, but to straighten the "S" curve as proposed and approved in the current use permit that the Applicant proposes to modify. As with the prior approval, the Applicant's proposal still requires acquisitions of additional ROW.

The exact amount cannot be determined until, in the event that amendments are approved, a build-level design is completed and approved by the County.

- C-23 While Condition of Approval 59 requires Roblar Road to be designed for a speed limit of 45 mph, the actual prima facie (unposted) speed limit on Roblar Road is 55 mph. Furthermore, the 2010 Final EIR notes the actual speed at which vehicles were traveling on Roblar Road .65 miles west of Canfield Road, based on a speed study conducted in 2005: the 85th percentile speed was 59.4 mph.² Condition/Mitigation Measure 49 and Condition 59 clearly state the required lane and shoulder width for Roblar Road. Achieving this standard – 12-foot travel lanes and 6-foot paved shoulders – is the basis for the finding that for Mitigated Alternative 2, Impact E.3 would be mitigated to less than significant. This finding supported the resolution to approve Mitigated Alternative 2 (see response to comment C-21).
- C-24 Please see Master Response 1.
- C-25 Please see Master Response 1.
- C-26 The Applicant is correct in that Condition 120 should be deleted because the quarry parcel is no longer under a Land Conservation contract.
- C-27 The commenter notes the Applicant’s current support for a configuration for the portion of Roblar Road that is required to be widened, consisting of 11-foot travel lanes, 4-foot paved shoulders, and 1-foot rocked backing. Mitigation has been required because the original application package submitted to the County and dated July 19, 2016, and a supplemental package dated September 27, 2016 had previously suggested 3-foot paved shoulders.³ Both application submittals also note the possibility of using 12-foot travel lanes and 2-foot paved shoulders (this alternative is referred to in footnote 2 on page 3.4-9 of the Draft SEIR). The supplemental package mentions in passing “3 to 4-foot paved shoulders” (on page 5) for mitigating the bicycle safety impact, but does not actually propose 4-foot shoulders.

² The 85th percentile speed is the speed at or below which 85 percent of the motorists drive on a given road unaffected by slower traffic or poor weather. This speed indicates the speed that most motorists on the road consider safe and reasonable under ideal conditions

³ See July 19 application package, “Proposal Statement, Modified Roblar Road Quarry Project,” dated July 12, 2016, page 8 and Figure 3; and September 27 supplemental application package, “Supplemental Information for Roblar Quarry UPE Application, September 21, 2016,” page 9.

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
INCORPORATED

3333 MENDOCINO AVENUE, SUITE 200

SANTA ROSA, CALIFORNIA 95403

FAX: 707 546-1360

TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

October 26, 2018

VIA EMAIL

Blake.Hillegas@sonoma-county.org

Blake Hillegas, Planning Supervisor
Sonoma County PRMD
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: *Roblar Road Quarry / Draft Supplemental Environmental Impact Report
Comments*

Dear Mr. Hillegas:

Please accept the following letters and emails into the record for the hearing and
comment period for the Roblar Supplemental Environmental Report.

Very truly yours,



STEPHEN K. BUTLER

SKB/ed
enclosure

c(w/enc./via email): John Barella

Arthur F. Coon, Attorney at Law

Sean Marciniak

Scott R. Briggs, Ph.D.

1

JOHN AND ANDREA BARELLA

496 JASMINE LANE
PETALUMA, CA 94952

June 23, 2017

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements*

Dear Property Owners:

I am writing to you on behalf of myself, and my wife Andrea, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are likely aware, my wife and I were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, my wife and I are reaching out to each of you to determine whether you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact specifications imposed by the County's Department of Public Works in connection with the Quarry's approval.

Would you please advise me and Andrea, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of

Property Owners
June 23, 2017
Page 2

you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to my wife and me for purposes of completing previously identified road improvements.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. My wife and I are willing to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening will benefit both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three other possibilities will arise.

First, as many of you may be aware, my wife and I have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, my wife and I are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road impacts to an insignificant level. We hope that you can support our efforts and those of the resource agencies in this regard.

The second possibility is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and approve buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the conditions, previously identified Roblar Road improvements.

Third, absent approval of our requested minor modifications to project conditions, the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to complete the Quarry project.

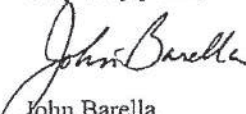
We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition gravel mining from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval. We now hope that each of you, as neighbors, can embrace broader community environmental and economic goals and put the ongoing dispute to rest.

Property Owners
June 23, 2017
Page 3

We have been good neighbors in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other associated impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

Andrea and I thank you very much for your consideration of our request.

Very truly yours,



John Barella



Andrea Barella

c: Shirlee Zane, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
Stephen K. Butler, Esq.

July 11, 2017

John and Andrea Barella
496 Jasmine Lane
Petaluma, California 94952

Shirley Zane
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

David Rabbitt
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

RE: Roblar Road Quarry

Dear Mr. & Mrs. Barella, Supervisor Zane, Supervisor Rabbitt:

This responds to the June 23, 2017 letter of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane and Mr. Rabbitt. First, we note the June 23 letter does not specify the exact location or amount of our land adjoining Roblar Road in which you express interest, nor does it offer any specific price for it. Accordingly, we assume it was written primarily to serve as leverage as part of the Quarry owners negotiations with Sonoma County to avoid their compliance with the permit conditions which are referred to in the letter. We believe the June 23 letter to us and the other property owners, since it lacks these specific terms, is insufficient for this purpose. However, we believe Sonoma County should enforce its previously adopted permit conditions on any future operation of the Quarry project, and we write now to express our hope our officials will do so.

While we opposed the permitting of the Quarry Operation, the Board of Supervisors in 2010 eventually approved the project subject to permit conditions necessary to protect the safety of the Sonoma County residents and their environment. We encourage the current Board of Supervisors to enforce any attempts to weaken or change these conditions. To our mind, the proposed modifications to these permits cannot, as the letter asserts, be "minor", otherwise we would not have been sent the letter of June 23. We request Ms. Zane and Mr. Rabbitt and our County officials to continue to insist on these permit conditions to protect our land, water, and public safety.

Sincerely,

Ronald Wilson
Kathy Wilson
Ronald and Kathy Wilson

cc: Jennifer Barrett, Deputy Director – Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Claudia McKnight
John & Barbara Shelling Trust
Kenneth A & C Wilson Trust

see mailed
Butler
Briggs

7 Jul 17

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
INCORPORATED
3333 MENDOCINO AVENUE, SUITE 200
SANTA ROSA, CALIFORNIA 95403
FAX: 707 546-1360
TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

June 6, 2018

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tormales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements/Offer to Purchase
Land for Right of Way*

Dear Property Owners:

We are writing to you on behalf of John and Andrea Barella, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are aware, John and Andrea were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements to Roblar Road which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, John and Andrea reached out to each of you by way of correspondence dated June 23, 2017, to determine whether each of you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact

Roblar Road Property Owners

June 6, 2018

Page 2

specifications imposed by the County's Department of Public Works in connection with the Quarry's approval. Such offer was, at that time, responded to by way of deafening silence other than Ronald and Kathy Wilson's letter of July 11, 2017, which rejected the offer. The purpose of this letter is to reiterate the Barellas' offer and to provide greater detail regarding such offer.

Would you please advise us, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to the Barellas for purposes of improving Roblar Road to previously identified County Road Standards.

The terms of the Barellas' offer follows as to each of you:

<i>Name</i>	<i>APN</i>	<i>Area to be Purchased*</i>	<i>Dollar Amount**</i>
Claudia McKnight	027-080-004	.28 x 8,000 sq. ft.	\$ 2,240.00
	027-210-007	.28 x 32,000 sq. ft.	\$ 8,960.00
			Total \$11,200.00
John and Barbara Shelling Trust	027-080-005	.28 x 15,000 sq. ft.	Total \$4,200.00
Ronald E & K Wilson Trust	027-210-005	.28 x 29,700 sq. ft.	\$ 8,316.00
	022-300-010	.28 x 55,000 sq. ft.	\$15,400.00
			Total \$23,716.00
Kenneth A & C Wilson Trust	022-290-008	.28 x 63,800 sq. ft.	\$17,864.00
	022-290-007	.28 x 20,900 sq. ft.	\$ 5,852.00
			Total \$23,716.00

*One acre is equal to 43,560 square feet

**\$12,000 per acre or .28 square feet

The foregoing offer was based on recent independent appraisal information which identified property values in your area between \$4,800 and \$11,200 per acre. The independent appraisal, not commissioned by the Barellas, was based on eight comparables with a median value of \$7,800 per acre. The offer made here is more than the highest end of the range. Please note that the only contingency in this offer is that the project only requires the acquisition of either the lands of the Ronald E & K Wilson Trust or the lands of the Kenneth A & C Wilson Trust, not both. Accordingly, if either the Ronald E & K Wilson Trust or the Kenneth A & C Wilson Trust accepts the Barellas' offer as set forth herein, then the offer to the other shall be considered immediately withdrawn.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. The Barellas have offered to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening is intended to benefit

Roblar Road Property Owners
June 6, 2018
Page 3

both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three options remain.

First, as all of you are aware, the Barellas have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, the Barellas are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road traffic/bicycle safety impacts to an insignificant level. We continue to hope that you can support the Barellas' efforts and those of the resource agencies in this regard. Alternatively, should you continue to oppose a modified Quarry project and disregard its environmental benefits and file suit to litigate any modified Quarry project, the Barellas intend to build out the Quarry in accordance with the 2010 Board approvals.

The second option is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and the Barellas will continue buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the current conditions, previously identified Roblar Road improvements.

The third option, absent approval of the Barellas' requested minor modifications to project conditions, is that the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to obtain the land which the Barellas have offered to buy as set forth above.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition County gravel production from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval and your past, and apparently ongoing, opposition. We continue to hope that each of you, as neighbors, can embrace broader community environmental, fire recovery and economic goals and put the ongoing dispute to rest.

The October 2017 fires created tragic havoc upon Sonoma County and resulted in the damage or destruction of thousands of residential and commercial structures. The rebuilding of

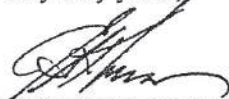
Roblar Road Property Owners
June 6, 2018
Page 4

our community requires not only overburden for soil remediation resulting from the fires, but also construction grade aggregate to rebuild our stricken community. You now have another opportunity to partner with the broader community and further both State and County goals to have a State required local supply of aggregate or choose to oppose these benefits in favor of a perceived defense of your insular enclave to the detriment of both the Barellas and the community at large.

The Barellas have been good neighbors and community supporters in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

We and the Barellas thank you very much for your consideration of the offers set forth herein.

Very truly yours,



STEPHEN K. BUTLER

SKB/pd

c: James Gore, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Shirlee Zane, 3rd District Supervisor, Sonoma County Board of Supervisors
Susan Gorin, 1st District Supervisor, Sonoma County Board of Supervisors
Lynda Hopkins, 5th District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
John and Andrea Barella

Via Certified, Return Rec.
RECEIVED

JUN 22 2018

**CLEMENT, FITZPATRICK &
KENWORTHY**

June 19, 2018

Steven Butler
Clement Fitzpatrick and Kenworthy
3333 Mendocino Ave., Suite 200
Santa Rosa, CA 95403

Ms. Shirley Zane
Shirlee.Zane@sonoma-county.org

Mr. David Rabbitt
David.Rabbitt@sonoma-county.org

Mr. James Gore
James.Gore@sonoma-county.org

Ms. Susan Gorin
Susan.Gorin@sonoma-county.org

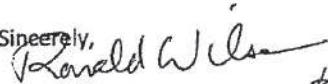
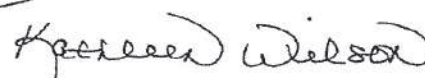
Ms. Lynda Hopkins
Lynda.Hopkins@sonoma-county.org

Mr. Butler and Supervisors:

This responds to your June 6, 2018 inquiry on behalf of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane, Mr. Rabbitt, Mr. Gore, Ms. Gorin and Ms. Hopkins.

Like the earlier, June 23, 2017 letter of the Barella's to us on the same subject, we assume it was written primarily to serve as leverage as part of the Quarry owners' negotiations with the County of Sonoma to avoid compliance with existing or possible future permit conditions for the Quarry. To our mind, the proposed modifications sought by the Quarry owners (which are referred to but not described in your letter) to the existing permit are not, as you represent, "minor". We expect and understand that they will and should require review under the California Environmental Quality Act and further consideration by the Sonoma County Board of Supervisors. After this impartial review and consideration has taken place, we expect to be in an informed position to consider your inquiry.

Sincerely,

Ronald and Kathleen Wilson

cc: Jennifer Barrett, Deputy Director - Planning , Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel

John Barella

From: John Schelling <johnschelling@hotmail.com>
Sent: Wednesday, June 13, 2018 4:27 PM
To: j2barella@gmail.com
Subject: Re: Roblar Road Quarry - Offer To Purchase Land

Hi John,

Thank you for your offer. We are not interested in selling any of our portion of the Steinbeck Ranch at this time.

Regards,
John

John Schelling, Jr.
John And Barbara Schelling Trust
johnschelling@hotmail.com
707-326-4313

Letter D. Stephen K. Butler, Clement, Fitzpatrick & Kenworthy (Attorney Representing the Applicant)

- D-1 This comment letter contains correspondence between the Applicant and the Applicant's attorneys, and neighbors of the Quarry project site who own property along Roblar Road. The correspondence details offers made by the Applicant to purchase portions of the neighbors' properties to be dedicated to right-of-way for the purpose of widening and upgrading Roblar Road, and speculation regarding potential future courses of action should these offers be refused. The Applicant informed the County in communications subsequent to the completion of the application of his unsuccessful efforts to obtain land for right-of-way. This comment does not directly address the Draft SEIR and requires no substantive response.



**MILLER STARR
REGALIA**

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrllegal.com

Arthur F. Coon
Direct Dial: 925 941 3233
arthur.coon@msrllegal.com

October 29, 2018

Blake Hillegas
Sonoma County Permit Center
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: Applicant Barella's Comments on Treatment of Issues Concerning
Infeasibility of Original Mitigation Measures In September 2018 Draft
Supplemental Environmental Impact Report, Roblar Road Quarry ("2018
DSEIR" or "DSEIR")

Dear Mr. Hillegas:

This office represents John Barella and Barella Family, LLC ("Applicant" or "Barella") in connection with the Applicant's proposed modifications to the approved Roblar Road Quarry Project which are the subject of the above-referenced 2018 DSEIR. As you know, in 2016 Barella filed an application seeking modifications to certain conditions of approval ("COAs") originally imposed as mitigation measures by the County of Sonoma, in connection with its Board of Supervisors' approval of the Quarry Project Use Permit in December 2010. Barella sought the minor modifications of the Use Permit COAs now proposed because the original mitigation measures are infeasible, impractical, unworkable, and/or unnecessary to mitigate the Quarry Project's potentially significant environmental impacts to a level of insignificance. Barella appreciates this opportunity to further address these issues in this comment letter on the DSEIR.

The 2018 DSEIR, in various portions of its discussion of Barella's modification request, recognizes and touches on the issue of the "infeasibility" of the prior mitigation measures Barella seeks to modify, and related issues. (E.g., 2018 DSEIR at pp. 1-2 ["The Applicant indicates that the County's preliminary design for improvements at th[e] [Stony Point/Roblar Road] intersection would impact drainage features outside the paved and/or landscaped areas, and affect biological habitat"]; 1-3 ["Applicant indicates that given the limited width of the existing prescriptive right of way; the proximity of Americano Creek to Roblar Road, other proximal wetlands and/or linear drainage features to Roblar Road; and other factors, that the required road [widening] improvements on Roblar Road are impractical, unnecessary and infeasible."]; 2-11 – 2-12 [stating proposed changes to COAs 49 and 59 are "based on [Applicant's] contention that these conditions are impracticable, infeasible, and unnecessary" and attributing to Applicant "state[ments] that the Roblar Road

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Blake Hillegas
 October 29, 2018
 Page 2

prescriptive right-of-way (ROW) is not wide enough to accommodate the specified road width, that it is unable to obtain sufficient land to expand the required ROW, and that the proximity of Americano Creek and other wetlands along the road constrains road widening.”]; 2-22 [“Applicant states that this Condition [101] is infeasible because the required widening of Roblar Road would necessarily encroach not only within 50 feet of Americano Creek, but into the Americano Creek channel itself, due to the inability to obtain right of way on the opposite side of the road [in specified area].”]; 2-26 [explaining Applicant’s request to modify COA 133 for feasibility reasons as necessary work within and adjacent to existing Americano Creek channel would come within 100-foot setback].)

Despite these references to the issue of the infeasibility of prior mitigation measures, the DSEIR, in its text addressing the applicable regulatory framework, does not discuss relevant legal and regulatory standards addressing or governing an applicant’s request to delete or modify previously adopted mitigation measures on the basis that such measures are infeasible, impracticable and/or unnecessary. Among other things, this comment letter aims to provide an accurate legal/regulatory framework and setting to address that omission.

More specifically, the purposes of this comment letter are: (1) to set forth the relevant regulatory/legal framework that is currently omitted from the DSEIR for County’s consideration; (2) to set forth and discuss the substance of relevant previously adopted mitigation measures, including (but not limited to) measures that remain applicable and which Barella does not seek to modify; (3) to support the conclusions that Barella’s requested modifications are relatively minor, will not result in new or more severe significant impacts not previously analyzed and will, in fact, lessen the environmental impacts that would occur from implementing the previously adopted measures Barella seeks to modify; and (4) to cite to substantial record evidence showing that the previously adopted mitigation measures/COAs that Barella seeks to modify are infeasible, impracticable, unworkable and/or unnecessary, and that legitimate reasons supported by substantial evidence thus exist fully supporting the County’s ability to grant the requested modifications.

I. Relevant Authorities Governing Deletion Or Modification Of Previously Adopted CEQA Mitigation Measures

A. The Relevant Legal/Regulatory Framework: Substantive Rules For Deleting Or Changing Mitigation Measures

“After a project has been approved and while it is still being developed a mitigation measure or condition of approval may be changed or deleted if the measure has been found to be impractical or unworkable.” (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508-1509, *emph. added* [rejecting argument that conditions of approval for redevelopment of property that were designed to mitigate impacts of demolishing historic buildings did not apply at all when separate demolition permit was obtained]; *see also id.* at 1509 [also citing

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cont.

2

Blake Hillegas
October 29, 2018
Page 3

and quoting *Napa Citizens* case (discussed below) regarding rules for deleting mitigation measures and stating: “Clearly, these rules should apply to all projects which come within CEQA not just land use plans.”].)

The *Napa Citizens* case discussed in *Lincoln Place Tenants* is the seminal decision regarding the permissibility of altering previously adopted CEQA mitigation measures for an approved project. In that case, the Court reasoned: “The claim that once a mitigation measure is adopted it can never be deleted is inconsistent with the legislative recognition of the need to modify land use plans as circumstances change. It is also true that mistakes can be made and must be rectified, and that the vision of a region’s citizens or its governing body may evolve over time. In light of all these considerations, we conclude that there are times when mitigation measures, once adopted, can be deleted.” (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 358, *emph. added.*)

The Court proceeded to explain the circumstances under which CEQA mitigation measures could permissibly be *entirely* deleted: “In short, we find nothing in established law or in logic to support the conclusion that a mitigation measure, once adopted, never can be deleted. Nonetheless, when an earlier adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decisions must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration. We therefore hold that a governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence. If no legitimate reason for the deletion has been stated, or if the evidence does not support the governing body’s finding, the land use plan, as modified by the deletion or deletions, is invalid and cannot be enforced.” (*Id.* at 359, *emph. added.*)

In elaborating on its teaching, the *Napa Citizens* court stated: “The modified EIR also must address the decision to delete a mitigation measure. In other words, the measure cannot be deleted without a showing that it is infeasible. In addition, the deletion of an earlier adopted mitigation measure should be considered in reviewing any conclusion that the benefits of a project outweigh its unmitigated impact on the environment.” (*Id.* at 359, *emph. added.*)¹

While *Napa Citizens* involved deletion of a land use plan’s mitigation measure calling for extensive traffic infrastructure improvements, and Barella seeks only relatively minor modifications of certain infeasible COAs, *Napa Citizens*’ facts

¹ As noted above, while *Napa Citizens* involved mitigation measures incorporated into a land use plan, the *Lincoln Place Tenants* court opined that its rules governing deletion or modification of adopted mitigation measures “clearly” should apply to all types of projects that are subject to CEQA. (*Lincoln Place Tenants Assn., supra*, 170 Cal.App.4th at 1509.)

Blake Hillegas
October 29, 2018
Page 4

are nonetheless instructive here. In that case, in the course of a Plan Update, the County of Napa deleted from its 1986 Airport Industrial Area Specific Plan traffic mitigation measures that it had essentially determined were “infeasible” and “ill-advised” for a number of reasons. (*Napa Citizens for Honest Government, supra*, 91 Cal.App.4th at 359.) The County’s findings supporting the deletion, which were ultimately upheld by the Court of Appeal as stating legitimate, evidence-supported reasons, included: (1) project-related traffic was but a minor contributing factor to the regional cumulative traffic impacts intended to be addressed by the transportation measures; (2) County lacked funding to implement the 1986 measures; and (3) County had little control over improvements to state highways, which fall under Caltrans’ jurisdiction. (*Id.*) “These were legitimate reasons for deleting the measures, and were supported by substantial evidence.” (*Id.* at 359-360.)

Among the specific reasons the measures were found *infeasible* by the County in *Napa Citizens* included lack of available funding for construction, the *need for extensive right-of-way takings from adjacent properties* to enable construction (see also *id.* at 363-364 [only \$2 million available to build what amounted to \$70 million worth of roadway improvements]), and *legal “rough proportionality” limits on mitigation measures* (see CEQA Guidelines, § 15126.4(a)(4)(B)) that precluded recovery of the bulk of the expense of the mitigation measures from project developers within the Specific Plan area. (*Ibid.*) These facts – found in *Napa Citizens* to constitute “legitimate” reasons for deleting mitigation measures *entirely* – are similar to many of the facts presented by Barella’s more modest proposal here to *modify* certain of the Roblar Road Quarry Project’s mitigation measures. It is beyond cavil that: (1) an EIR should focus on mitigation measures that are feasible, practical, and effective (*Napa Citizens, supra*, 91 Cal.App.4th at 365); and (2) mitigation measures must be consistent with all applicable constitutional requirements, including that there must be an essential nexus between the mitigation measure and a legitimate governmental interest, and the mitigation measure must be roughly proportional to the impacts of the project. (CEQA Guidelines, § 15126.4(a)(4); *Nollan v. California Coastal commission* (1987) 483 U.S. 825, 837; *Dolan v. City of Tigard* (1994) 512 U.S. 374, 390.)

B. Procedural Vehicle Under CEQA For Deleting Or Modifying Mitigation Measures

Per the *Lincoln Place Tenants* court: “The court in *Napa Citizens* ... did not elaborate on the procedure a public agency should follow in deciding whether a previously adopted mitigation measure is no longer feasible. However, because an initial determination a mitigation measure is infeasible must be included in the EIR and supported by substantial evidence it is logical to require a later determination a mitigation measure is infeasible be included in a supplemental EIR and supported by substantial evidence.” (130 Cal.App.4th at 1509, *emph. added, fns. omitted [dicta].*)

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Notwithstanding the dicta in *Lincoln Place Tenants* opining that it is “logical” that a “supplemental EIR” should be required if mitigation measures are later deleted, another division of the same Court of Appeal (Second Appellate District) in a subsequent case upheld use of an Addendum for that purpose where the deleted measures were “no longer necessary” and where “no new or more severe impacts are caused by the deletions or changes to the mitigation measures.” In *Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, the Court upheld those portions of an Addendum to an EIR for a large downtown development project that deleted or revised certain mitigation measures, and held that a subsequent EIR was not required: “Nor does the City’s decision to delete or revise certain mitigation measures warrant an SEIR. Mitigation measures adopted when a project is approved may be changed or deleted if the agency states a legitimate reason for making the changes and the reason is supported by substantial evidence. [Citing *Napa Citizens*.] Here, substantial evidence supports deleting the measures because they are no longer necessary. [¶] ... [¶] Thus, substantial evidence in the record supports the reasons for the changes in the Modified Project’s mitigation measures, and no new or more severe impacts are caused by the deletions or changes to the mitigation measures. Hence, no SEIR was required.” (*Id.* at 1403, *emph. added*; *see also Katzeff v. Department of Forestry & Fire Protection* (2010) 181 Cal.App.4th 601, 613-614 [citing *Mani Brothers* for proposition “no need for supplemental EIR rather than addendum to EIR where substantial evidence supported city’s conclusion mitigation measures no longer necessary”].)

Here, while legally *unnecessary* under these relevant case law authorities (under which the County could have proceeded by way of an Addendum), the County has nonetheless conservatively chosen to prepare a more robust CEQA document – a Draft Supplemental EIR – to address the relatively minor modifications Barella has proposed to certain Use Permit COAs. Here, substantial evidence in the record shows that: (1) the original mitigation measures Barella proposes to modify are infeasible, impractical or unworkable, and unnecessary to mitigate his Quarry Project’s impacts to a less-than-significant level; and (2) no new or more substantially severe impacts will be caused by the modifications,² which will in fact lessen the secondary environmental impacts that would be caused by the previously approved infeasible measures.

C. CEQA’s Definition Of “Feasibility”

CEQA also contains statutory and regulatory definitions of “feasibility,” which have been interpreted and applied by the case law, and which inform and govern the relevant analysis here. A lead agency may permissibly find mitigation measures

² The DSEIR indicates in its analysis of mitigation measure 3.4-4 that certain impacts would be significant and unavoidable; as explained below in this letter, substantial evidence supports the determination that modifications to the DSEIR’s mitigations measures will result in less-than-significant impacts.

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to be infeasible for *numerous* reasons – i.e., it may do so when “[s]pecific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.” (Pub. Resources Code, § 21081(a)(3); see *id.* at § 21002 [legislative finding and declaration “that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”]; § 21061.1 [“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”].)

Determining the feasibility of mitigation measures or alternatives for CEQA purposes “involves a balancing of various ‘economic, environmental, social, and technological factors[]’” and “[i]n this sense ... encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001, citing and quoting *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041 [same, collecting cases, and also noting that “agency’s finding of infeasibility for this purpose is “entitled to great deference” and “presumed correct.””].) A finding of infeasibility may thus be based on an evidence-supported finding that a proposed mitigation measure or alternative “is impractical or undesirable from a policy standpoint.” (*Los Angeles Conservancy, supra*, 18 Cal.App.5th at 1041, citing and quoting *California Native Plant Society, supra*, 177 Cal.App.4th at 1001.) Such determinations are particularly appropriate where, as here, an infeasible measure, as written, would have more severe adverse secondary environmental impacts and/or hinder accomplishment of an approved project that itself greatly advances important economic, environmental and social interests.

II. Application Of The Legal/Regulatory Framework To The Relevant Previously Adopted Mitigation Measures And Barella’s Modification Requests

A. The 2010 FEIR’s Mitigation Measures

1. The Original FEIR And Court Of Appeal Opinion Upholding It

Any understanding of the relevant legal and regulatory background, and how it applies in the current scenario, would be incomplete without an understanding of the relevant existing mitigation measures/COAs – both those that Barella seeks to modify and those that will remain unmodified. Preliminarily, it should be noted that the County’s 2010 FEIR, as well as its mitigation measures related to off-site road widening and intersection improvements, were discussed and unanimously upheld

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against legal challenge by the Quarry Project's opponents in the unpublished First District Court of Appeal opinion filed May 13, 2014 in *Citizens Advocating For Roblar Rural Quality v. County of Sonoma, et al. (John Barella, et al., Real Parties in Interest)*, First App. Dist. Div. 5, Case No. A136877 ("CA Opn.") The Court of Appeal's opinion, at pages 16 through 23, described in some detail the EIR's analysis of the Roblar Road Quarry Project's relevant mitigation measures, as well as those measures' own secondary environmental impacts (which, it bears noting, would be lessened by Barella's currently proposed modifications).

Accordingly, as relevant and essential background, key findings and holdings from the Opinion's relevant portions include:

- "The secondary [environmental] impacts resulting from implementation of offsite transportation mitigation measures were analyzed separately. The draft EIR recognized that the required offsite improvements would mitigate Quarry Project impacts, and provide a beneficial effect on the movement of large vehicles, cars and bicyclists on haul routes, but that construction and implementation of these offsite transportation improvements would also result in their own potentially significant temporary and long-term environmental impacts on land use and agricultural resources, geology and soils, hydrology and water quality, hazardous materials, biological resources, transportation and circulation, air quality, noise, aesthetics and cultural resources. It discussed the 'likely range of potential environmental impacts,' but noted that '[a] detailed analysis of the specific off-site impacts cannot be completed until and if design work was undertaken that would provide information on the specific alignment and structural improvements that may be required along Roblar ... Road[] to accommodate the proposed widening. If the proposed roadway improvements were pursued, subsequent detailed environmental analysis and County approval would be required'." (CA Opn., at p. 17.)³
- In December 2010, County ultimately approved a "hybrid" version of the originally proposed Quarry Project and Alternative 2 (the "environmentally superior alternative") studied in the EIR. The Court noted that Alternative 2 "was considered by the Sonoma County Permit and Resource

³ Through Barella's application for the modified mitigation measures which is the subject of the DSEIR, and related materials, he has provided and facilitated the required "subsequent detailed environmental analysis" that is embodied in the DSEIR, and related evidence, and seeks from County the requisite approval.

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Management Department to be the “environmentally superior alternative” due to reduced secondary impacts associated with the improvements to Roblar Road (and other access roads) otherwise required as project mitigation.” (CA Opn., at pp. 17-18.)

- As opposed to the originally proposed Project’s mitigation requirement to improve “Roblar Road along its [entire] approximate six and one-half mile length” (CA Opn. at p. 16), “[t]he Modified Alternative 2 resulted in a requirement that a total approximate 1.6-mile segment of Roblar Road be improved to current County road design standards – an additional 0.6 miles over what would be required in proposed Alternative 2, but significantly less than required under the original proposal addressed in the draft EIR and its recirculated portions. County staff review found that Modified Alternative 2 would not result in any new significant or substantially more severe environmental impacts than already analyzed in the draft EIR and its recirculated portions, and that no additional environmental review was required. Barella also submitted evidence from his engineers that the roadway improvements under Modified Alternative 2 could be constructed within the boundaries of” a presumed existing 50-foot right of way.” (CA Opn., at p. 18.)⁴
- County’s Board found “Modified Alternative 2 would not result in any new construction impacts associated with

⁴ As the County is aware, the FEIR’s road-widening mitigation measure was ultimately adopted and embodied in COA 59, which called for a 36-foot paved road (with two 12-foot travel lanes, two 6-foot wide shoulders) and two-foot wide shoulder backing at edge of pavement. (12/14/10 Board COAs and MMP, p. 13.) Barella’s engineer in 2010 did not purport to measure, survey or provide his own analysis, evidence or opinion as to the actual width of the County’s existing prescriptive right-of-way along Roblar Road. Rather, in reliance on the *information provided in the EIR and obtained from another County source* that the existing right-of-way was between 50 and 60 feet, he opined that the extent of roadway widening improvements required by the original mitigation measure could (as a technical engineering matter) be constructed within the space of the (then presumed) 50-foot right-of-way. (See AR 20:10158 [10/19/10 letter from Carlenzoli, BKF Engineers, stating that with use of “standard AC dikes in lieu of roadside ditches” and collecting water into a storm drain system that would discharge at existing cross culverts, “cut and fill slopes would not extend beyond the 50’ right of way”].) As pointed out in separate correspondence from Barella, statements in the DSEIR or public record contrary to these facts are inaccurate and should be corrected.

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offsite transportation improvements that were not already evaluated in the EIR (section V; impact E.8) and ... the offsite improvements required for Modified Alternative 2 would be substantially less than the originally proposed project. In approving the hybrid haul route, the County found that it would avoid potentially significant land use and agricultural resource impacts associated with the implementation of offsite mitigation transportation improvements, and that any associated environmental impacts, including any impacts to jurisdictional waters, wetlands and riparian habitat, would be mitigated to less than significant levels with the required conditions of approval.” (CA Opn., at p. 18.)

- The Court of Appeal held: “The secondary environmental impacts of the offsite mitigation measures, including widening of access roadways, were catalogued and discussed in significant detail [in the EIR]. Among potential impacts noted were vegetation removal, shallow excavation and grading along the alignment of the road widening improvements, increased creek sedimentation during construction and the possibility of accidental release of contaminants (e.g., fuels and lubricants) during construction, and temporary and/or permanent disturbance of seasonal wetlands and jurisdictional waters in the vicinity of Americano Creek. Mitigation Measures E.8a-E.8p and E.9 were specifically proposed to address these secondary impacts.” (CA Opn., at pp. 19-20.)
- In rejecting CARRQ’s argument “that the Final EIR contained no evidence of either the extent or nature of the impacts of the roadway widening on Americano Creek or the efficacy of the mitigation measures,” the Court stated: “Exhibit A to the Board of Supervisor’s [sic] resolution certifying the Final EIR included discussion of the secondary impacts resulting from implementing offsite transportation improvements and the related mitigation measures described in Section IV.E (“Transportation and Traffic”) of the draft EIR. With respect to Americano Creek, the draft EIR discussed potentially significant secondary hydrology and water quality issues arising from implementation of offsite transportation improvements, including increases in sedimentation, the potential need for new or modified storm drains or culverts where roadway crossings occurred, or potential accidental release of construction-related hazardous materials to soil and/or storm water. While

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noting that analysis of specific offsite impacts could not be completed until design work for the exact alignment and structural improvements of the proposed widening was undertaken, and that subsequent detailed environmental analysis and County approval would be required, the draft EIR assessed the likely range of anticipated environmental impacts, and preliminary mitigation measures to reduce those potential environmental impacts. Vegetation removal, shallow excavation and grading along the new roadway alignment were identified as likely impacts. Mitigation Measure E.8b, reflecting “current engineering practice and the accepted standard of care to mitigate potential impacts from unique geological conditions along the roadway alignments” required that grading and construction specifications for the roadway widening “implement best management practices ... to reduce or eliminate soil erosion during construction” and incorporation of such measures into a storm water pollution prevention plan for the proposed roadway widening (required as Mitigation Measure E.8c). (CA Opn., at pp. 20-21, fn. omitted.)

- “Mitigation Measure E.8b required a “design level geotechnical investigation ... to identify site specific geologic conditions and geotechnical constraints and develop adequate engineering design criteria and remedies to reduce the potential for slope instability from cutting and filling of adjacent slopes along the roadway alignments.” The draft EIR considered secondary impacts on biological resources and found that mitigation measures identified to mitigate potential impacts to biological resources from the proposed Quarry Project (including jurisdictional waters and wetlands impacts), would also be relevant and applicable for mitigating impacts associated with the roadway widening improvements. Mitigation Measure E.8e required Barella to conduct a formal wetland delineation in accordance with the 1987 Corps of Engineers Wetlands Delineation in Manual and have it verified by the U.S. Army Corps of Engineers. Wetlands permits and compliance with the Clean Water Act were required if the Corps of Engineers determined that any jurisdictional waters were impacted. Barella was further required to compensate for the loss of any jurisdictional wetlands.” (CA Opn., at p. 21.)⁵

⁵ It is worth noting that another adopted Condition of Approval provides in pertinent part: “Avoid all potential jurisdictional wetlands and riparian habitat located along

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- Finally, the Court of Appeal rejected project opponent CARRQ's contention "that [the EIR's] recognition that further detailed analysis would be required under specific roadway improvement plans and designs constitutes improper deferral of mitigation." (CA Opn. at p. 22.) After reciting the applicable law, and upholding the EIR's mitigation as not being impermissibly deferred, the Court held as follows: "We find the [EIR's] identification and discussion of potential secondary environmental impacts to be sufficient ... and we find substantial evidence in the record to support the conclusion reached by the County that any such impacts could be mitigated to less than significant levels." (CA Opn., at p. 23.)

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2. **The DSEIR's Updated Environmental Analysis Shows Barella's Proposed Modified Mitigation Measures Would Not Have New Significant Or More Severe Environmental Impacts Than Those Previously Analyzed In The FEIR, And Would Actually Reduce Environmental Impacts**

The further "detailed environmental analysis" of the specific secondary impacts of the road widening improvements contemplated by the FEIR is now possible, and has been undertaken in connection with satisfying the original COAs and in the DSEIR analyzing Barella's modification requests. For example, more detailed evaluation has now been undertaken that provides the further "site specific" information contemplated on the impacts of the specific Roblar Road alignment and structural improvements that would be required to implement Mitigation Measures MM E.3a and MM E.4a (i.e., COA 59 requiring Roblar Road to be widened to create two 12-foot travel lanes and two 6-foot wide paved bicycle lanes). The secondary environmental impacts of the original mitigation measures now shown to be infeasible have been further quantified, and can be (and have been) compared to the impacts of the modified off-site transportation improvements now being proposed by the DSEIR and Barella, i.e., a 32-foot paved road (with 11-foot travel lanes and 4-foot paved shoulders) with one-foot wide shoulder backing at edge of pavement. More specifically, the DSEIR has now compared the secondary environmental impacts of the adopted Modified Alternative 2 and its relevant Stony Point/Roblar Road intersection and Roblar Road widening mitigation measures (both as they are currently required to be implemented and as previously analyzed in the EIR), with the secondary impacts of Barella's proposed modified measures, and its analysis has determined that the modified Project would not have any new or substantially more severe impacts than the Project as previously approved. To the contrary, it will have a lesser impervious footprint and lesser environmental impacts in virtually all areas. (SDEIR, *passim*.)

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the roadway alignments, as feasible." (COA 75.) Barella's requested modifications would implement COA 75.

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The modified mitigation measures sought by Barella would not have new impacts not previously discussed in the original EIR. As noted by the Court of Appeal, and confirmed by a review of the EIR itself, the original DEIR contained a significantly detailed discussion providing “an assessment of the likely range of potential environmental impacts that would be anticipated with the identified roadway widening improvements, and preliminary mitigation measures to reduce environmental impacts.” (DEIR at IV.E-41.) The analysis appeared most prominently in the 9-page subsection at the end of the 50-page Transportation and Traffic chapter entitled “Secondary Impacts Resulting From Implementing Off-Site Transportation Mitigation Measures,” although additional relevant details appeared elsewhere in the EIR. The 9-page discussion identified, disclosed and analyzed potential impacts in nine distinct areas: Land Use and Agricultural Resources, Geology and Soils, Hydrology and Water Quality/Hazardous Materials, Biological Resources, Transportation and Circulation, Air Quality/Noise, Aesthetics, and Cultural Resources. (AR2:501-510.)

The Original EIR analyzed both the nature and extent of potential roadway-widening impacts in all these areas, and specifically contemplated that Americano Creek could be directly impacted through required realignment and culverting. The original EIR’s water quality discussion stated that “stripping of vegetation and disturbance of soils along the roadway alignment [during construction] could result in sedimentation that would affect surface water quality in local watercourses” and that accidental releases of hazardous materials during construction could also affect watercourses along the roadway alignments. (AA2:503.) “Americano Creek crosses Roblar Road three times, and follows closely and roughly parallel to Roblar Road for several hundred feet in the project site vicinity. ... *Consequently, the proposed roadway widening of Roblar and Pepper Road may directly impact portions of Americano Creek, necessitating the alteration of this creek through realignment and/or culverting*” (*Ibid*, *emph. added*; see also AR2:387D [showing relation of creek to Roblar Road near project site]; 2:426-427 [extensive discussion of Americano Creek alignment and characteristics].) The EIR further disclosed that “proposed widening of Roblar and Pepper Roads would incrementally increase the amount of impervious surface along the roadway (net increase of approximately 11 acres along Roblar Road...) and therefore, increase the amount of storm water runoff from the roadways, and increasing peak flows to local watercourses and hence potential flooding and bank erosion.” (AR2:503.)⁶

⁶ Given the large distribution area, and number of watercourses among which distribution would occur, the net increase was deemed insignificant; however, mitigation measures were nonetheless set forth to ensure potential temporary water quality and drainage impacts associated with construction would be less than significant. (AR2:503-504 [requiring filing of Notice of Intent with RWQCB and preparation and submittal of SWPPP, in compliance with statewide NPDES General Construction Permit and specifying BMPs to control contamination, and listing a number of feasible BMPs; further requiring adherence of roadway-widening storm

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Regarding potential geology and soils impacts, the EIR noted: *"In some areas (i.e., along Roblar Road adjacent to the proposed site) fills necessary to achieve the wider road width could encroach into Americano Creek, requiring specialized slope stability measures and revetment."* (AR2:502, *emph. added.*) As noted by the Court of Appeal, such potential issues were addressed by mitigation requiring implementation of best management practices (BMPs) to reduce or eliminate soil erosion during construction, which are required as part of the grading and construction specifications and SWPPP required for the roadway widening. (*Ibid.*)

Regarding potential impacts of recommended road-widening to biological resources and jurisdictional waters, the original EIR identified affected vegetative communities, the close proximity of much of the western half of Roblar Road to Americano Creek, and noted that "seasonal wetlands are present near Roblar Road along what may have been the remnants of the previous natural meander of Americano Creek." (AR2:504 [citing Golden Bear Biostudies, 2003].) It further noted "[a]rroyo willow riparian woodlands, dominated in varying degrees by several willow species and rushes, occur on the Roblar Road alignment in association with Americano Creek...." (*Ibid.*; see AR2:425 [further description of potentially impacted habitat].) Accordingly, the original EIR disclosed: *"Depending on the roadway design and extent of disturbance, the identified roadway widening improvement would have the potential to result in temporary and/or permanent impacts to jurisdictional waters of Americano Creek located in the vicinity of Roblar Road (including any associated potential jurisdictional wetlands)...."* (AR2:504, *emph. added.*; see also AR2:423 [DEIR Figure IV.D-1 graphically depicting existing vegetation and water-associated features, including Americano Creek alignment and known wetlands, in vicinity of project site].) The impacts to Americano Creek of the road-widening mitigation measure are thus nothing new, and were always anticipated and disclosed; further, the currently proposed modifications will only serve to reduce the extent of such impacts. (E.g., 2018 DSEIR, pp. 3.1-6 – 3.1-7, 3.2-6.)

Citing the USFWS Draft Potential Range of the CTS and two other studies (Fawcett, 2007, CDFG, 2008), the original EIR noted that while no reports had documented or identified breeding habitat along Roblar Road, there was nonetheless a potential for impacts on Salamander upland and migration habitat, and also on CRLF breeding habitat, *inter alia*. (AR2:504-505; *id.* at 505 ["Americano Creek provides potential aquatic habitat (including breeding habitat) for the CRLF."]) The above analyses were revisited and refined by experts when County prepared the Recirculated EIR portions; preparers contemplated certain CTS breeding ponds near Roblar Road, and refined mitigation measures to pinpoint the scope of preconstruction surveys along Roblar Road, in accordance with a USFWS

drain system to all applicable County and Sonoma County Water Agency drainage and flood control standards, and proper sizing to accommodate storm flows and prevent project area and downstream flooding].)

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programmatic biological opinion and a published conservation strategy. (AR4:1693, 1694-1695.) Again, Barella's currently proposed modifications would not result in any new or more severe impacts in these areas. (DSEIR, pp. 3.3-2 – 3.3-10.)

The original DEIR also disclosed the locations of agricultural/Williamson Act contract lands along Roblar Road (DEIR Figures IV.A-4 and IV.A-8), highlighting the obvious potential for any road widening beyond right-of-way limits to impact such properties, and *noted that Barella would be responsible for acquiring and conveying any necessary property to the County and that this requirement might make the road widening measure infeasible.* (See DEIR at IV.E-34.) As a result of the subsequent more detailed analysis called for by the original EIR, private, agriculturally zoned lands adjacent to Roblar Road are now known to occur within the swath of land that was previously assumed (based on the EIR) to constitute a 50-to-60-foot County prescriptive right of way. Notwithstanding their zoning designation or actual boundary lines, such properties may or may not actually or potentially be used or suitable for farming or grazing, due to existing topographical features, terrain and fences designed to keep livestock off of Roblar Road.

In sum – and contrary to the recent comments of some Project opponents, but as confirmed by the Court of Appeal's decision upholding its sufficiency under CEQA – the original FEIR contained a rather extensive analysis of the mitigation measure calling for widening of Roblar Road and its associated secondary impacts (including impacts on Americano Creek and adjacent habitat, etc.), and contained comprehensive and appropriately-detailed disclosures and analyses of both the nature and extent of its potential impacts and their mitigation. No new or different environmental impacts than those previously identified and discussed have come to light as a result of the additional, more detailed and "granular" site-specific analysis of required off-site transportation improvements that has now occurred. What has come to light is the FEIR's mistaken assumption as to the width of available prescriptive right-of-way, a reconsideration of the likelihood that federal and resource agencies' will prefer to minimize impacts to wetlands and other jurisdictional waters,⁷ and the fact that a 32-foot road (1-4-11 – 11-4-1 configuration) could be built with substantially fewer adverse secondary environmental impacts,

⁷ When there is a proposed discharge that would result in direct impacts to wetlands and other waters of the U.S., the resource agencies with jurisdiction over such resources require that all appropriate and practicable steps be taken to avoid and minimize impacts to aquatic resources. Since the 32-foot road would mitigate the potential truck/bicycle safety impacts to a less-than-significant level and would have reduced direct and secondary adverse impacts on wetlands and other waters than the 40-foot road, the 32-foot road would better comply with the resource agencies requirement to avoid and minimize impacts to wetlands and other waters to the extent practicable.

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while still mitigating to a less-than-significant level the potential truck/bicycle safety impacts that prompted the original road-widening measure.⁸

While significantly reducing the adverse impacts that would have been caused by a 40-foot road, Barella's modification calling for a 32-foot wide road leaves in place the mitigation measures previously provided to address the impacts of road widening in wetlands, waters, habitat and species. Numerous detailed and stringent mitigation measures and specific performance standards were set forth in the original EIR and committed to by the County; such measures were clearly designed to address the identified secondary impacts of the roadway-widening measure, and (as held by the Court of Appeal) substantial evidence supported their efficacy.

Such continuing measures include (without limitation):

- Conduct a formal wetland delineation under the standards of the *1987 Corps of Engineers Wetland Delineation Manual*, and have it verified by the Corps.
- If the Corps and/or CDFG determine potentially affected waters are jurisdictional, obtain and implement all conditions of a CWA Section 404 permit, a [Fish and Game Code] Section 1603 Streambed Alteration Agreement, and/or a [CWA] Section 401 water quality certification from the RWQCB.
- Compensate for any loss of jurisdictional wetlands by creating, restoring or enhancing jurisdictional waters either on-site at a 2:1 ratio, or off-site within the local watershed at a 3:1 ratio (or at ratios as otherwise agreed with the permitting agencies), or by contributing funds to an existing or new restoration project preserved in perpetuity.
- Avoid all potential jurisdictional wetlands and habitat to the extent feasible, through pre-construction protection measures including exclusionary fencing and dust control.
- Implement take minimization and avoidance measures for CRLF and CTS derived from the Programmatic Biological Opinion for impacts to CRLF (USFWS, 1999) and required formal consultation with and a Biological Opinion from USFWS for actions affecting CRLF and CTS.

⁸ See footnote 2 of this letter with respect to contrary conclusion in the DSEIR; substantial evidence supports a determination that impacts can be reduced to a less-than-significant level with the proposed modifications to the project's mitigation measures.

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(AR2:505-507.)

The above mitigation measures – which were all fully upheld by the Court of Appeal against all of CARRQ’s challenges, and which Barella does *not* seek to modify – incorporate specific performance standards (e.g., quantified mitigation ratios), require adherence to federal and state standards, and require consultation with various federal and state agencies in accordance with established regulations. County’s conclusion that the DEIR’s identified mitigation measures would reduce the roadway-widening measure’s secondary impacts to less-than-significant (AR1:28-29 [Finding 3.1(a)]; 78-95 [Exhibit A CEQA findings on secondary impacts]) was also supported by substantial evidence in the record, as is the DSEIR’s current conclusion to the same effect.

B. Subsequent Analysis And Evidence Has Shown The Mitigation Measures Barella Seeks To Modify, Which Were Recognized As Potentially Infeasible By The FEIR, Are Actually Infeasible Unless Modified As Sought

Initially, the original DEIR’s conservative analysis was that the above-identified (and robust) mitigation measures “would likely mitigate all potential effects to a less than significant level” but it nonetheless treated secondary impacts as potentially significant and unavoidable because it contemplated “subsequent detailed environmental analysis” “may disclose additional impacts and/or identify additional mitigation measures[.]” (AR2:509.) “Subsequent detailed environmental analysis” was contemplated by the DEIR primarily due to the uncertainty that existed at the time the DEIR was drafted regarding “the specific alignment and structural improvements that may be required along Roblar [Road.]” (AR2:501; see 509.) Expert evidence submitted later in the review process showed the required roadway-widening improvements could feasibly be fully implemented within what was represented (albeit *mistakenly*) by the EIR to be County’s existing 50-foot right of way. (AR20:10158 [10/19/10 letter from Carlenzoli, BKF Engineers].) As indicated above, this information was significant not because of environmental impacts per se, but primarily because the DEIR expressly recognized that the need to acquire a substantial amount of private property outside of the County’s existing “prescriptive right-of-way” in order to widen a public road would potentially render the mitigation measure *infeasible*. (See, e.g., *Napa Citizens*, *supra*, 91 Cal.App.4th at 363-364 [need for extensive right-of-way takings from adjacent properties was among factors rendering previously adopted mitigation measures requiring extensive transportation infrastructure improvements infeasible].) Similar to the situation in the *Napa Citizens* case, the DEIR here *expressly recognized* that the Roblar Road widening measure intended to address bicycle/pedestrian and traffic safety (MM E.3a and MM E.4a) *could be infeasible* due to: lack of funding or planning; need to take land from adjacent private to provide sufficient right-of-way width due to constraints posed by existing topography, utilities, drainage and other factors; and need for the applicant alone to fund, implement and dedicate the

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improvements (which would obviously run afoul of legal substantial nexus/rough proportionality requirement). (DEIR, at IV.E-34.)⁹

As noted above, in the course of the required further detailed study of the specific roadway alignment, certain mistaken factual assertions in the EIR's analysis have now come to light; the modified mitigation measures now under consideration were proposed by Barella to address and rectify these and a small number of COAs that are infeasible as currently written. In this regard, substantial evidence placed into the administrative record by Barella's experts with his application materials, and during the course of the current application process, supports the existence of factual circumstances that the relevant case law (discussed above) squarely holds present "legitimate" reasons for changing (or even deleting) previously adopted mitigation measures. (*Napa Citizens, supra*, 91 Cal.App.4th at 358 ["It is also true that mistakes can be made and must be rectified, and that the vision of a region's citizens or its governing body may evolve over time."].) Such relevant facts shown by substantial evidence in the administrative record here include:

- Based on its reliance on Giovannetti, 2008, the EIR *mistakenly assumed* existing County right-of-way widths on Roblar Road of 50 and 60 feet, which (based on evidence placed in the record) would have been sufficient to implement the 40 feet (36 feet paved) of roadway and shoulders called for by the roadway-widening mitigation measure in the EIR; however, upon further evaluation, there is evidence that the actual prescriptive right-of-way width on the relevant portion of Roblar Road is, in fact, substantially less than that assumed by the FEIR, thus potentially requiring the taking of a substantial amount of private property adjoining Roblar Road (and far greater expense and time consumption) to implement the measure as now written. Further, the record evidence shows Barella's diligent efforts to acquire additional property for right-of-way

⁹ With such concerns ostensibly dispelled by the time the original Final EIR was considered, County's experts were satisfied (1) that the measure was feasible, and (2) that it would have no unknown and unaddressed secondary environmental impacts. (See AR7:3191-3194 [10/19/10 memo by FEIR preparer ESA, attached hereto, noting that under adopted modified alternative, "all roadway widening improvements on Roblar Road to meet current County road design standards would be implemented within boundaries of the prescriptive right-of-way" and "all potential significant secondary impacts associated with those improvements would be mitigated to a less than significant level with implementation of the measures identified in the EIR."]; see also AR8:3737, 3812-3814 [Board hearing testimony].) Those assertions are only half right, as the measure as originally written and imposed turns out to be infeasible, although the conclusion that its secondary impacts were adequately addressed remains correct.

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purposes at the high end of market value have been all rebuffed by unwilling sellers, demonstrating such voluntary acquisition to be infeasible. (See Correspondence between Barella and Property Owners dated June 23, 2017, July 11, 2017, June 6, 2018, June 13, 2018, and June 19, 2018, attached hereto.)

- Current County “standards” for road design as applied to Roblar Road were also inaccurately stated in the original EIR as 12-foot wide travel lanes, whereas County’s General Plan and AASHTO (see, e.g., 2020 General Plan’s Glossary, at page GL-1) actually call for 11-foot wide travel lanes; additionally 5-foot shoulders (rather than 6 feet paved) also meet actual County “standards” for Roblar Road. *The DSEIR, County’s Public Works department, and the BPAC all now appear to recognize this by endorsing 11-foot travel lanes, with 5-foot shoulders (with 4 feet paved and one foot of rock backing) as sufficient to mitigate truck/bicycle safety impacts.*
- The original road-widening mitigation measure’s call for the provision of Class II Bike facilities is also not a County “standard,” in the sense that it is not required by the County’s General Plan to be provided by Barella. Particularly in light of the low speeds that quarry trucks would ever reach over this relatively short stretch of Roblar Road (the speed limit for which is currently 45 mph) the very low actual documented weekly bicycle usage, and the Road’s low accident rate, and as confirmed by the expert opinion of Barella’s qualified traffic safety engineer, Frank Penry, mitigation measures including appropriate signage, and 4 foot *paved* shoulders outside the travel lanes would sufficiently mitigate all potential safety impacts from bicycle/pedestrian/quarry truck interactions (i.e., the only impacts with a constitutional “nexus” to Barella’s project) to a “less than significant” level. Moreover, such improvements will vastly improve roadway and safety conditions over the relevant 1.6-mile roadway segment as compared to the currently existing condition without the Quarry Project and its associated mitigations. Fortunately, the DSEIR now also appears to recognize these facts regarding the lack of necessity for the 40-foot road widening measure (if not its unworkability and infeasibility).
- Since the FEIR’s certification, additional “mitigation” for any risks to bicyclists has also been provided by the new State

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law (Three Feet For Safety Act) codified in Vehicle Code §§ 21750, 21760. This serves as an *additional* “layer” of protection, in addition to the ample dimensions provided by the 11-foot travel lanes and 4-foot paved shoulders now recommended in the DSEIR. (See October 2018 Roblar Road Quarry Bicycle and Truck Clearance Exhibit, BKF Engineers, attached hereto [also showing ample space for 3-foot clearance provided by currently proposed road design without quarry trucks having to leave travel lane].) It should be noted that the Mark West Quarry continues to operate in the County with much narrower roads than those proposed by Barella. (See 10/23/18 Mark West Quarry Bicycle and Truck Clearance Exhibit, BKF Engineers.)

- Concerning the issue of legal feasibility, and elaborating on the constitutional “rough proportionality” requirements discussed above that are applicable to the imposition of ad hoc mitigation measures, (but not explicitly discussed in the original FEIR or DSEIR, or in the DSEIR), they preclude requiring a project applicant to pay for improvements beyond those reasonably necessary to mitigate for his project’s adverse impacts. (14 Cal. Code Regs, § 15126.4(a)(4)(B).) The FEIR’s 40-foot road-widening mitigation measure is therefore also legally infeasible because substantial record evidence (in the form of a qualified traffic safety engineer’s fact-based opinion, Public Works’ opinion, and the DSEIR itself) supports that 11-foot wide travel lanes (instead of the 12 feet called for in the original EIR) and 4-foot wide paved shoulders, as opposed to the 6-foot wide paved bicycle lanes called for in the EIR, would fully suffice to mitigate the quarry project’s bicycle/pedestrian/traffic safety impacts to a “less than significant” level.¹⁰

¹⁰ Again, the County, its EIR preparers, and the BPAC all appear to now agree on this. Nonetheless, for the record (and edification of certain project opponents) it should be pointed out that while the County might *desire* a greater amenity to be provided for bicyclists’ use, a developer *cannot* constitutionally be *required* (through the imposition of CEQA mitigation measures or otherwise) to provide such amenities as a condition of the issuance of development permit – no matter how desirable – if they are not “roughly proportional” to the improvements needed to mitigate *his individual project’s* adverse impacts. (14 Cal. Code Regs., §§ 15126.4(a)(4)(A), (B); *Nollan v. California Coastal Com’n* (1987) 483 U.S. 825, 837; *Dolan v. City of Tigard* (1994) 512 U.S. 374, 391.)

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- Low accident rate statistics over the last decade for Roblar Road which are part of the administrative record also support the lack of need for roadway improvements of the 40-foot width specified in the existing measure. For example, Roblar Road collision data known to date shows only one crash involving a bicyclist over the 10-year review period; the collision rate for the 10-year period was only half the statewide average for a two-lane rural road; and of the 25 total vehicle crashes, 19 were single vehicle crashes, and were due to excessive speed, rather than interactions with other vehicles.
- Substantial evidence shows that the wider-than-necessary roadway improvements called for in FEIR mitigation measures MM E.3a and MM E.4a are *economically* and *environmentally infeasible* – and thus extremely undesirable from a policy standpoint, after reasonably balancing the competing legal, environmental or social policies – because they would create substantially more impervious surface and require more extensive destruction and filling of (and mitigating for) linear drainage features on *both* sides of Roblar Road than would a modified measure constitutionally calibrated to proportionately address and mitigate the Project's safety impacts. Substantial evidence shows that this extent of fill to waters and wetlands is not only unnecessary to accommodate the lesser road widening improvements that would adequately mitigate the Project's traffic safety impacts to a "less than significant" level, but such unnecessary fill would also be disfavored by the relevant federal and state resources agencies (ACE, USFWS, RWQCB).
- As noted above, in addition to posing issues of economic, practical, legal, social, and environmental infeasibility, wider-than-necessary roadway improvements requiring the taking of additional private lands for public road right-of-way could also potentially adversely and unnecessarily impact to a greater degree adjacent agricultural lands under Williamson Act contracts, another potential impact of concern stated in the DEIR. (The modifications proposed by Barella obviously lessen any such impacts, as well.)
- With respect to Mitigation Measure MM E.1 addressing the Project's traffic LOS impacts at the Roblar Road/Stony Point intersection, substantial expert evidence in the record demonstrates (and the DSEIR now acknowledges) that the

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proposed modifications – geometric changes including increasing northbound left-turn storage length to 100 feet, and adding a southbound left turn lane of 45 feet (with signalization and phasing as specified) – would mitigate all Project impacts to “less than significant” and result in LOS A at the intersection. Moreover, the evidence shows that the original measure (as is the case with the excessive widening of Roblar Road) would necessitate the destruction of a greater area of roadside linear drainage features and/or undeveloped ground constituting potential biotic habitat, and/or the taking of a greater amount of private property than the modified measure (which calls only for alterations to previously paved or rocked areas) – also making the original measure *environmentally, economically and socially* infeasible, as well as *unnecessary*.

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The above factors, all supported by substantial expert and record evidence, clearly constitute “legitimate” reasons for *modifying* previously adopted mitigation measures MM E.3a (and the derivative MM E.4a) and MM E.1. Expert evidence shows the original measures are infeasible, impractical and/or unnecessary, and that substitution of (a) a modified MM E.3a calling for 11-foot travel lanes, 4-foot wide paved shoulders, and 5-foot total shoulders (including both rocked and paved areas) would mitigate all safety impacts that prompted the original road-widening mitigation measure to a “less-than-significant” level, and (b) a modified MM E.1 would mitigate all traffic safety and LOS impacts that prompted the original mitigation measure to “less-than-significant.” Expert evidence shows the proposed modified measures, while being just as effective at mitigating the environmental impacts to which they were addressed to a less-than-significant level, would also (1) be substantially less expensive and time consuming, (2) have substantially fewer secondary environmental impacts than would result from implementation of the original measures, and (3) be more acceptable to the federal and state resources agencies whose approvals must be obtained. What follows is a brief summary of the proposed modifications to these measures, and an explanation of how these modifications would ultimately be beneficial:

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- **Condition 44:** A revision to condition 44 is necessary to bring it into conformance with DSEIR Mitigation Measure 3.4-1. which changed the configuration of the Roblar Road and Stony Point Road intersection. The configuration approved in 2010 was based on an old County design which is now infeasible based on the fact that such design would intrude on roadside ditches which are now potential habitat for red legged frogs and California Tiger Salamanders. Mitigation Measure 3.4-1 minimizes impacts to this sensitive habitat. Additionally, Condition 44 placed the entire burden for improving the intersection based on the old County design on the applicant. This shift in economic responsibility, from a fair share allocation to sole fiscal responsibility, was imposed by the County late in 2010 without any

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discussion in the County Staff report, the public hearing, or advance notice to the applicant. The result was a patent violation of the *Nollan/Dolan* nexus and proportionality tests. Were that condition carried forward at this time it would result in an unconstitutional taking. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825; *Dolan v. City of Tigard* (1994) 16 512 U.S. 374.)

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- **Condition 120:** Condition 120 required the applicant to dedicate a conservation easement over an unrelated 243-acre ranch owned by the applicant as mitigation for cancelling a then-effective Williamson Act contract on the mining site of 70 acres. (Mitigation A-4 May 2008 DEIR.) In lieu of the dedication, the applicant chose to allow the Williamson Act contract over the mining site to expire, thus rendering the dedication of a conservation easement for mitigation unnecessary. The deletion of the requirement for the dedication is correctly noted on page 3.7-4 of the DSEIR. Such deletion is also noted in the "Project Description" section of Exhibit "E" to the 2010 Resolution of Approval (Compare against the "Project Description" accompanying the April 1, 2010 and December 17, 2009 draft conditions of approval which contained the dedication requirement). Notwithstanding the deletion of the mitigation requirement in 2010, Condition 120 was mistakenly included in the 2010 list of conditions. Condition 120 should be deleted in recognition of that mistake, and the fact that such mitigation is no longer needed. To the extent that the dedication could have served as mitigation for conversion of the mining site to a non-agricultural use, a 244-acre dedication for the temporary loss of 70 acres of non-prime grazing land would not satisfy the rigors of the *Nolan/Dolan* constitutionality requirements, as cited above. It should also be noted that, upon reclamation, the site will return to grazing.

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Condition 101: As currently written, Condition 101 precludes grading or land disturbance within 50 feet of the tops of banks of waterways, except for stream crossings. (DSEIR, pp. 2-22 through 2-26.) It is critical that Condition 101 be modified since any reconstruction and widening of Roblar Road west of the quarry driveway will violate Condition 101 as it is currently written. The history behind this is that Condition 101 is a holdover from when Alternative 2 included Access Road 1. Access Road 1 was proposed in order to avoid the widening and reconstruction of Roblar Road along a certain portion of Roblar Road, west of the originally proposed quarry driveway, where Americano Creek lies immediately adjacent to and south of Roblar Road. Access Road 1 would have bypassed this area, crossing Ranch Tributary before intersecting Roblar Road, thus eliminating impacts of road widening on Americano Creek. The Access Road 1 crossing of Ranch Tributary was, in fact, the reason Condition 101 included the words "except for stream crossings." When the County Board of Supervisors rejected Access Road 1 (because it would have traversed lands encumbered by an Open Space easement), the resulting approved project required that Roblar

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Road be reconstructed and widened for a distance of about 1.6 miles west from the original quarry driveway. As discussed in Barella's application and elsewhere, the required reconstruction and widening of Roblar Road adjacent to Americano Creek cannot be completed without grading and disturbing land within 50 feet of the top of bank of Americano Creek. Accordingly, Barella proposes that the first sentence of Condition 101 be modified as follows (**new text in bold underline**): “

Except for stream crossings **and the proposed realignment of Americano Creek**, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways, **as feasible**.

The requested text changes simply allow for the required reconstruction and widening of Roblar Road along Americano Creek, as required for the project as approved by the Board. And as noted in DSEIR Impacts 3.3-1, 3.3-2, and 3.3-3, 3.3-4, 3.3-5, 3.3-6, and 3.3-7, Barella's proposed realignment and enhancement of Americano Creek in this area, with associated mitigation, will not result in any new or substantially more severe impacts to wetlands and riparian areas, special status reptiles or amphibians, special status birds, badgers, special-status bats, or special-status fish. In summary, the requested modification of Condition 101 will allow for Roblar Road to be widened and reconstructed along Americano Creek as required, and will not result in any new or substantially more severe environmental impacts. In contrast, Condition 101 as currently written would violate the Board-approved reconstruction and widening of Roblar Road along Americano Creek.

- **Condition 133:** Condition 133 requires avoidance of “all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant's plans for relocation of Americano Creek, specifically the drawing by BKF Engineers, “Americano Creek Relocation” dated September 1, 2017 and the “Conceptual Planting Plan for Realigned Americano Creek” prepared by Ted Winfield, Ph.D., dated August 21, 2017. (See DSEIR, p. S-6, Impact 3.3-1.) Meanwhile, the DSEIR requires the installation of construction fencing around the two seasonal wetlands identified on [Final EIR] Figure IV.D-1, to protect these features from all construction and operation activities.¹¹ (DSEIR, p. S-6.) The upgrading of Roblar Road, under either scenario, would directly impact a portion of the

¹¹ The DSEIR also requires fencing of the North Pond, as identified as one of the two seasonal wetlands shown on [Final EIR] Figure IV.D-1. Although construction and operation of the wider roadway will avoid impacting the North Pond, Barella is proposing measures to enhance this pond to improve its suitability as breeding habitat for the California tiger salamander.

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large wetland that is included in the “seasonal wetlands on the valley floor adjacent to Americano Creek” shown on [Final EIR] Figure IV.D-1. This mitigation measure should be revised to acknowledge that the roadway improvements are required to mitigate a separate traffic impact, and that it is not necessary to avoid all impacts to these biotic resource in order to reach a conclusion of less-than-significance. In light of the above, the underlined portion of the third sentence of the mitigation measure should be revised (revisions shown in **bold**) to read “ except **for secondary improvements described herein, and** as shown in the Applicant’s plans for the relocation of Americano Creek **including related roadway improvements**, specifically the drawing....” These text changes will make this mitigation measure feasible.

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III. CONCLUSION

The original mitigation measures Barella has proposed to modify are now known and have been shown to be infeasible, impractical and unnecessary to mitigate any project impact to a “less than significant” level. The modified measures will mitigate Project impacts to a “less-than-significant” level and have lesser adverse secondary environmental impacts than the original measures. Based on these factual circumstances, governing law within the applicable legal and regulatory framework fully supports both modifying the Project’s mitigation measures as discussed above, and the conservative CEQA analysis being conducted by County through its Subsequent or Supplemental EIR should so recognize, to the extent it does not already do so.

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Thank you for the opportunity to comment on the DSEIR, and for the County’s consideration of these matters.

Very truly yours,

MILLER STARR REGALIA

Arthur F. Coon

Arthur F. Coon

AFC:klw
 encls. attachments

cc: Sonoma County Board of Supervisors
 Verne Ball
 John Barella
 Geoff Coleman
 Stephen Butler
 Scott R. Briggs, Ph.D



225 Bush Street
Suite 1700
San Francisco, CA 94104
415.896.5900 phone
415.896.0332 fax

www.esassoc.com

Memorandum

date 10/19/10
to Scott Briggs, Ph.D., Environmental Review Division Manager
Sonoma County Permit and Resource Management Department
from Paul Mitchell, ESA
subject Roblar Road Quarry Alternative Haul Route Alignment

Background

In order to mitigate certain potentially significant traffic safety and bicycle/pedestrian conflicts along certain truck haul routes for the proposed Roblar Road Quarry, the May 2008 Draft EIR Mitigation Measures E.3a/E.4a identified improving the entire approximate 6.5-mile length of Roblar Road, and approximately 3.25 miles of Pepper Road (between Mecham Road and Stony Point Road) to meet current County road design standards. The Draft EIR Impact E.8 determined that construction and implementation of these off-site transportation improvements may result in their own potentially significant temporary and long-term environmental impacts. Consequently, the Draft EIR identified a number of mitigation measures (E.8a through E.8p) to mitigate those off-site effects to the extent feasible.

In addition, the Draft EIR identified and analyzed a project alternative (Alternative 2) that largely reduced the extent of overall roadway widening required by Mitigation Measures E.3a/E.4a. Specifically, Alternative 2 proposed to route all quarry haul traffic to/from the west on Roblar Road and avoid the use of Roblar Road east of the project site, avoid the use of Pepper Road east of Mecham Road, and included two new temporary private off-road segments ("Access Road 1," extending through the adjacent Wilson property; and "Access Road 2," extending through the Neve property) – see Figures V-1 through V-11 in the Draft EIR. As such, Alternative 2 limited the need for improving Roblar Road to an approximate one-mile segment west of the project site, and precluded the need for improving all other portions of Roblar Road, or any part of Pepper Road. Accordingly, Alternative 2 was identified to have considerably less significant short- and long-term secondary impacts associated with the off-site road improvements than would occur with the proposed project.¹

Modification to Alternative Haul Route Alignment

This memorandum describes a potential modification to the alignment of a segment of the Alternative 2 haul route, and discusses the associated changes in the potential environmental impacts with that modification. Under the modification, all operational and design aspects of Alternative 2 would occur as originally described in the EIR with two exceptions. First, under the modification, "Access Road 1" would not be constructed. As a consequence, all quarry haul trucks would enter/exit the quarry site via the access point that was originally

¹ Impact and Mitigation Measure E.8 and Alternative 2 from the Draft EIR were updated appropriately in the June 2010 Recirculated Draft EIR to also address the recent identification of the California tiger salamander in the project vicinity.

proposed by the project (i.e., on Roblar Road approximately 1,200 feet northeast of the existing driveway access to the project site). Accordingly, an additional approximate 0.6-mile segment of Roblar Road would be improved under this modified alternative, resulting in a total approximate 1.6-mile segment of Roblar Road being improved (i.e., between the proposed quarry access road entrance and "Access Road 2"). Secondly, under this modified alternative, all roadway widening improvements on Roblar Road to meet current County road design standards would be implemented within boundaries of the prescriptive right-of-way and the Roblar Road Quarry project site.

It should be noted that while this modification would increase the length of Roblar Road that would need to be improved (by an additional 0.6 miles) compared to the originally proposed Alternative 2 analyzed in the EIR, the total length of public roadway widening that would occur under this modification would be far less than that which would be required as mitigation under the originally proposed project (i.e., total of 1.6 miles under this modified alternative, versus a total of approximately ten miles under the project). It should also be noted that while improving an additional 0.6-mile segment of Roblar Road under this modification would result in site-specific temporary and long-term environmental impacts along this segment, those effects were previously evaluated and mitigated in Impact E.8 in the EIR. Given the extent and nature of the proposed off-site improvements under this modified alternative, all potential significant secondary impacts associated with those improvements would be mitigated to a less than significant level with implementation of the measures identified in the EIR. In addition, this modification would avoid those site-specific environmental effects under Alternative 2 along the off-road "Access Road 1" alignment, since under this modification that segment would not be constructed.

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The following describes the principal differences in physical and environmental characteristics between the modification being considered compared to originally proposed Alternative 2, and the applicability of the EIR mitigation measures to mitigate specific environmental effects.

Land Use: The modified alternative would avoid the potential compatibility conflicts of constructing "Access Road 1" with the Open Space District's conservation easement on the Wilson property, that would otherwise be encountered under the original Alternative 2 alignment. Furthermore, limiting improvements on the 1.6-mile segment Roblar Road to within the County's prescriptive right-of-way would avoid potential impacts to adjacent agricultural land along the segment, including the Wilson property and other lands currently under a Williamson Act contract along the segment.

Geology, Soils and Seismicity: Potential geologic/seismic effects of improving the Roblar Road were previously evaluated in Impact E.8 in the EIR, including the additional 0.6-mile segment that would be improved under this modified alternative; as well as evaluated in the Alternatives section in the EIR. As discussed in Impact E.8, steep slopes are located adjacent to sections of Roblar Road, including the rocky outcrop on the north side of Roblar Road across from the southeast corner of the project site. The EIR acknowledged that the proposed roadway widening could require upslope cuts in the underlying bedrock or looser soil materials to achieve required slope stability, downslope fill to support the increased road width, and that blasting may be required to remove rock for grading. Road cut slopes and fill slopes must achieve a required "factor of safety" (the point at which a slope is considered stable) for seismic conditions (earthquake) and non-seismic conditions (i.e. failures driven by gravity under saturated conditions). In order to limit the extent of the roadway construction to within the prescriptive right-of-way, and to achieve the required factors of safety, a detailed geotechnical feasibility and design study must be conducted to develop site-specific engineering design criteria and approaches (e.g., retaining

structures/walls). The implementation of Mitigation Measure E.8b would ensure that such a geotechnical investigation is conducted and the required factors of safety achieved. As a result, potential impacts to geological conditions along the modified Alternative 2 haul route alignment would be mitigated to a less than significant level.

Hydrology and Water Quality: Potential hydrology/water quality effects of improving the Roblar Road were previously evaluated in Impact E.8 in the EIR, including the additional 0.6-mile segment that would be improved under this modified alternative; as well as evaluated in the Alternatives section in the EIR. Americano Creek crosses under Roblar Road via culverts at two locations along the additional 0.6 mile segment (approximately 400 feet upstream and 2,000 feet downstream of the existing project site access road, respectively), and follows closely and roughly parallel to Roblar Road for several hundred feet in the project site vicinity. On the other hand, the modified alternative would avoid the crossing of Ranch Tributary and other miscellaneous drainages within the Wilson property that would otherwise occur with the originally proposed Alternative 2 alignment. In any case, implementation of Storm Water Pollution Prevention Plan (SWPPP) and its BMPs during construction (as indicated in Mitigation Measure E.8c) and requirement that the proposed storm drain system for the roadway widening improvements be designed in accordance with all applicable County and Sonoma County Water Agency (SCWA) drainage and flood control design standards (as indicated in Mitigation Measure E.8d) would ensure potential temporary and long-term effects of hydrology and water quality from these roadway improvements would be less than significant.

Biological Resources: Potential biological resource effects of improving the Roblar Road were previously evaluated in Impact E.8 in the EIR, including the additional 0.6-mile segment that would be improved under this modified alternative; as well as evaluated in the Alternatives section in the EIR. As indicated above, the additional 0.6-mile segment that would be improved under this modified alternative alignment both crosses, and follows closely to, Americano Creek and its riparian habitat. However, in contrast to the original Alternative 2 haul route alignment, the additional 0.6 mile segment would not cross Ranch Tributary and other drainages on the Wilson property. Both the modified alignment and the original Alternative 2 alignment are located in the vicinity of seasonal wetlands. As identified in the EIR for the original Alternative 2 alignment, conducting a formal wetland delineation and compensating for the loss of jurisdictional wetlands, avoidance as feasible, and other measures to protect the wetland and riparian habitat (similar to Mitigation Measures E.8e and E.8f in the EIR) would reduce impacts to wetlands and riparian habitats along the modified alignment to a less-than-significant level.

As refined most recently in the Recirculated Draft EIR, construction and grading activities of the Alternative 2 haul route could encounter special status wildlife species such as California tiger salamander (CTS), California red-legged frog (CRLF), foothill yellow-legged frog (FYLF) and northwestern pond turtle, and aquatic habitat that may support one or more of these species occurs in association with Americano Creek. These potential impacts would also exist along the modified Alternative 2 haul route. However, the implementation of measures to minimize and avoid take of CTS and CRLF and additionally benefit pond turtles and FYLF, including the training for construction personnel for these species, and monitoring by a USFWS-approved biologist within 100 feet of creek corridors and aquatic habitat that could support CRLF (as indicated in Mitigation Measure E.8h in the EIR) would reduce potential impacts to the species along the modified Alternative 2 haul route alignment to a less than significant level.

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The modified Alternative 2 haul route alignment would avoid comparatively more annual grasslands that provide badger habitat (i.e., on the Wilson property) than the original Alternative 2 haul route alignment. However, in any case, the implementation of Mitigation D.5 prior to ground-clearing activities, would ensure potential impacts to badgers along the modified alternative alignment would be mitigated to a less-than-significant level.

Transportation and Circulation: The modified Alternative 2 haul route alignment would result in quarry haul trucks travelling on Roblar Road for an additional 0.6 miles compared to the original Alternative 2 haul route alignment. However, this modified alternative would improve the entire 1.6-mile segment that would be used by quarry truck traffic to meet County road design standards. Consequently, as with the original Alternative 2 haul route, potential impacts to traffic safety and bicycle/pedestrian conflicts under the modified alternative haul route would be mitigated to less than significant.

Given that an additional 0.6 miles of Roblar Road would be improved under the modified Alternative 2 haul route, temporary congestion impacts on Roblar Road would be incrementally longer than those that would be encountered under the original Alternative 2. However, the implementation of traffic control measures would similarly reduce temporary construction related effects on transportation to a less than significant level.

Air Quality and Noise: The modified alternative would result in all project quarry haul trucks entering and exiting at the originally proposed access point to the project site, and hence, to/from the west along Roblar Road along the modified haul route alignment. This would result in a minor shift in the distribution of the quarry haul trucks on Roblar Road adjacent to the project site compared to the original Alternative 2. However, resulting diesel particulate matter (DPM) concentrations and associated potential carcinogenic health risk from DPM at nearby study receptors would continue to be less than significant. In addition, from a noise perspective, the modified haul route alignment would not result in any additional road segments that would have a significant project impact or significant contribution to cumulative noise level increases compared to the original Alternative 2 haul route.

Conclusion

The modification to Alternative 2 described above would not result in any new significant or substantially more severe environmental impacts than already analyzed in the EIR and Recirculated EIR prepared for this project. Accordingly, no additional environmental review is required for approval of the modified Alternative 2.

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JOHN AND ANDREA BARELLA

496 JASMINE LANE
PETALUMA, CA 94952

June 23, 2017

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements*

Dear Property Owners:

I am writing to you on behalf of myself, and my wife Andrea, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are likely aware, my wife and I were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, my wife and I are reaching out to each of you to determine whether you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact specifications imposed by the County's Department of Public Works in connection with the Quarry's approval.

Would you please advise me and Andrea, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of

27

Property Owners
June 23, 2017
Page 2

you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to my wife and me for purposes of completing previously identified road improvements.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. My wife and I are willing to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening will benefit both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three other possibilities will arise.

First, as many of you may be aware, my wife and I have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, my wife and I are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road impacts to an insignificant level. We hope that you can support our efforts and those of the resource agencies in this regard.

The second possibility is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and approve buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the conditions, previously identified Roblar Road improvements.

Third, absent approval of our requested minor modifications to project conditions, the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to complete the Quarry project.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition gravel mining from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval. We now hope that each of you, as neighbors, can embrace broader community environmental and economic goals and put the ongoing dispute to rest.

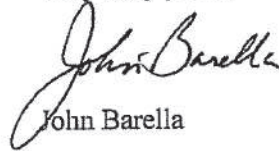
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Property Owners
June 23, 2017
Page 3

We have been good neighbors in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other associated impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

Andrea and I thank you very much for your consideration of our request.

Very truly yours,



John Barella



Andrea Barella

c: Shirlee Zane, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
Stephen K. Butler, Esq.

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cont.

July 11, 2017

John and Andrea Barella
496 Jasmine Lane
Petaluma, California 94952

Shirley Zane
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

David Rabbitt
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

RE: Roblar Road Quarry

Dear Mr. & Mrs. Barella, Supervisor Zane, Supervisor Rabbitt:

This responds to the June 23, 2017 letter of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane and Mr. Rabbitt. First, we note the June 23 letter does not specify the exact location or amount of our land adjoining Roblar Road in which you express interest, nor does it offer any specific price for it. Accordingly, we assume it was written primarily to serve as leverage as part of the Quarry owners negotiations with Sonoma County to avoid their compliance with the permit conditions which are referred to in the letter. We believe the June 23 letter to us and the other property owners, since it lacks these specific terms, is insufficient for this purpose. However, we believe Sonoma County should enforce its previously adopted permit conditions on any future operation of the Quarry project, and we write now to express our hope our officials will do so.

While we opposed the permitting of the Quarry Operation, the Board of Supervisors in 2010 eventually approved the project subject to permit conditions necessary to protect the safety of the Sonoma County residents and their environment. We encourage the current Board of Supervisors to enforce any attempts to weaken or change these conditions. To our mind, the proposed modifications to these permits cannot, as the letter asserts, be "minor", otherwise we would not have been sent the letter of June 23. We request Ms. Zane and Mr. Rabbitt and our County officials to continue to insist on these permit conditions to protect our land, water, and public safety.

Sincerely,

Ronald Wilson
Kathy Wilson
Ronald and Kathy Wilson

cc: Jennifer Barrett, Deputy Director – Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Claudia McKnight
John & Barbara Shelling Trust
Kenneth A & C Wilson Trust

*cc mailed
Butler
Briggs*

Roblar Road Quarry
U.S. Army Corps of Engineers Permit Application
Corps File No. 2009-00147N

BLOCK 25

ADJACENT PROPERTY OWNERS

Assessor's Parcel Numbers	Ownership
024-090-030	Jerome & June Norwitt Trust
024-090-032	5709 Roblar Road Petaluma, CA 94952
025-120-003	Robert W. Thompson Trust 4995 Canfield Road Petaluma, CA 94952
025-120-023	Kathryn & Robert Thompson 6245 Roblar Road Petaluma, CA 94952
027-080-004	Claudia McKnight
027-210-007	5000 Canfield Road Petaluma, CA 94952
027-080-005	John & Barbara Shelling Trust 8064 Washington Ave. Sebastopol, CA 95475
027-080-006	County of Sonoma 575 Administration Drive, #117a Santa Rosa, CA 95403
027-080-009	Barella Family LLC
027-080-010	496 Jasmine Lane Petaluma, CA 94952
027-200-003	Joseph W. & Kathleen M. Tresch 1170 Walker Road Petaluma, CA 94952
022-290-005	Louis & Raelene Neve 295 Rock Rose Lane Petaluma, CA 94952-6409
027-210-006	Marissa K Walsh, Morgan Wilson, Howard K Wilson & Gary D Wilson 1570 Tomales Road Petaluma, California 94952
027-210-005	Ronald E & K Wilson Trust
022-300-010	9420 Valley Ford Rd Petaluma, CA 94952
022-290-008	Kenneth A & C Wilson Trust
022-290-007	1570 Tomales Road Petaluma, California 94952

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cont.

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
 INCORPORATED
 3333 MENDOCINO AVENUE, SUITE 200
 SANTA ROSA, CALIFORNIA 95403
 FAX: 707 546-1360
 TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

June 6, 2018

***VIA CERTIFIED MAIL
 RETURN RECEIPT REQUESTED***

Claudia McKnight
 5000 Canfield Road
 Petaluma, CA 94952

Ronald E & K Wilson Trust
 9420 Valley Ford Road
 Petaluma, CA 94952

John and Barbara Shelling Trust
 8064 Washington Avenue
 Sebastopol, CA 95475

Kenneth A & C Wilson Trust
 1570 Tomales Road
 Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements/Offer to Purchase
 Land for Right of Way*

Dear Property Owners:

We are writing to you on behalf of John and Andrea Barella, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are aware, John and Andrea were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements to Roblar Road which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, John and Andrea reached out to each of you by way of correspondence dated June 23, 2017, to determine whether each of you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact

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 cont.

Roblar Road Property Owners
June 6, 2018
Page 2

specifications imposed by the County's Department of Public Works in connection with the Quarry's approval. Such offer was, at that time, responded to by way of deafening silence other than Ronald and Kathy Wilson's letter of July 11, 2017, which rejected the offer. The purpose of this letter is to reiterate the Barellas' offer and to provide greater detail regarding such offer.

Would you please advise us, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to the Barellas for purposes of improving Roblar Road to previously identified County Road Standards.

The terms of the Barellas' offer follows as to each of you:

<i>Name</i>	<i>APN</i>	<i>Area to be Purchased*</i>	<i>Dollar Amount**</i>
Claudia McKnight	027-080-004	.28 x 8,000 sq. ft.	\$ 2,240.00
	027-210-007	.28 x 32,000 sq. ft.	\$ 8,960.00
			Total \$11,200.00
John and Barbara Shelling Trust	027-080-005	.28 x 15,000 sq. ft.	Total \$4,200.00
Ronald E & K Wilson Trust	027-210-005	.28 x 29,700 sq. ft.	\$ 8,316.00
	022-300-010	.28 x 55,000 sq. ft.	\$15,400.00
			Total \$23,716.00
Kenneth A & C Wilson Trust	022-290-008	.28 x 63,800 sq. ft.	\$17,864.00
	022-290-007	.28 x 20,900 sq. ft.	\$ 5,852.00
			Total \$23,716.00

*One acre is equal to 43,560 square feet

**\$12,000 per acre or .28 square feet

The foregoing offer was based on recent independent appraisal information which identified property values in your area between \$4,800 and \$11,200 per acre. The independent appraisal, not commissioned by the Barellas, was based on eight comparables with a median value of \$7,800 per acre. The offer made here is more than the highest end of the range. Please note that the only contingency in this offer is that the project only requires the acquisition of either the lands of the Ronald E & K Wilson Trust or the lands of the Kenneth A & C Wilson Trust, not both. Accordingly, if either the Ronald E & K Wilson Trust or the Kenneth A & C Wilson Trust accepts the Barellas' offer as set forth herein, then the offer to the other shall be considered immediately withdrawn.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. The Barellas have offered to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening is intended to benefit

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cont.

Roblar Road Property Owners
June 6, 2018
Page 3

both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three options remain.

First, as all of you are aware, the Barellas have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, the Barellas are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road traffic/bicycle safety impacts to an insignificant level. We continue to hope that you can support the Barellas' efforts and those of the resource agencies in this regard. Alternatively, should you continue to oppose a modified Quarry project and disregard its environmental benefits and file suit to litigate any modified Quarry project, the Barellas intend to build out the Quarry in accordance with the 2010 Board approvals.

The second option is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and the Barellas will continue buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the current conditions, previously identified Roblar Road improvements.

The third option, absent approval of the Barellas' requested minor modifications to project conditions, is that the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to obtain the land which the Barellas have offered to buy as set forth above.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition County gravel production from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval and your past, and apparently ongoing, opposition. We continue to hope that each of you, as neighbors, can embrace broader community environmental, fire recovery and economic goals and put the ongoing dispute to rest.

The October 2017 fires created tragic havoc upon Sonoma County and resulted in the damage or destruction of thousands of residential and commercial structures. The rebuilding of

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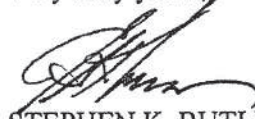
Roblar Road Property Owners
 June 6, 2018
 Page 4

our community requires not only overburden for soil remediation resulting from the fires, but also construction grade aggregate to rebuild our stricken community. You now have another opportunity to partner with the broader community and further both State and County goals to have a State required local supply of aggregate or choose to oppose these benefits in favor of a perceived defense of your insular enclave to the detriment of both the Barellas and the community at large.

The Barellas have been good neighbors and community supporters in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

We and the Barellas thank you very much for your consideration of the offers set forth herein.

Very truly yours,


 STEPHEN K. BUTLER

SKB/pd

c: James Gore, Chair, Sonoma County Board of Supervisors
 David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
 Shirlee Zane, 3rd District Supervisor, Sonoma County Board of Supervisors
 Susan Gorin, 1st District Supervisor, Sonoma County Board of Supervisors
 Lynda Hopkins, 5th District Supervisor, Sonoma County Board of Supervisors
 Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
 Blake Hillegas, Planning Supervisor, Sonoma County PRMD
 Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel
 Arthur F. Coon, Esq.
 John and Andrea Barella

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 cont.

Via Certified, Return Rec.
RECEIVED

JUN 22 2018

**CLEMENT, FITZPATRICK &
KENWORTHY**

June 19, 2018

Steven Butler
Clement Fitzpatrick and Kenworthy
3333 Mendocino Ave., Suite 200
Santa Rosa, CA 95403

Ms. Shirley Zane
Shirlee.Zane@sonoma-county.org

Mr. David Rabbitt
David.Rabbitt@sonoma-county.org

Mr. James Gore
James.Gore@sonoma-county.org

Ms. Susan Gorin
Susan.Gorin@sonoma-county.org



Ms. Lynda Hopkins
Lynda.Hopkins@sonoma-county.org

Mr. Butler and Supervisors:

This responds to your June 6, 2018 inquiry on behalf of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane, Mr. Rabbitt, Mr. Gore, Ms. Gorin and Ms. Hopkins.

Like the earlier, June 23, 2017 letter of the Barella's to us on the same subject, we assume it was written primarily to serve as leverage as part of the Quarry owners' negotiations with the County of Sonoma to avoid compliance with existing or possible future permit conditions for the Quarry. To our mind, the proposed modifications sought by the Quarry owners (which are referred to but not described in your letter) to the existing permit are not, as you represent, "minor". We expect and understand that they will and should require review under the California Environmental Quality Act and further consideration by the Sonoma County Board of Supervisors. After this impartial review and consideration has taken place, we expect to be in an informed position to consider your inquiry.

Sincerely,



Ronald and Kathleen Wilson

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cont.

cc: Jennifer Barrett, Deputy Director - Planning , Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel

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cont.

John Barella

From: John Schelling <johnschelling@hotmail.com>
Sent: Wednesday, June 13, 2018 4:27 PM
To: j2barella@gmail.com
Subject: Re: Roblar Road Quarry - Offer To Purchase Land

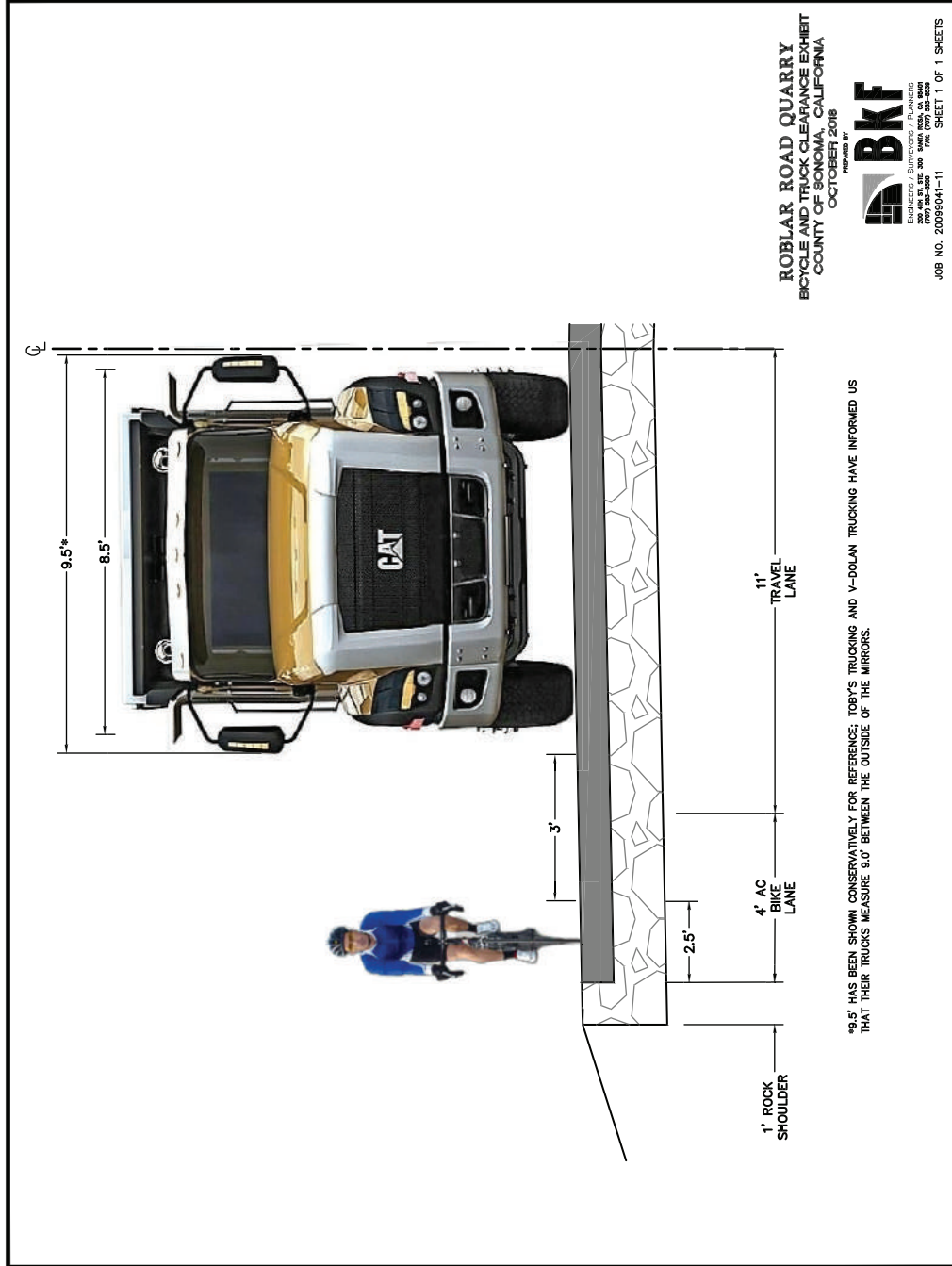
Hi John,

Thank you for your offer. We are not interested in selling any of our portion of the Steinbeck Ranch at this time.

Regards,
John

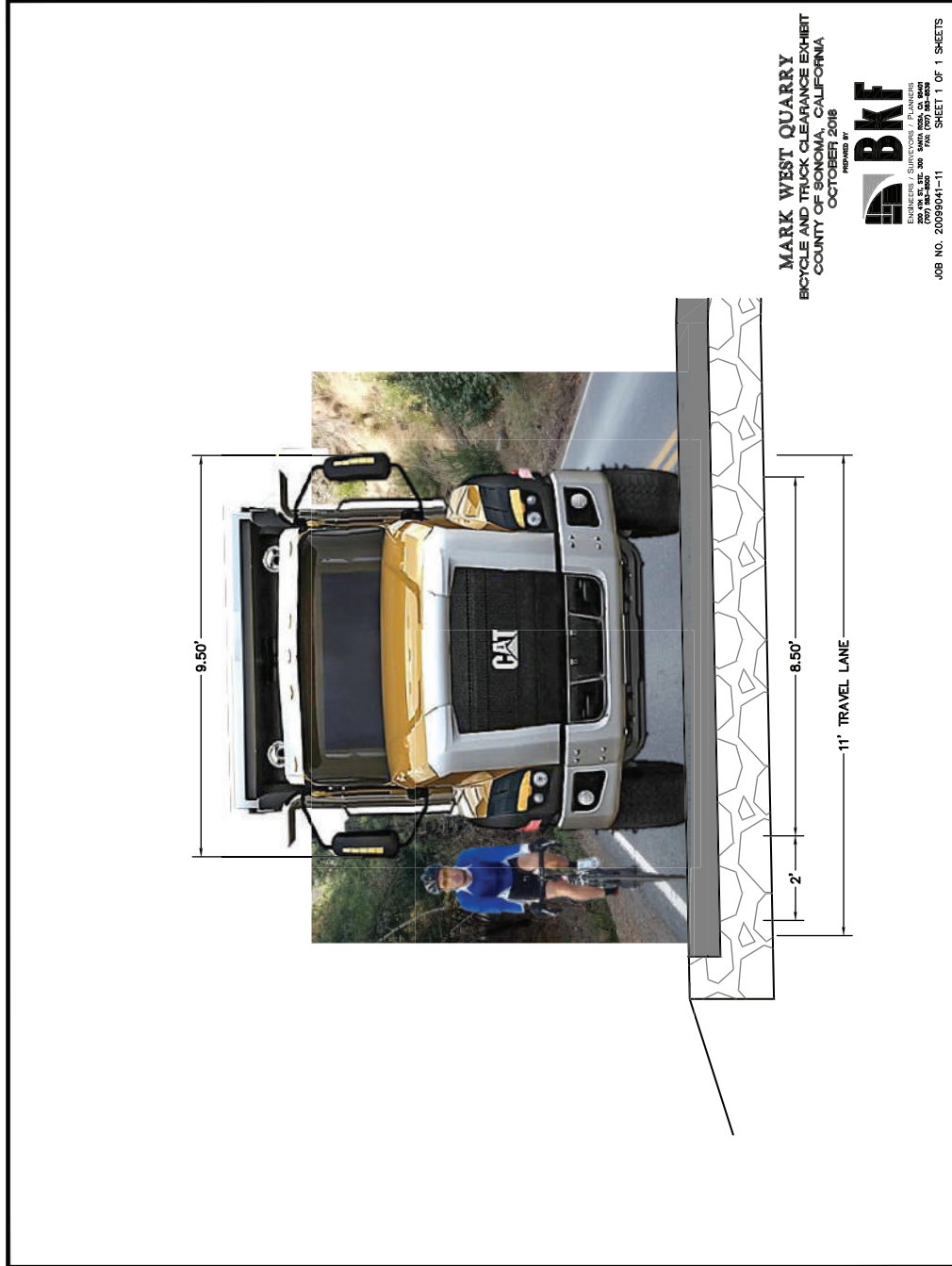
John Schelling, Jr.
John And Barbara Schelling Trust
johnschelling@hotmail.com
707-326-4313

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cont.



Plot Oct 25, 2018 at 11:54am

099041_CLEARANCE EXH6.dwg COPYRIGHT © 2018 BKF ENGINEERS



Plot Oct 29, 2018 at 9:44am

099041_MWS CLEARANCE EXHB.dwg © 2018 BKF ENGINEERS

Letter E. Arthur Coon, Millar Starr Regalia (Attorney Representing the Applicant)

- E-1 This comment introduces the topics to be covered in the remainder of the comment letter. Please see the following responses. No changes are required in the Draft SEIR.
- E-2 The commenter has identified and provided analysis of the relevant legal precedents regarding deletion or modification of previously adopted mitigation measures, and has stated the basic requirements for mitigation measures. No changes are required in the Draft SEIR. Please see Master Response 1.
- E-3 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- E-3a Please see Master Response 1.
- E-4 The commenter has identified and provided analysis of the relevant legal precedents and statutes regarding the definition of “infeasibility” under CEQA. Please see the response to Comment E-3.
- E-5 This comment recounts details of the Court of Appeal decision upholding the 2010 Final EIR, and does not comment on the current Draft SEIR. It therefore does not require a response. No changes are required in the Draft SEIR.
- E-5a Please see the response to comment C-22.
- E-5b The Applicant has not proposed to modify Condition of Approval 75 (which implements 2010 Final EIR Mitigation Measure E.8f).
- E-6 This comment recounts details of the Court of Appeal’s decision finding that the 2010 Final EIR’s analysis of secondary impacts of road widening was adequate, as well as the fact that Mitigation Measures E.8a through E.8p, which address these impacts, are all in effect (as Conditions of Approval 70-85). The commenter is correct that road widening would be fully mitigated, and is thus incorrect that reducing road width will lessen impacts. With regard to the commenter’s contention that a 32-foot wide roadway would be equally effective as the currently-required 40-foot wide roadway in mitigating bicycle, pedestrian, and traffic safety impacts, please see Master Response 1. With respect to the incorrect statement that the reason for this application is a mistake in the original 2010 Final EIR regarding the available right of way, please see response to comment C-22.
- E-6a Please see Master Response 1. The intent of the comment is unclear, but to the extent the commenter is suggesting that regulatory impediments with other agencies make the

current Use Permit infeasible, that has not been shown. In addition, the Applicant has stated that he intends to go forward with the original Use Permit if the modification is not approved.

E-6b Please see Master Response 1.

E-7 The commenter is correct that the 2010 Final EIR concluded that Impact E.8, addressing secondary impacts of haul route upgrades, could remain significant and unavoidable. However, 2010 Final EIR analysis of Alternative 2 concluded that Mitigation Measures E.8 a-p could all be feasibly implemented along a much shorter roadway that would require upgrading, and that for this alternative Impact E.8 would be reduced to less than significant. The same conclusion was reached for Modified Alternative 2 in the 2010 ESA memorandum (ESA, 2010). The findings adopted by the Sonoma County Board of Supervisors in approving Modified Alternative 2 also demonstrate that Impact E.8 would be reduced to less than significant.

As discussed in Master Response 1, the 2010 Final EIR also concluded that Impacts E.3 (addressing bicycle and pedestrian safety) and E.4 (addressing traffic safety) could remain significant and unavoidable because of the uncertainty regarding the feasibility of Mitigation Measure E.3a/E.4a, the measure requiring widening of roadways along the haul route. The 2010 Final EIR, however, also found that for Alternative 2, these impacts would be reduced to less than significant because the mitigation measure was found to be feasible for the shorter length of road requiring upgrade, and this conclusion was also reached for Modified Alternative 2 in the 2010 ESA memorandum (ESA, 2010). In approving Modified Alternative 2 in 2010, the Sonoma County Board of Supervisors adopted findings that both impacts E.3 and E.4 would be reduced to less than significant with implementation of the mitigation measures specified in the 2010 Final EIR, including Mitigation Measure E.3a/E.4a.

Therefore, the commenter's noting of the 2010 Final EIR conclusion that these impacts could remain significant and unavoidable because of questions about the feasibility of mitigation measures does not apply to the project that the Board of Supervisors elected to approve, that is, Modified Alternative 2. The Board of Supervisors elected not to approve the project that required that override. The improvements required under the current Use Permit are limited, and in approving the project with these improvements, no finding was ever made by the Board of Supervisors that any of these measures would or could be infeasible. Please see also the response to comment C-21.

E-7a Please see the response to the prior comment, comment E-7. The document cited in this comment is included as an attachment to this comment letter and labeled comment E-26. It is also referenced in the Draft SEIR and in Chapter I, Introduction, of this Final SEIR as ESA, 2010.

E-8 The commenter's assertion of infeasibility of the road widening geometry prescribed in Mitigation Measure E.3/E4 is based on their contention that the actual width of the right-of-way is less than the presumed width used as a basis for the 2010 Final EIR analysis. At

the time of the approval of the 2010 Final EIR, it was understood that the Applicant would need to acquire additional right of way. Condemnation is frequently required to build roads to safety standards. Mitigation Measure 3.4-3 acknowledges that condemnation may be required. Moreover, the current modification proposal would also require the Applicant to acquire some right of way. The commenter's assertion has not been established by a formal land survey, and no finding of infeasibility has yet been made by the Sonoma County Board of Supervisors. Furthermore, the Applicant's offers of purchase of land from his neighbors along Roblar Road for this purpose (comment letter D) call into question that the prescribed road width is in fact infeasible, the absence of a positive response to these offers notwithstanding. Please see the response to comment E-3.

E-9 Please see response to the prior comment, comment E-8.

E-10 The commenter is incorrect in stating that the applicable standard from the Sonoma County General Plan and AASHTO are for 11-foot wide travel lanes with 5-foot wide shoulders on Roblar Road, not 12-foot wide travel lanes with 6-foot wide paved shoulders (total 40-foot wide roadway) as currently required in Condition/Mitigation Measure 49 and Condition 59. As noted in the response to comment C-23, Roblar Road along the 1.6-mile segment that will be used by Quarry haul trucks has a prima facie speed limit of 55 mph and actual speeds approaching 60 mph; as noted in Draft SEIR Table 3.4-1 in Section 3.4, Transportation and Traffic, current weekday average daily traffic is 1,705 vehicles, and, as shown in Table MR1-1 in Master Response 1, with the addition of Quarry haul trucks, average daily traffic can be expected to increase to over 2,000 vehicles per day.

The following is excerpted from the General Plan 2020 Glossary, incorrectly cited by the commenter.

For [2-lane major and minor rural collector] roads with design speeds of less than 40 mph and volumes under 250 vehicles per day, the standard road width is 22 feet. Road width for maximum speed (60 mph) and volume (over 2,000 vehicles per day) is 40 feet.

Expected conditions on Roblar Road with the addition of Quarry haul trucks fits the criteria requiring the higher (i.e. 40-foot wide roadway) standard; there is no basis to contend that road widening should meet only the lower standard without a design exception.

Table 6-5 of AASHTO's "A Policy on Geometry of Highways and Roads," also shows that the recommended roadway width for rural collector roads with design volume over 1,500 vehicles per day and design speed of 55 mph or more is 40 feet.

Please see also Master Response 1.

- E-11 The commenter is incorrect in stating that the current speed limit on the relevant section of Roblar Road is 45 mph. West of Orchard Station Road, the prima facie speed limit is 55 mph. The commenter is also incorrect that a Class II bikeway on Roblar Road is not required to be provided by the Applicant: Condition/Mitigation Measure 49, not the General Plan, requires the Applicant to upgrade the 1.6-mile segment of Roblar Road as follows:

49. Prior to the commencement of mining, the Applicant shall obtain easements/right of way (if necessary) and improve Roblar Road (between the on-site project access road and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide [paved] shoulders with traffic index of 10.5, and associated striping/signage to meet Class II bike facilities.

The requirement for paved shoulder width and striping/signage requirement are consistent with the standards for Class II bikeways contained in the 2010 Sonoma County Bicycle and Pedestrian Plan.

Please see also Master Response 1.

- E-12 The Three Feet for Safety Act is cited in the Draft SEIR on page 3.4-4, in the discussion of the Regulatory Setting for Transportation and Traffic. The drawings referred to are included as attachments to this letter and labeled comment E-28. Please see Master Response 1. The commenter also references the Mark West Quarry. As noted in the Draft SEIR (page 3.4-11, footnote 3) approval of the Mark West Quarry expansion project required a Statement of Overriding Considerations.
- E-13 Please see Master Response 1. With regard to the question of the adequacy of the Applicant's proposed road widening design to mitigate the bicycle safety impact, please see Master Response 1.
- E-14 The comment describes the existing condition of roadway safety on Roblar Road. The 2010 Final EIR, and the current Draft SEIR, properly examine the traffic safety impacts of the project after implementation, that is, with the addition of several hundred haul trucks each day that the Quarry operates. Specifically, the Draft SEIR examines the different impacts on traffic safety of the previously approved road widening design with the currently proposed one, with the addition to current traffic volume of Quarry haul trucks. This forms the basis for the conclusion in the Draft SEIR that the proposed roadway design would result in a substantially more severe impact to road safety, compared to the project as approved. Please see also Master Response 1.
- E-15 As noted in the response to comment E-7, mitigation measures addressing secondary impacts associated with roadway widening were determined to be feasible and effective in reducing these impacts to less than significant for Modified Alternative 2. The Applicant seeks to avoid the costs of implementing the current Use Permit, but has not provided evidence that to do so would be infeasible. See also the response to comment E-6a.

- E-16 The secondary impact of road widening on agricultural lands was found to be less-than-significant for Modified Alternative 2. Please see the response to comment E-7.
- E-17 The Draft SEIR finds, in Impact 3.4-2, that the Applicant's proposed design for intersection signalization and upgrade would result in a significant impact to bicycle safety. Mitigation measure 3.4-2, requiring wider paved shoulders than specified in the Applicant's proposed design, would reduce this impact to less than significant. As noted in footnote 2 on page 2-8 of the Draft SEIR, the 2005 IS/MND for the County's intersection signalization and upgrade design identified mitigation measures to reduce potential impacts to wetlands and special status species to less than significant. Please see also the response to comment C-9.
- E-18 Any decision to modify existing mitigation measures/Conditions of Approval by the Board of Supervisors will only be made after findings are made, based on the whole record, that support that decision.
- E-19 Please see response to comment C-19.
- E-20 Please see response to comment C-19. Please note that offsets continue to be contemplated by Mitigation Measure 3.4-1.
- E-21 Please see response to comment C-26.
- E-22 Please see the response to comment C-14.
- E-23 Please see the response to comment C-14.
- E-24 Please see the response to comment C-16.
- E-24a Please see the response to comment C-5.
- E-25 This comment summarizes several of the points raised in the previous comments. Please see the responses above.
- E-26 This document is referenced in comment E-7a. It is also referenced in the Draft SEIR and in Chapter I, Introduction, as ESA, 2010.
- E-27 This comment contains correspondence between the Applicant and the Applicant's attorneys, and neighbors of the Quarry project site who own property along Roblar Road. This correspondence is also contained in comment letter D. Please see the response to comment D-1.
- E-28 These drawings are referenced in comment E-12. Please see the response to that comment. Please see also the footnote regarding the Mark West Quarry in the Draft SEIR, on page 3.4-11, footnote 3.

From: Nancy Graalman
To: David Rabbitt; Susan Gorin; Shirlee Zane; James Gore; Lynda Hopkins
Subject: OPPOSING John Barella's /Roblar Quarry request for Changes to UPE16-0058
Date: Friday, October 26, 2018 11:20:19 AM

Supervisors:

The 2010 approval for this project remains one of the most egregious actions by the County of Sonoma when considering the environmental, quality of life, safety and ethical standards that were breached. The economic justification for the approval will forever taint Sonoma County for giving away infrastructure and natural resource assets (including easements purchased with taxpayer money) to enrich one man and his company.

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My organization Defense of Place became strong advocates for the work of CARRQ during its courageous campaign to oppose the project; to this day, in other campaigns around the country we cite the quarry's eventual approval as an example of what can go wrong when even previously designated conservation easements are shattered by political pressure.

2

Without a doubt, Defense of Place knew that the developer would be back for more and more favors even as the details and impacts of the quarry become increasingly dire.

Thus it is that we join CARRQ in opposing the proposed change requests to the UPE16-0058 as described in the SEIR.

The request for the narrower road is, in a word, absurd, when contemplating the competition for space between a bicyclist and one of the 600 gravel trucks coming and going each day. Add in the cars for which that road means home, work and school, and the image of a disaster is unavoidable.

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In addition, we oppose the realignment of Americano Creek. The "sanctioned" assault on this creek and its habitats will also forever remain an affront to the environmental values of Sonoma County. No mitigation or promised years of restoration can cure what will most likely be the demise of the natural ecology of the creek and its environs.

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The approval of the Roblar quarry project brought a loss of trust that the county will defend rural communities, Open Space and conservation easements, and Sonoma County values. Please do not allow the developer to continue his attempts to profit from the loss of Roblar Valley by granting any more advantages.

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Cordially,
 Nancy Graalman
 Director
 Defense of Place
 415. 515. 1616

THIS EMAIL ORIGINATED OUTSIDE OF THE SONOMA COUNTY EMAIL SYSTEM.

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Letter F. Nancy Graalman, Director, Defense of Place

- F-1 This comment does not address the proposed modification to the Use Permit Conditions of Approval or the environmental analysis contained in the Draft SEIR. The commenter's opposition to the Quarry project is noted.
- F-2 The commenter's opposition to the proposed modifications to the Use Permit Conditions of Approval is noted.
- F-3 Impacts to bicycle and traffic safety are analyzed in Draft SEIR Section 3.4, Traffic and Transportation: see Impacts 3.4-3 and 3.4-4. The Draft SEIR concludes that, even with the prescribed mitigation, these impacts would remain significant and unavoidable. Please see also Master Response 1.
- F-4 Hydrologic impacts associated with the proposed relocation of Americano Creek into a new, constructed channel, are discussed in Draft SEIR section 3.2, Hydrology and Water Quality, Impact 3.3-1, and found to be less than significant. Biological impacts associated with creek relocation are discussed in Draft SEIR section 3.3, Biological Resources, in impacts 3.3-1 through 3.3-7. One of the Biological Resources impacts, Impact 3.3-1, would be less-than-significant with implementation of Mitigation Measure 3.3.1 (see also response to comment C-14); the other Biological Resources impacts would be less than significant without mitigation.
- F-5 The commenter's opposition to the proposed modifications to the Use Permit Conditions of Approval is noted.



MOLLAND LAW

30 Fifth Street, Petaluma CA 94952 | Office 707.202.5511 | Cell 415.672.6222 | Fax 707.202.5513
mmolland@mollandlaw.com | www.mollandlaw.com

October 26, 2018

ATTN: Chris Seppeler
Blake Hillegas
Natural Resources Division
Permit Sonoma
County of Sonoma Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, California 95403-2829
By UPS and by email to Blake Hillegas

Members of Sonoma County Board of Supervisors
By e-mail

RE: Supplemental Environmental Impact Report
Proposed Project: Roblar Road Quarry
Site Address: 7175 Roblar Road, Petaluma
APN: 027-080-009 and 027-080-010

Dear County of Sonoma Permit and Resource Management Department and members of the Sonoma County Board of Supervisors:

Citizens Advocating for Roblar Road Quality ("CARRQ") has reviewed the Supplemental EIR (SEIR) for this project and provides the following comments and attached evidence on both the SEIR and the project for your consideration.

After over a decade of consideration by the County of this project, one thing is certain: when the Quarry begins operations its traffic impacts on the western part of Sonoma County will be catastrophic. Roblar Road, as well as miles of Valley Ford Highway and Pepper Road leading back to Highway 101 will become little more than haul routes dedicated to the service of a for-profit industrial gravel operation. These are public roads which are now part of the unique scenic and natural resources of Sonoma County. This project, if approved, will put an abrupt end to that for the next twenty years. That this is true can hardly be questioned from facts disclosed in the SEIR itself, which states:

"...the Quarry would cause an increase in truck traffic on Roblar Road (i.e., an average of about 27 one-way trips per hour [about 302 per day], and a peak of about 43 one-way trips per hour [about 480 per day]). SEIR p. 3.4-8

That means according to the County's own experts that a Quarry based gravel truck will run over Roblar Road, Valley Ford Highway, and Pepper Road on average every TWO minutes, every

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working day, every month, every year, for the next twenty years. This is **not** in dispute. Just do the math: according to the SEIR over nearly **two million** gravel trucks will clog the County's main arteries to its Pacific coast during the life of the project (302 trips x 300 days x 20 years = 1,812,000 gravel truck hauls). If the County intends to convert the primary tourist routes that its citizens and visitors use to access Sonoma's unmatched Pacific Coast into a transportation nightmare, it can hardly choose a better way.

We acknowledge, however, that there are some that justify this nightmare on the grounds that the County's construction industry will shave a few cents, or perhaps even many cents, off its purchase of a ton of gravel over those next twenty years. We strongly disagree with this rationale. But putting that disagreement aside, **IF** the County determines to approve this project, the County should at the very least ensure that the roads on which it chooses to impose this traffic morass meet safety and design standards that can accommodate the volume of gravel trucks such approval would unleash. The existing permit issued by the County to the Quarry Developer at least does that. However, the SEIR shows that the modifications to the permit now proposed by the Quarry Developer do not. Indeed, there is no question, no debate at all, that if the modifications are allowed Roblar road will not meet these safety standards. The SEIR itself finds that significant and unavoidable environmental impacts will occur if the County allows Quarry operations to escape the conditions of the existing county permit for the Quarry. The SEIR, written by the County's own staff and experts, describes these impacts as follows:

Impact 3.4-3 The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards including class II bikeway standards, could introduce potential bicycle safety hazards.

Impact 3.4-4: The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards and/or has limited sight distance, could introduce potential traffic safety hazards.

The accompanying expert opinion of Traffic Expert Mr. Daniel Smith (Exhibit 1) finds (a) the safety risk to be even greater than stated in the SEIR and (b) that the SEIR itself shows the current permit conditions could be satisfied by the use of a modest amount of additional property presently owned by the Quarry owner and the one adjoining landowner who has cooperated in the past with the Quarry owner to design Quarry haul routes and mitigation efforts.

CAARQ hereby opposes the proposed modifications to permit conditions 49 and 59, as well as conditions 101-133 of the existing permit because to allow them (a) would be a policy decision averse to the interest of County residents and members of the public, and (b) would force the County into the approval of a knowingly unsafe and negligently designed public road that would pose risks of liability to the County and to county tax payers, and (c) would violate California law because the SEIR fails to show that these current permit conditions ensuring safety are infeasible. We discuss each reason here briefly.

First, the SEIR concedes that to allow the proposed modifications will create a county road unsafe for motorists, bicyclists, and anyone unfortunate enough to be present near its haul route. Such approval would sacrifice the safety of residents and visitors for the advantage of the for-

profit operations of the Quarry without any showing that current permit conditions are economically infeasible. The SEIR fails to demonstrate these permit conditions could not be feasibly be met without unreasonably diminishing the expected profits of the permitted Quarry enterprise. The SEIR does not address this issue and presents no information regarding the amount of those expected profits over the twenty-year life of the project. Unless this is known, there is no basis to believe that compliance the County's existing permit conditions would have a significant impact on them. While the SEIR refuses to address the issue, it is reasonable to assume, however, that these profits will be in the millions of dollars (see accompanying expert opinion of expert professional economist Michael Kavanaugh, attached as Exhibit 2.) Mr. Kavanaugh conservatively estimates the likely profit of an enterprise which mines the currently permitted amount of 11.4 million tons of gravel at more than twenty million dollars. The SEIR itself is completely silent on the likely economic impact on this gravel operation if the County stands by its present permit conditions.

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Second, the County faces potential liability by refusing to stand by the permit conditions that make the road safe. (See expert opinion of Daniel Smith so stating, Ex. 1). The SEIR makes it clear the modifications to the existing permit, if allowed, can pose "a significant" safety risk to motorists and bicyclists. Accordingly, it is highly likely that people will be killed or injured on this road if the modifications are approved. Since these safety consequences are clear from the County's own SEIR, it is likely the County will face liability if it changes its existing permit conditions.

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Finally, the modifications to the existing permit do not meet the standards imposed by the California Environmental Quality Act (CEQA). Modifications to safety conditions of an existing permit can only be based on evidence that compliance with them is economically infeasible or unjustly burdensome to the project. (See Citizens of Goleta Valley v. Board of Supervisors (1988) ("Goleta I") 197 Cal.App.3d 1167) The SEIR does not present any evidence at all to show the developer's compliance with the conditions 49 or 59 are economically or otherwise infeasible. See also Lincoln Place Tenants Assn. v. City of Los Angeles (2005) 130 Cal.App.4th 1491, 1508-1509), Napa Citizens for Honest Government v. Napa County Board of Supervisors (1st Dist. 2001) 91 Cal. App. 4th 342 [110 Cal. Rptr. 2d 579]. Instead, the SEIR merely mouths what the Quarry claims- that it cannot obtain right of way at a price that its lawyers deem "just compensation". Based on that claim, the proposed modifications would relocate Americano Creek and still, having moved it, still result in a haul route that complies with permit conditions. Since the SEIR does not show that compliance with the existing permit conditions are economically or otherwise infeasible, the SEIR cannot serve as a basis for approval of modifications which erode the County's current safety requirements.

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We do not further directly address in these comments our objections based on (a) policy or (b) potential liability grounds. While vitally important, the reasons underlying these objections should be apparent to a casual, impartial observer. One does not change permit conditions to make something unsafe which would otherwise be safe. One does not create liability for oneself by changing permit conditions, when without such change, there would be no liability. However, given the long permitting history of the County with this gravel operation, we appreciate that there may be some County officials who remain partial to the development of gravel mining at this site and location, even if it means accommodating a request to alter the existing permit.

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Accordingly, we devote the remainder of these comments to a more extensive explanation of why the SEIR is legally insufficient to support approval of the proposed modifications under CEQA.

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There are six basic reasons.

First, the County's history of consideration of the various access roads which have been proposed for this project - which resulted in the current permit conditions after the certification of an EIR in 2010 - show that there has been no sudden and unforeseen development sufficient to warrant a change in those conditions. Instead, the issue of access and right of way have been discussed for over a decade. The SEIR states that at the time the County issued the permit in question the developer represented that he could meet its conditions and obtain any necessary right of way to do so. Indeed, as late as August 19, 2016, after the modifications had already been proposed, the County official who co-authored the SEIR stated the project could and would acquire right of way to widen substantial portions of Roblar Road from the owners of the land adjacent to the Quarry property and Roblar Road.

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Second, the SEIR itself shows the proposed modifications to the existing conditions will make the project unsafe and constitute a significant and unavoidable environmental impact.

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Third, CEQA requires here that any modification to the existing permit conditions must be supported by substantial evidence that shows compliance with these conditions is economically or otherwise infeasible given the expected economic returns of the enterprise.

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Fourth, the SEIR makes no showing, as required, of such infeasibility.

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Fifth, evidence in the County's record of consideration of this project (which is NOT discussed in the SEIR) shows at least the possibility that the permit conditions could be economically and feasibly met by the developer. None of this evidence in the County's record for the project, though clearly known to the County, is discussed in the SEIR.

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Sixth, the SEIR does not demonstrate that the relocation of American Creek is necessary nor does it show why it should not be found to conflict with other laws and County ordinances.

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We now address each of these six reasons:

I. The history of the County's consideration of this Project and the various access roads which have been proposed for this project - which resulted in the current permit conditions after the certification of an EIR - show that there has been no sudden and unforeseen development sufficient to modify those conditions.

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Several years ago, Applicant applied to develop and operate a gravel mine in the Roblar Road Area of Sonoma County. As required under the California Environmental Quality Act (CEQA), Sonoma County through its Permit and Resource Management Department (PRMD) conducted and completed an Environmental Impact Report (EIR) regarding the proposed projects impacts on the environment and public safety. The EIR recommended and Sonoma County required

through the permit at issue here the project to meet certain conditions of approval to mitigate the environmental impacts it would cause.

The approval of the haul route using Roblar Road by gravel operations was contentious. The haul road was initially designed to go east down Roblar Road to Stony Point Road. After protest, the haul route was then later designed to go west down Roblar Road, and then down Valley Ford Highway to hit Pepper Road and continue towards Stony Point Road and Highway 101. In approximately 2009 the developer's attorneys proposed still another alternative haul route (which they called Access Road one) to bypass the section of Roblar Road along Roblar Creek and then continue west along Roblar Road to intersect with Valley Ford Highway, and eventually Pepper Road. The alternative haul route using Access Road One to bypass Americano Creek was designed to pass through land immediately adjacent to the developer's quarry property, which was owned by Kenneth Wilson and Clairette Wilson (hereinafter KWilson). KWilson cooperated in this plan and allowed the use of his property for this alternative haul route. Proceedings were held before Planning Commission and the Board of Supervisors to consider the alternative haul route passing through the KWilson property in late 2010. However, after protest, the Board of Supervisors determined NOT to approve the haul route through the KWilson property because the land was also subject to a County held conservation easement. The haul route then reverted to the one which is under consideration by the present SEIR.

At or about the same time it became clear the developer would need to mitigate the project's effects on endangered species. Kenneth Wilson and project developer proposed they do so in another location in land owned by KWilson next the Quarry. After proceedings before many county agencies, including the Board of Supervisors, in December 2010 the Board of Supervisors allowed the Quarry to create a mitigation preserve on the KWilson property, even though it was subject to a County conservation easement. CAARQ objected to the creation mitigation preserve and filed suit in Sonoma County Superior Court to block it. The developer's attorney was successful in dismissing this suit on several grounds, which included the assertions that CAARQ did not name Kenneth and Clairette Wilson as indispensable parties to the lawsuit, since they owned the land on which the Quarry's mitigation preserve was to be located. This dismissal was upheld by the First District Court of Appeal in an unpublished opinion in 2012.

In December 2010, after years of review, the Sonoma County Board of Supervisors certified the EIR for this project and in conjunction with that certification approved the project subject to conditions of approval designed to mitigate the proposed project's environmental and public safety impacts as identified in the final EIR. These conditions of approval contain permit conditions Nos. 49 and 59 and 101-133. It is these conditions which the developer seeks to change on the grounds they unnecessary or infeasible.

Following certification of the EIR, CARRQ in 2011 filled a petition in Sonoma County Superior Court challenging the sufficiency of the certified EIR and the Board of Supervisors approval of the project, alleging, among other things, that the EIR and the resulting permit conditions failed to mitigate the environmental impacts of the project. Applicant opposed this lawsuit claiming the EIR was adequate and its analysis of environmental impacts sufficient. CARRQ prevailed in Sonoma County Superior Court and the trial court issued an injunction to halt the project in 2012. The First District Court of Appeal then reversed this decision in 2014 on the grounds that

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the EIR had adequately addressed the environmental impacts of the project, leaving in place the Board of Supervisor's certification of the EIR and the conditions of approval of the project. At no time in this litigation, did the Quarry's attorneys challenge the feasibility of the mitigation measures or the conditions of approval for the project, including conditions 44, 49 and 59, 101, and 133. Instead, the Quarry waited until approximately July, 2016, six years after the County imposed the conditions of approval, to claim they are unnecessary or infeasible.

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CEQA Guidelines Section 15163(a) indicates that a Supplement to an EIR, rather than a Subsequent EIR, may be prepared if:

New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

The project will have one or more significant effects not discussed in the previous EIR;

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Significant effects previously examined will be substantially more severe than shown in the previous EIR;

Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

While the SEIR states that "The County has conducted a review of the Applicant's proposed modifications to the Use Permit COA, and has determined that they have the potential for new or substantially more severe significant impacts" the SEIR nowhere shows or demonstrates facts showing existence of "new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified."

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2. The proposed modifications to the existing conditions will make the project unsafe and constitute a significant and unavoidable environmental impact

The SEIR states "The Use Permit requires the Applicant to make improvements to Roblar Road from the Quarry entry to Access Road 2. These improvements include widening Roblar Road to provide two 12-foot-wide vehicle travel lanes with 6-foot-wide paved shoulders, 2-foot-wide rock shoulders, and associated striping to meet Class II bicycle facilities. The Applicant, citing their inability to obtain the necessary right-of-way, instead proposes to construct improvements to Roblar Road that would include two 11-foot-wide vehicle travel lanes, two 3-foot-wide paved shoulders, and two 2-foot-wide rock shoulders; and not include Class II bicycle lanes.

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As a result, the SEIR states the “total paved width would be reduced from 36 to 28 feet” a reduction of width of between 20/25%. The SEIR concludes this reduction, in combination with a massive increase in truck traffic, will have an unavoidable and significant environmental impact stating each as follows:

Impact 3.4-3 The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards including class II bikeway standards, could introduce potential bicycle safety hazards.

Impact 3.4-4: The proposed substantial increase in truck traffic on Roblar Road, which does not fully meet current roadway design standards and/or has limited sight distance, could introduce potential traffic safety hazards.

The report of expert Daniel Smith further illustrates and elaborates on this safety hazard and is attached as Exhibit 1 and incorporated here by reference.

3. CEQA requires that any modification to the existing permit conditions, since they will cause substantial environmental impacts, must be supported by substantial evidence that shows compliance with the existing permit conditions is economically or otherwise infeasible.

The modification of any mitigation condition based on a previously certified EIR requires evidence that it is infeasible. After certifying an EIR, an agency may not approve a project subject to conditions of approval and later delete or modify those conditions without substantial evidence to support such modification in a supplemental EIR. Napa Citizens for Honest Government and Lincoln Place establish that once a project EIR is certified an agency can legally change mitigation or permit conditions only if:

- The agency undertakes a supplemental EIR to analyze and discuss these proposed changes;
- The agency finds the conditions of approval imposed after the certification of the original EIR are infeasible;
- The agency supports such finding of infeasibility through substantial evidence;
- The agency makes a finding of overriding considerations if the modifications to the conditions of approval will result in unmitigated environmental impacts as discussed and analyzed in the subsequent or supplemental EIR.

Since both Napa Citizens and Lincoln Place require this standard of review, we discuss each briefly below.

In Napa Citizens for Honest Government v. Napa County Board of Supervisors (1st Dist. 2001) 91 Cal. App. 4th 342 [110 Cal. Rptr. 2d 579], petitioners challenged Napa County’s approvals for an updated specific plan and subsequent EIR addressing the development of an unincorporated area south of the City of Napa.

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“When an earlier-adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decision must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration. We therefore hold that a governing body must state a legitimate reason for deleting an earlier-adopted mitigation measure and must support that statement of reason with substantial evidence. If no legitimate reason for the deletion has been stated, or if the evidence does not support the governing body’s finding, the land use plan, as modified by the deletion or deletions, is invalid and cannot be enforced. [¶] *** In other words the measure cannot be deleted without showing that it is infeasible.”

In Lincoln Place Tenants Association v. City of Los Angeles (2d Dist. 2005) 130 Cal. App. 4th 1491 [31 Cal. Rptr.3d 353], the Court of Appeal extended the holding in Napa Citizens by and concluded that elimination of mitigation measure from a previously certified EIR required substantial evidence of the measure’s infeasibility. Following Napa Citizens, the Lincoln Place court stated:

“because an initial determination a mitigation measure is infeasible must be included in the EIR and supported by substantial evidence it is logical to require a later determination a mitigation measure is infeasible be included in a supplemental EIR and supported by substantial evidence”.

The law regarding enforceability is clear: the fact that compliance with a condition of approval may be more expensive or less profitable is insufficient to demonstrate that the condition is not economically feasible. What is required is evidence that the additional costs or lost profitability as a result of Applicant’s compliance with the permit conditions are sufficiently severe as to render it impractical to proceed with the project.

For a private project, like this one, a finding that a condition imposed on the applicant is economically infeasible requires not just cost data, but also data showing insufficient income and profitability. Burger v. County of Mendocino (1975) 45 Cal.App.3d 322 at 327 (infeasibility claim unfounded absent data on income and expenditures showing project unprofitable). There, the court identified three criteria that should be evaluated when determining whether a project alternative would be economically feasible: (1) estimated income; (2) estimated expenditures; and (3) estimated profitability. Implicit in the court’s finding is the need to conduct a comparative analysis, on the basis of each of these criteria, between the proposed project and project alternatives or the proposed project with and without the recommended mitigation measure to determine whether a particular alternative or measure would render the project economically infeasible.

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In Citizens of Goleta Valley v. Board of Supervisors (1988) ("Goleta I") 197 Cal.App.3d 1167, the court confirmed the use of the criteria identified by the Burger court, added additional criteria, and stated that proof of an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.

The Citizens of Goleta Valley Court then set forth five criteria against which a proposed project and project alternative can be compared.^[1] They include the following: (1) total estimated costs; (2) total projected income; (3) total expenses; (4) the change in the per unit cost of a project that results from a project alternative or mitigation measure; and (5) the economic benefits of the project to the community and public at large.

Here the SEIR provides no estimated cost data, projected income, expenses, or change in costs as required under CEQA for the costs of such compliance, as required by Citizens of Goleta Valley.

Assuming there is an argument here that that compliance with each Condition of Approval is legally infeasible, the argument is flawed for the same reason – there is no way of knowing whether the costs and burden imposed on the Applicant are out of proportion to their environmental impacts (See CEQA Guidelines, §15126.4, subd. (a)(4)(B)) until one understands what the costs of those burdens impose on Applicant's expected income. No such evidence is provided by the SEIR. The record, to CAARQ's knowledge, shows only a failed attempt to initiate negotiations by offering what the Quarry's attorneys say is "just compensation", rather than negotiate to determine whether some of the property adjacent to the Roblar Road haul route may be obtained for an economically feasible price.

Since SEIR presents no evidence of infeasibility under CEQA standards sufficient to establish economic or other infeasibility, the County must reject each of the requested modifications to the four conditions of approval.

4. The SEIR makes no showing, as required under CEQA, that compliance with the conditions of approval Nos 49, 59, 101-133 is infeasible.

The SEIR does not examine or analyze any of the issues which it assumes makes compliance with the permit conditions infeasible. It concedes that at the time the permit conditions were imposed the Quarry represented the necessary right of way could be obtained for compliance. It does not verify any claim that the acquisition of such right of way now is be economically infeasible, and does not analyze or even estimate the expected revenues from currently permitted gravel operations at the site. While no information regarding this Quarry's likely profits is provided by the SEIR, it is reasonable to assume that likely profits will be in the millions of dollars and the expert opinion of economist Michael Kavanagh, Exhibit 2, supports this assumption.

^[1] In the context of a mitigation measure, the analysis would involve evaluating the project, with and without the proposed mitigation, against these criteria.

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All the SEIR says about infeasibility is to repeat the claim that the Quarry cannot obtain right of way. The SEIR does so in these statements:

The SEIR states: "With respect to Roblar Road to the west under the approved alternative, the applicant had asserted that he could obtain sufficient right of way to widen the 1.6-mile segment of Roblar Road and that condemnation would not be required. Based on that assumption, which has turned out to be incorrect, the Board of Supervisors originally found Modified Alternative 2 to be feasible without the significance finding and override with respect to Impact E.3 that otherwise would have been required. Thus, with the original approval, implementation of Mitigation Measure E.3a (which was the basis for Conditions/Mitigation Measures 49 and 59) would improve Roblar Road to provide two 12-foot-wide vehicle travel lanes, two six-foot-wide paved shoulders, two two-foot-wide unpaved (rock) shoulders, and associated striping/signage to meet Class II bike facility standards." SEIR p 3.4-9

The SEIR states: "Specifically, the Applicant states that the Roblar Road prescriptive right-of-way (ROW) is not wide enough to accommodate the specified road width, that it is unable to obtain sufficient land to expand the required ROW, and that the proximity of Americano Creek and other wetlands along the road constrains road widening." SEIR p 2-10.

The SEIR states: "The applicant indicates he has had appraisals done and has submitted evidence that he has made written offers to land owners at what the Applicant claims is above market value. Thus far, the Applicant reports that neighbors have not agreed to the sale of any of the land needed to accommodate road widening and at least one neighbor is waiting to see the outcome of the proposed Use Permit modification before entering into any negotiations. The applicant also has suggested that it is impractical and unnecessary to construct the full width roadway improvement, although the Applicant's technical comments are not based on County standards or the applicable traffic counts and projected traffic for the road."

Other than this discussion, the SEIR does not analyze or present any facts or evidence to show or why compliance with Conditions 49 and 59 are infeasible. Even if the Quarry has indeed offered what he believes is just compensation for a portion of the right of way adjacent to Roblar Road, that is not the standard. The standard is infeasibility. The SEIR states no facts that it is economically infeasible for the Quarry to offer an amount that is feasible, or that the Quarry or its lawyers have engaged in active negotiations to try to do so. On the other hand, the expert report of Daniel Smith states facts showing that that compliance with conditions 49 and 59 could be feasible, as discussed further below.

V. The record of consideration of this project maintained by the County contains evidence and facts which are NOT discussed in the SEIR but which tend to show a likelihood or possibility that the permit conditions 49 and 59 could be economically and feasibly be met.

While the SEIR omits any factual analysis of the claim that compliance with existing permit conditions is infeasible, the record for this project maintained by County contains evidence that that show such compliance could be either possible or likely. Much of this evidence was created

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by the County officials, including the authors of the SEIR. By choosing to ignore it, the SEIR wholly fails as a disclosure document required by CEQA. However, while the SEIR does not address this evidence, we will do so now.

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The evidence chiefly falls into two categories. First, evidence that shows the failure to make efforts to obtain necessary right of way at values that would (given expected profits from the gravel operations) be feasible. Second, evidence that shows that right of way sufficient to comply with existing permit conditions could be obtained from lands already owned by the Quarry and by the adjacent property owner (KWilson) who has cooperated with the Quarry to develop the Quarry in the past. We discuss each in turn:

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a. Evidence that supports finding that the Quarry has failed to make sufficient efforts to obtain right of way to comply with existing permit conditions at values that could be feasible, given the expected profits from the gravel operations.

The SEIR reports that claim that the Quarry has negotiated for right of way by making “written offers to land owners at what the Applicant claims is above market value” and that “neighbors have not agreed to the sale of any of the land needed to accommodate road widening”. The SEIR does not further analyze or state any the facts that would support this claim. We have reviewed a substantial portion of the record maintained by County record for this project. We have found two letters in the record, one dated in 2017 from the developer and the one dated in 2018 from the developer’s attorneys (both attached as Exhibit 3). The SEIR also contains several maps showing the land adjacent to the fourteen separate sections of Roblar Road that will constitute the haul route and identifies the property owners who own the property adjacent to this haul route along each section. (see SEIR, figures 2-7a through 2-7h, also attached as Exhibit 4). Using these maps in the SEIR and Exhibit 3 as a reference, it appears the owners of the adjacent land that could be used for right of way purposes are Ronald and Kathy Wilson, Kenneth and Clairette Wilson, Claudia McKnight and John and Barbara Shelling. The Kenneth and Clairette Wilson properties are noteworthy because it is clear from the SEIR figures 2-7a through 2-7h that the entire length of the Roblar Road haul route runs immediately next to their property after it leaves the property owned by the Quarry. Thus, as supported by the opinion of expert Daniel Smith, all necessary right of way could be obtained from this one property owner, as well as the Quarry itself.

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Exhibit 3 as well as the 2017 letter are addressed to the property owners referenced above. The 2017 letter offers no price for any right of way from any landowners. In the 2018 letter (Exhibit 3) the Quarry’s attorney offers each landowner only what is described as “fair compensation” and offers a specific, take it or leave it, amount to each landowner- varying between approximately \$4,000 and \$24,000, which the 2018 letter says experts have determined to be fair market value. The 2018 letter also makes various claims and assertions as to what may happen if the offers are not accepted at these stipulated prices. (see Exhibit 3, page 3). These include the possibility that the County will condemn the property. None of the claims and assertions or options stated in these letters are analyzed, discussed, or even mentioned by the SEIR.

The record contains the responses of at least one landowner to these letters, attached as Exhibit 5. However, the portions of the record reviewed by CAARQ do not contain any response made by Kenneth Wilson or Clairette Wilson, who own property along the entire length of the haul route after it leaves the Quarry property. While the SEIR is silent on the subject, as far as CAARQ can determine the 2017 and 2018 letters attached as Exhibit 3 are the only written communications or “negotiations” on this subject in the County record for this project.

Under CEQA such cursory, unilateral negotiations do not establish infeasibility. There is likely a price that at least one of these landowners would accept for the right of way necessary to comply with the existing permit. The record does not demonstrate sufficient evidence to show that the parties have attempted sufficient good faith negotiations to determine what that price would be. Once known, it may or may not be economically feasible to meet it. Until that price is determined no such reckoning of its feasibility is possible.

Further, the 2018 written offers for right of way (Exhibit 3) made by the Quarry’s attorney do not include ANY offer for much of this right of way. In fact, the written offer of the developer’s attorney in Exhibit does not appear to make **any** offer to obtain the right of way owned by KWilson on the east side of Roblar and described as as Sections 8,9,10 and 11 of Figure 2-7a of the SEIR (since the 2018 offer made to KWilson only involved the land directly across from that owned by Ronald and Kathy Wilson which is shown in Sections 1 through 7 of Figure 2-7a of the SEIR. This alone renders the analysis of infeasibility by the SEIR defective.

Based on Exhibit 3, the highest price offered any landowner to obtain right of way to comply with the County’s permit conditions is less than \$24,000. The County, in the absence of evidence that a higher amount would be economically infeasible, cannot adopt that limitation as their own.

- b. Evidence shows that right of way sufficient to comply with existing permit conditions could be obtained from land already owned by the developer and from land owned by an adjacent property owner who has cooperated with the quarry owner to develop the Quarry in the past.**

Accordingly, to the extent that additional right of way is required to comply with existing permit and design safety standards, the SEIR in Figures 2-7a-h shows that such right of way can be obtained from land owned by just two-property owners. One parcel is owned by the developer/quarry owner himself. The others are owned by Kenneth Wilson and Clairette Wilson or their trust(KWilson). After review of the SEIR, the expert report of Engineer Daniel Smith affirms this is the case. While the Quarry has made an offer to acquire right of way on some of this property (Sections 1-7 on Figure 2-7a) on others it has not. (Sections 8-11)

The County’s record of the approval of this project over the last decade shows that KWilson has cooperated with the Quarry owner in the past to propose alternative Quarry haul routes and to mitigate the harmful effects of the Quarry on endangered species and land owned by KWilson. For example, in 2009/2010 KWilson cooperated to allow the developer to propose an alternative haul route (Access Road One) to run across KWilson’s land. Lengthy discussions and consideration about the wisdom of permitting this haul route then ensued before the Sonoma

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County Planning Commission, the Sonoma County Open Space District and the Sonoma County Board of Supervisors in 2009 and 2010. The haul route was ultimately rejected by the Board of Supervisors. The record of these discussions and considerations that show KWilson cooperated in the creation of proposed alternative haul route is extensive. Relevant portions accompany the paper copy of these comments submitted to the County as Exhibit 9. The SEIR does not discuss this at all.

Further, in 2009/2010 it became clear that the Quarry would have to mitigate its effect on endangered species in order to be approved by the Board of Supervisors. KWilson cooperated with the Quarry to do so by agreeing that a Mitigation Preserve for the Quarry could be located on KWilson land. The approval of this Mitigation Preserve by the County was contentious and involved proceedings before the Sonoma County Open District (see Exhibit 6 which was the public notice in 2010 of the Quarry's intention to create a Mitigation Preserve) and the Board of Supervisors. The record of these considerations that demonstrate the cooperation of KWilson and the Quarry to create this Mitigation Preserve is extensive. Relevant portions of this record accompany the paper copy of these comments submitted to the County as Exhibit 10. None of this record is discussed in the SEIR.

So, if the right of way required by the County permit **can** be obtained by use of the Quarry developer's own land and the land owned by the same person who has cooperated in the development of the Quarry in the past, why isn't it feasible for the developer to obtain and use it? We don't know and the SEIR doesn't address the issue. The SEIR does not discuss this issue of feasibility at all.

The SEIR's silence on this issue is especially remarkable since the co-author of the SEIR asserted on behalf of the County on August 19, 2016 (after the developer had requested modifications to the permit) that the widening of Roblar Road **would** in fact occur on the lands of Kenneth and Clairette Wilson and that the County had conceptual plans to prove it. The assertions are contained in an email of that date from Mr. Blake Hillegas (attached as Exhibit 7) to one of the property owners listed on Exhibit 3 and reads as follows:

" The Roblar Road widening would occur within the fenceline/right of way on the south side of Roblar and would occur on the Lands of Kenneth and Clairette Wilson on the North Side.

Wee conceptual plans if you would like to see them."

See email of Blake Hillegas dated August 19, 2016
attached as Exhibit 7.

Consistent with their silence on this issue, the authors of the SEIR do not address the County's assertion (made after the developers' initial request for modifications to the permit) that the widening of Roblar road would occur on KWilson Wilson land, nor its timing, nor does it make any reference any to the County's conceptual plans that show it .

VI. The SEIR does not demonstrate that the relocation of American Creek is necessary nor does it show why it should not be found to conflict with other laws and County ordinances.

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First, as the County has admitted in the October 16, 2018 hearing before the Board of Supervisors, the relocation of American Creek is necessary only if the Quarry cannot feasibly acquire right of way on land on the west side of Roblar Road directly across from where the Creek flows through Quarry property. The SEIR shows this land is owned by either Ms. McKnight or the Shelling Trust.

There is no showing in the SEIR or in the record reviewed by CAARQ to date that the developer has made any feasible offers to these landowners. Until it is clear from the record that the demand for this property is infeasible, given the expected profits from the Quarry operations, the relocation of Americano Creek with all its attendant environmental impacts is not necessary and should not be approved.

Second, the County has no final jurisdiction over the relocation of a streambed or waterway in California. That jurisdiction rests with the California Department of Fish and Wildlife. The developer must first obtain a California Public Resources Code Section 1600 Streambed Alteration Agreement from that agency. CAARQ has made a Freedom of Information Act Request to the Department of Fish and Wildlife to obtain any application for such an Agreement by the Developer or Quarry. See letters attached as Exhibit 8. CAARQ has been informed by that Department that no such requested records exist. Until such time as such an application is approved the County should defer action on the relocation of Americano Creek.

Third, the SEIR acknowledges that unless inapplicable, the relocation of Americano creek conflicts with the provisions of Chapter 26A of the County Code. On October 23, 2012, the Board of Supervisors adopted map amendments to the Open Space Element of the General Plan to designate critical habitat for endangered species. While the SEIR assumes, without analysis, that these provisions should not apply, CAARQ respectfully disagrees. The relocation of Americano Creek constitutes an independent and subsequent development that should be governed by the current Open Space element of the General Plan. The SEIR does not states facts that justify any opinion or finding that Chapter 26A regarding setbacks should not apply to the plan to relocate Americano Creek.

IV. Conclusion:

For the reasons stated above the SEIR is insufficient to serve as basis for approval of the proposed changes to the County's current permit conditions.

Sincerely,

Michael Molland
on behalf of CAARQ

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SMITH ENGINEERING & MANAGEMENT

October 26, 2018

Michael Molland, Molland Law
30 Fifth Street
Petaluma, CA 94952

Subject: Roblar Road Quarry Project Draft Supplemental Environmental Impact Report (SCH # 2004092099)

Dear Mr. Molland:

At your request, I reviewed Draft Supplemental Environmental Impact Report (the "DSEIR") for the Roblar Road Quarry Project (the "Project") in the County of Sonoma (the "County"). My review is with respect to transportation and circulation considerations.

My qualifications to perform this include registration as a Civil and Traffic Engineer in California and 50 years professional practice in this state. I have prepared or commented on Environmental Documents prepared under the California Environmental Quality Act ("CEQA") on similar projects. My professional resume is attached. Technical comments on the DEIR follow:

The DSEIR Fails to Demonstrate that the Conditioned Project Mitigation Is Infeasible Due to Inability to Obtain Necessary Right-Of-Way

A conditioned mitigation of the Roblar Road Quarry Project is that the Applicant improve Roblar Road from the Quarry entry to Access Road 2. These improvements include widening Roblar Road to provide two 12-foot-wide vehicle travel lanes with 6-foot-wide paved shoulders, 2-foot-wide rock shoulders, and associated striping to meet Class II bicycle facilities. Those improvements fully meet current applicable roadway design standards. Now the Applicant claims that an inability to obtain the necessary right-of-way to implement the above mitigation improvements to Roblar Road renders that mitigation infeasible and proposes a lesser design for Roblar Road improvements that, as the DSEIR admits, fails to meet minimum applicable roadway design standards. However,

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the claim of infeasibility of implementing the Roblar Road improvement as conditioned due to inability to obtain necessary right-of-way is not demonstrated. The DSEIR presents no evidence of valid and feasible monetary offers for designated plots of land to be conveyed from current owners and of their rejection of those offers. Instead, the DSEIR preparers apparently accept the Applicant's claim of inability to obtain necessary right-of-way based solely on the Applicant's statement of infeasibility. Furthermore, the land ownership displayed on the various panels of Figure 2-7a through 2-7h indicate that, other than lands already under control of the Applicant's family, right-of-way is needed from trusts of Kenneth and Clarette Wilson. As indicated on DSEIR Figure 2-7a, from Roadway Section 1 through the midpoint of Roadway Section 7, necessary right of way could be obtained on the north side of Roblar Road from trusts of Kenneth and Clarette Wilson. From the midpoint of Roadway Section 7 proceeding northeasterly to the Applicant's own property line in Roadway Section 11, necessary right-of-way could be obtained on the southeast side of Roblar Road from lands also held in the trusts of Kenneth and Clarette Wilson. The Kenneth and Clarette Wilson family has previously been cooperative with the development of the Roblar Road Quarry. Indeed, an early proposal for Quarry access involved a haul road across Kenneth and Clarette Wilson lands toward Valley Ford Road.

The Compromise to Safety Inherent in the Proposed Sub-standard Design Is Significant

Vehicle operators simply do not always drive with their vehicles perfectly positioned along the alignment of the roadway. This is why traffic lanes are wider than the widest vehicles allowed to use them. Gravel haul trucks are typically 8.5 feet wide, but their mirror to mirror width may be as wide as 10 feet. Thus, the 12-foot lane width in the currently required Roblar Road design provides 1.75 feet leeway to either side of the perfect lane-center vehicle positioning before the vehicle body encroaches on the opposed traffic lane or the shoulder area and 1 foot leeway for mirror encroachment. By contrast, the sub-standard design now proposed by the Applicant provides only 1.25 feet of leeway to either side before encroachment by the truck body and only 6 inches leeway before mirror encroachment. This 43 percent reduction in the leeway from perfect alignment for body encroachment and 50 percent reduction in leeway for mirror encroachment. When considered from the naïve and superficial perspective of absolute change in the lane width, the change from 12 to 11 foot lanes (an 8.3 percent reduction) may seem inconsequential, but when one recognizes that this change requires drivers of heavy trucks to be up to 50 percent closer to perfect in maintaining their alignment on the road to avoid hazardous encroachment and conflict, it becomes clear that the reduction in lane width is highly significant.

The proposed change in shoulder width is similarly significant from a safety perspective. In the required design with a combined 8 feet of paved and rock shoulder, a disabled vehicle or one in which a driver pauses to take a cell phone

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call, sort out a dispute among unruly child passengers, a tourist pauses to take in or photograph a scenic view or stops for myriad other reasons, can stop completely off the traveled way.¹ However, in the Applicant's currently proposed sub-standard design with only a combined 5 feet of paved and rock shoulder, almost any light duty passenger vehicle that stops will project for some distance into the travel lane. This difference is clearly consequential for safety.

The Applicant's sub-standard design is also has significantly detrimental for bicyclist safety. In the required design, with six feet of paved and two feet of rock shoulder on each side has many beneficial effects for bicyclists.

- It allows bicyclists to pass one another without entering the motor vehicle travel lanes.
- It, together with the added traffic lane width of the required design, provides a separation that limits the wind blast effects on bicyclists' stability that near passage by heavy vehicles creates.
- It provides maneuvering space for bicyclists within the shoulder area without encroaching on the motor vehicle traffic lanes to evade gravel spills that DSEIR admits the Quarry hauling trucks will inevitably create.
- It allows the County to designate this segment of Roblar Road as a Class II Bike lane under Caltrans Highway Design Manual.
- It provides adequate space for the occasional large group touring bicycle parties that the limited DESEIR observations document do take place on possibly a weekly basis.

All of the above are positive safety features of the required design.

By contrast, the Applicant's sub-standard design with only 3 feet of paved shoulder requires bicyclists to maintain a perfect course to avoid encroaching on the motor vehicle travel lanes or going off into the rock shoulder. It provides no room for bicyclists to pass one-another without entering the motor vehicle traffic lanes. It provides little to no separation to mitigate wind buffering effects on bicyclist stability when heavy vehicles pass. It provides no room for bicyclists to avoid spilled gravel or other obstructions without entering the motor vehicle travel lanes or going off into the rougher rock shoulder. It makes the travel of large touring groups less safe. Overall, it makes the potential for hazardous conflict between motor vehicles and bicyclists significantly greater.

These safety related considerations between the currently required design that conforms to applicable standards and the Applicant's proposed sub-standard

¹ Most current and recent light duty passenger vehicles including vans and pick-ups are less than 7 feet in width.

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design are so substantial that it is unreasonable for the County to modify the conditions of approval under findings of overriding considerations to degrade the mitigation of the Projects impacts to the Applicant's current sub-standard proposal. It is my professional opinion that the County would incur substantial liability should it do so and a probable unfortunate incident should occur attributable to the acceptance of the sub-standard mitigation it once required.

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The Claimed Waiver from Design Standards Based on Prior Accident Experience is Inapplicable and Irrelevant

The DSEIR claims that Roblar Road's low accident experience relative to County and Statewide averages for similar roads establishes a condition for waiving the requirement for conformance to applicable design standards. However, this ignores the controlling fact that the Quarry Project would significantly alter the volume and character of traffic on the road. The original EIR, which the DSEIR reiterates, would add an average of 302 heavy truck trips per day and a peak of 480 heavy truck trips per day – 27 trips per hour and 43 trips per hour peak – (totals that we are convinced are understated), These changes in heavy truck traffic disclosed in the DSEIR change the entire character of traffic on the affected segment of Roblar Road. The changes in truck traffic disclosed in the original DEIR and DSEIR, would increase average overall weekday traffic by 17.8 percent and increase average weekday truck traffic by 855 percent, with heavy truck traffic becoming 17.3 instead of 2.3 percent of overall traffic. On peak days according to data disclosed the DEIR and DSEIR, heavy truck traffic would increase by 1300 percent over existing truck traffic. These massive changes in the character of traffic on Roblar Road, which would continue over a 20-year period, invalidate any comparison to prior statistics of traffic collision experience.

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Creek Channel Relocaion Issues Are Irrelevant to Roadway Design

The County should not be deluded that the proposed to relocate Americano Creek is specific to infeasibility of the required roadway design to comply with Approval Condition 101. The Applicant's proposed sub-standard roadway design necessitates the same creek relocation as would the required roadway design that complies with applicable design standards. We also note that the requested modification to Approval Condition 133, while unrelated to Roblar Road conditions, by inserting the words "as feasible" guts the intended protections of that condition for the convenience of the applicant.

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Conclusion

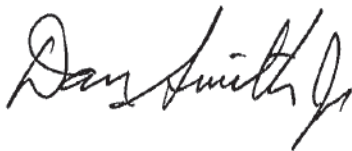
This completes my comments on the Roblar Road Quarry Road DSEIR. For reasons stated above, the DSEIR's analysis is unreasonable, inadequate and does not support changing the required design of Roblar Road to a sub-standard one under findings of overriding considerations.

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Sincerely,

Smith Engineering & Management
A California Corporation



Daniel T. Smith Jr., P.E.



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SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr. President

EDUCATION

Bachelor of Science, Engineering and Applied Science, Yale University, 1967
Master of Science, Transportation Planning, University of California, Berkeley, 1968

PROFESSIONAL REGISTRATION

California No. 21913 (Civil) Nevada No. 7969 (Civil) Washington No. 29337 (Civil)
California No. 938 (Traffic) Arizona No. 22131 (Civil)

PROFESSIONAL EXPERIENCE

Smith Engineering & Management, 1993 to present, President.
DKS Associates, 1979 to 1993. Founder, Vice President, Principal Transportation Engineer.
De Leuw, Cather & Company, 1968 to 1979. Senior Transportation Planner.
Personal specialties and project experience include:

Litigation Consulting. Provides consultation, investigations and expert witness testimony in highway design, transit design and traffic engineering matters including condemnations involving transportation access issues; traffic accidents involving highway design or traffic engineering factors; land use and development matters involving access and transportation impacts; parking and other traffic and transportation matters.

Urban Corridor Studies/Alternatives Analysis. Principal-in-charge for State Route (SR) 103 Feasibility Study, a 35-mile freeway alignment study north of Sacramento. Consultant on I-280 Interstate Transfer Concept Program, San Francisco, an AA/EIS for completion of I-280, demolition of Embarcadero freeway, substitute light rail and commuter rail projects. Principal-in-charge, SR 238 corridor freeway/expressway design/environmental study, Hayward (Calif.) Project manager, Sacramento Northeast Area multi-modal transportation corridor study. Transportation planner for I-80N West Terminal Study, and Harbor Drive Traffic Study, Portland, Oregon. Project manager for design of surface segment of Woodward Corridor LRT, Detroit, Michigan. Directed staff on I-80 National Strategic Corridor Study (Sacramento-San Francisco), US 101-Sonoma freeway operations study, SR 92 freeway operations study, I-880 freeway operations study, SR 152 alignment studies, Sacramento RTD light rail systems study, Tasman Corridor LRT AA/EIS, Fremont-Warm Springs BART extension plan/EIR, SRs 70/99 freeway alternatives study, and Richmond Parkway (SR 93) design study.

Area Transportation Plans. Principal-in charge for transportation element of City of Los Angeles General Plan Framework, shaping nations largest city two decades into 21st century. Project manager for the transportation element of 300-acre Mission Bay development in downtown San Francisco. Mission Bay involves 7 million gsf office/commercial space, 8,500 dwelling units, and community facilities. Transportation features include relocation of commuter rail station; extension of MUNI-Metro LRT; a multi-modal terminal for LRT, commuter rail and local bus; removal of a quarter mile elevated freeway; replacement by new ramps and a boulevard; an internal roadway network overcoming constraints imposed by an internal tidal basin; freeway structures and rail facilities; and concept plans for 20,000 structured parking spaces. Principal-in-charge for circulation plan to accommodate 9 million gsf of office/commercial growth in downtown Bellevue (Wash.). Principal-in-charge for 64 acre, 2 million gsf multi-use complex for FMC adjacent to San Jose International Airport. Project manager for transportation element of Sacramento Capitol Area Plan for the state governmental complex, and for Downtown Sacramento Redevelopment Plan. Project manager for Napa (Calif.) General Plan Circulation Element and Downtown Riverfront Redevelopment Plan, on parking program for downtown Walnut Creek, on downtown transportation plan for San Mateo and redevelopment plan for downtown Mountain View (Calif.), for traffic circulation and safety plans for California cities of Davis, Pleasant Hill and Hayward, and for Salem, Oregon.

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Transportation Centers. Project manager for Daly City Intermodal Study which developed a \$7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco. In Santa Clarita Long Range Transit Development Program, responsible for plan to relocate system's existing timed-transfer hub and development of three satellite transfer hubs. Performed airport ground transportation system evaluations for San Francisco International, Oakland International, Sea-Tac International, Oakland International, Los Angeles International, and San Diego Lindberg.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Parking. Parking programs and facilities for large area plans and individual sites including downtowns, special event facilities, university and institutional campuses and other large site developments; numerous parking feasibility and operations studies for parking structures and surface facilities; also, resident preferential parking.

Transportation System Management & Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others. Participated in development of photo/radar speed enforcement device and experimented with speed humps. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning, on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Homburger *et al.* Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard *et al.*, U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.

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cont.

Michael Kavanaugh
Research Economist

11544 24th Ave, NE
Seattle WA. 98125

October 26, 2018
<m.kavanaugh@att.net>

By email:

Law Offices
Michael Molland
<mmolland@mollandlaw.com>

And

Sue Buxton
<sbuxton59@gmail.com>

Re: report on expected return to equity over 20 years

Dear Mr. Molland and Ms. Buxton:

I have completed my economic analysis of the expected return to equity (profits) available from twenty (20) years of development of the Stony Point rock quarry. I have formed an opinion using the assumptions and data stated below. I find that over a 20-year period the quarry is likely to provide a revenue stream of \$191.25 million and experience a 10.6% return to equity. This results in a \$20.27 million return to equity.

I developed this opinion using methods of analysis that are used widely in the economics profession and applied these methods using conservative assumptions about the price of rocks and the quantities of rocks sold. I believe my opinions are stated to a reasonable degree of certainty under the standards of my profession.

The key variables in the analysis are: the quantity of rock likely to be sold; the price of the rock sold; and, the return to equity (equity's share).

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1.0 Quantity of rock

I estimate the quantity of rock mined at 15 million tons over a twenty (20) year period. This estimate is based on measures reported in the Supplemental Environmental Impact Report (EIR) and readily available factors for converting Cubic yards to tons.

The (EIR) states that 11.4 million cubic yards (CY) of rock are likely to be mined over a 20-year period.

"Under the approved Modified Alternative 2, all aspects of the on site quarry characteristics and operations will be identical to that originally proposed, including the maximum permitted production rate (570,000 CY per year), total volume of aggregate that could be mined (11.4 million CY over the 20-year use permit)..."

Available references indicate that a CY weighs more from 1.2 to 1.45 tons.¹ For purposes of this analysis, I convert the EIR's 11.4 million cubic yards to millions of tons using a conversion factor of 1.3. So the estimated tonnage is 15 million tons. To the extent that rock from this quarry is nearer to the upper end of the conversion from cubic yards to tons (i.e. 16.5 million tons), then 15 million tons will understate the tonnage removed from this quarry and this will impart a conservative influence on revenue and profit estimates.

2.0 Price of rock.

Price data for a ton of rock is available from the nearby Stony Point Quarry. See Table 1. It shows that price per ton varies but clusters in the range of \$10.80 to \$15 per ton. For purposes of this analysis, I price rock using a central amount of - \$12.75. Again, to the extent the rock from this quarry commands a premium, then the use of \$12.75/ton is a conservative influence on revenue estimates. The revenue estimate is:

\$12.75 per ton (x) 15 million tons = \$191.25 million.

¹ See http://www.dansdirtandgravel.com/material_calculator.htm "1 Cubic Yard of Gravel can weigh between 2,400 to 2,900 lbs. or up to one and a half tons approximately".

3.0 Equity's share.

The return to equity, often referred to as profits, is less than the \$191.25 million revenue stream because there are other claims to this revenue stream. These claims arise from the other factors of production including but not limited to a variety of labor, administrative, financial services and taxes.

A widely accepted method to determine the return to equity (i.e. to make an estimate of profit) is to use the capital asset pricing model (CAPM).² CAPM has three components: a risk-free rate, a risk premium and a measure of project risk (often referred to as *Beta*).

I selected:

- An expected risk-free rate by considering the return on U.S. Treasury bills in light of current conditions;
- An expected risk premium by considering the average amount by which stock market returns exceed the return on U.S. Treasury bills over a long time horizon; and
- A Beta of one by assuming that the development of the quarry entails average risks.

Expected risk-free rate. In my opinion the better indicator of an expected risk-free return is the average return over a long period of time on 91-day U.S. Treasury bills. These bills are obligations of the U.S. government and bear no default risk. Since they are redeemed in ninety-one days they have almost no unanticipated inflation risk. A long-term average of U.S. Treasury bill rates is 3.5%.³ Since the last quarter of 2008, however, U.S. Treasury bill rates have been below their average level. Of late, they have begun to return to their pre-2008 levels.

For purposes of this assignment, I use a risk-free rate of 2.5% to estimate the return to equity using CAPM.

² The developer of CAPM was awarded 1990 Nobel Prize in Economics.

³ See Damodarian, Aswarth, Historical Returns Stocks Bonds, Bills, U.S. Companies. (See the table appended to this letter.)

Expected risk premium. The annual risk premium fluctuates widely. I favor using a data series with many observations. Ibbotson pioneered the creation and use of a large data series on historical returns in U.S. common stocks.⁴ This series is now available from New York University.⁵ This data set supports a premium of 8.1%.

The equity return for a remunerative project of average risk is: 10.6 %
 $(8.1\% + 2.5\%) * 1 = 10.6\%$
 (Risk premium + risk free rate) * Beta = Equity return.

4.0 Estimate of expected profit

I find that over a 20-year period the quarry is likely to provide a revenue stream of \$191.25 million and experience a 10.6% return to equity. This results in a \$20.27 million return to equity.

Respectfully

mkavanaugh

Michael Kavanaugh

Attachments

1. Table 1: Price of Rock
2. Table US Financial Markets Returns
3. Resume

⁴ See: Stocks, Bonds, Bills and Inflation, Yearbooks, Ibbotson Associates

⁵ See: Damodarian, Aswarth, *ibid.*

Table 1: Price of rock

Product	\$/Ton	ref.
3/8 Chip	35	1
3/4 class 2 recycled base	15.5	2
1 -1/2 sub-base	12	3
7/16 minus fines	13	4
3/4 minus sub base	10.8	5

<http://stonypointrockquarry.com/product/3-8%E2%80%B3-chip/>

<http://stonypointrockquarry.com/product/3-4%E2%80%B3-class-2-recycled-base/>

<http://stonypointrockquarry.com/product/1-1-2%E2%80%B3-aggregate-subbase/>

<http://stonypointrockquarry.com/product/7-16%E2%80%B3-minus-quarry-fines/>

<http://stonypointrockquarry.com/product/3-4%E2%80%B3-aggregate-subbase%E2%80%A8/>

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Table 2 US Financial Markets Returns

<i>Year</i>	Historical returns: Stocks & T-Bill	
	<i>S&P 500 (includes dividends)</i>	<i>3-month T-Bill</i>
1928	43.81%	3.08%
1929	-8.30%	3.16%
1930	-25.12%	4.55%
1931	-43.84%	2.31%
1932	-8.64%	1.07%
1933	49.98%	0.96%
1934	-1.19%	0.32%
1935	46.74%	0.18%
1936	31.94%	0.17%
1937	-35.34%	0.30%
1938	29.28%	0.08%
1939	-1.10%	0.04%
1940	-10.67%	0.03%
1941	-12.77%	0.08%
1942	19.17%	0.34%
1943	25.06%	0.38%
1944	19.03%	0.38%
1945	35.82%	0.38%
1946	-8.43%	0.38%
1947	5.20%	0.57%
1948	5.70%	1.02%
1949	18.30%	1.10%
1950	30.81%	1.17%
1951	23.68%	1.48%
1952	18.15%	1.67%
1953	-1.21%	1.89%
1954	52.56%	0.96%
1955	32.60%	1.66%
1956	7.44%	2.56%
1957	-10.46%	3.23%
1958	43.72%	1.78%

1959	12.06%	3.26%
1960	0.34%	3.05%
1961	26.64%	2.27%
1962	-8.81%	2.78%
1963	22.61%	3.11%
1964	16.42%	3.51%
1965	12.40%	3.90%
1966	-9.97%	4.84%
1967	23.80%	4.33%
1968	10.81%	5.26%
1969	-8.24%	6.56%
1970	3.56%	6.69%
1971	14.22%	4.54%
1972	18.76%	3.95%
1973	-14.31%	6.73%
1974	-25.90%	7.78%
1975	37.00%	5.99%
1976	23.83%	4.97%
1977	-6.98%	5.13%
1978	6.51%	6.93%
1979	18.52%	9.94%
1980	31.74%	11.22%
1981	-4.70%	14.30%
1982	20.42%	11.01%
1983	22.34%	8.45%
1984	6.15%	9.61%
1985	31.24%	7.49%
1986	18.49%	6.04%
1987	5.81%	5.72%
1988	16.54%	6.45%
1989	31.48%	8.11%
1990	-3.06%	7.55%
1991	30.23%	5.61%
1992	7.49%	3.41%
1993	9.97%	2.98%
1994	1.33%	3.99%
1995	37.20%	5.52%
1996	22.68%	5.02%
1997	33.10%	5.05%

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cont.

1998	28.34%	4.73%
1999	20.89%	4.51%
2000	-9.03%	5.76%
2001	-11.85%	3.67%
2002	-21.97%	1.66%
2003	28.36%	1.03%
2004	10.74%	1.23%
2005	4.83%	3.01%
2006	15.61%	4.68%
2007	5.48%	4.64%
2008	-36.55%	1.59%
2009	25.94%	0.14%
2010	14.82%	0.13%
2011	2.10%	0.03%
2012	15.89%	0.05%
2013	32.15%	0.07%
2014	13.52%	0.05%
2015	1.38%	0.21%
2016	11.77%	0.51%
2017	21.64%	1.39%

Average

1928-2017	11.53%	3.44%
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Long term Risk Premium (11.53-3.44) 8.09%
 Twenty- five year risk free 2.50%
 Opportunity Cost = premium + risk free 10.59%

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MICHAEL KAVANAUGH
Research Economist

E-mail: M.Kavanaugh@att.net

513 827 4231 (cell)
 206 588 2018

11544 24th Ave. NE
 Seattle, WA 98125

PRESENT POSITION: Private Practice since 1985
 Seattle, Washington 7/2018 to present
 Volcano, Hawaii 2008 - 2018
 Batavia, Ohio 1993-2008
 Washington, DC 1985-1993

PREVIOUS POSITIONS:

- Senior Economist, ICF Incorporated, 1983-85, Washington, D.C.
- Research Director, Public Interest Economics, 1976-1983, Washington, D.C. and San Francisco, CA.
- Assistant Professor, Northern Kentucky University, 1975-76

EDUCATION:

- PhD., Economics, University of Cincinnati, 1975
- BA. Economics, Xavier University, 1970

EXPERIENCE

- An independent research economist with years of experience;
- A national expert in the economic aspects of environmental enforcement and policies for controlling pollution;
- Experienced in regional economic analysis;
- Experienced in the use of economic indices;
- Experienced in valuing damages to persons, households, and commercial enterprises;
- Experienced in assessing natural resource damages; and,
- An author of groundwater management and climate change papers.

Short descriptions of selected projects follow.

ECONOMICS & FINANCE

I applied economics to many of the environmental changes of the last thirty years including:

- Estimating the ability of defendants to pay a penalty and the financial effects of penalties in enforcement cases;
- Estimating the benefits of cleaner beaches and rivers;

- Developing methods to determine the effects of water quality policies on agricultural output, employment and income;
- Developing methods to estimate the benefits of preserving groundwater quality;
- Advised on the adequacy of financial assurance mechanisms;
- Estimating expected and realized benefits of irrigation projects; and,
- Critiquing efforts to regulate effluents from several industries.

Designed and used financial after-tax, cash flow models to:

- Measure the ability to pay a penalty and the effects of penalties on financial position;
- Estimate the economic benefit gained by entities that violate law and regulation; and,
- Estimate the burden on the residential sector from municipal compliance with law and regulation.

Provided expert economic and litigation support services to the United States (and others) in Clean Water Act, Clean Air Act, Superfund, RCRA and groundwater quality cases.

Exxon Valdez – Estimated the employment and income effects from spending the civil settlement. The work involved characterizing the options in the restoration plan in term of input/output models.

For an environmental group, wrote a declaration on the economic studies needed to establish that a spillover effect was reasonably certain to result from a National Marine Fishery Service proposal to allow an expansion of the Hawaii-based fishing fleet. In the absence of a spillover effect, the expansion of the Hawaii-based fleet would jeopardized an endangered turtle species.

Natural resource damage assessments

- Ohio River – valued public resource damages from spills from tugs and barges. The work combined results from Natural Resource Damage Assessment models, studies of the costs of reducing risks to drinking water, and restoration costs.
- Kailua Beach State Park – valued a three-mile beach based on recreational use and estimated the damage from wastewater treatment plant effluent. The work involved reviewing, updating and synthesizing a variety of studies that valued recreation.

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- Florida Beaches – valued beach closures from pollution at several beaches. The work involved extensive use of the Natural Resource Damage Assessment models for coastal and marine environments.

Energy & Environment

- Commented on economic impacts to employment and structures of planned, utility-scale photovoltaic projects in Southern California.
- Conducted several analyses of U.S. energy industry to estimate current and future energy production and consequences in wetlands and in the North Aleutian Basin.
- Estimated the cost effectiveness of technologies to control produced water discharges in wetlands.
- Estimated the impact of produced water controls on production, royalties and returns from coal bed methane production.
- Estimated the change in rates needed to pay for adopting cooling water intake controls at a nuclear power plant.
- Advised environmental groups on methods to fund the WV acid mine drainage reclamation fund.
- Design team member to size and fund the Superfund.
- Estimated onshore economic impacts of outer continental shelf oil and gas development in California.
- Examined the efficiency and equity of federal leasing policies for oil and gas on public lands

Global Climate

- Estimated current and future greenhouse gas emissions by fuel, sector and region. The work involved estimating long-term energy using an economic model based on prices, income and combustion technology.
- Estimated greenhouse gas emissions by jets at altitude by region and the change in emissions from adopting advanced jet technology.
- Modeled current and future emission from the US automobile fleet under various assumptions about future fuel efficiency.

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- Analyzed the benefits of substituting hydrocarbon propellants for CFC propellants in aerosol products. The results showed the same level of consumer satisfaction could be obtained without CFCs and without increasing prices.

Publications since 2007

None

Federal Court Trial Testimony since July 2013

Sierra Club v. Virginia Electric and Power Company d/b/a Dominion Virginia Power; United States District Court for the Eastern District of Virginia, Richmond, Virginia Civil Case No. 2:15-CV-112-RAJ-DRM-JAG (6/16)

Deposition Testimony since July 2013

Little Hocking Water Association v. Dupont (5/14) 2:09-cv-010BI-GCS-NMK

Ohio Valley Environmental Coalition, et al. v. Consol of Kentucky, Inc., (10/14) cv: 2:13-5005

PennEnvironment and Sierra Club v. PPG, Inc. et al. (1/15) 2:12-cv-00342-RCM

Hawai'i Wildlife Fund, Sierra Club - Maui Group, Surfrider Foundation, and West Maui Preservation Association v. County of Maui (5/15) Civil Case No. 12-00198 SOM, BMK

California Communities Against Toxics v. Armorcast Products Company, Inc. et al. (10/15) Civil Case No. Case No. 2:14-cv-05728-PA-FFM

Sierra Club v. Virginia Electric and Power Company d/b/a Dominion Virginia Power; United States District Court for the Eastern District of Virginia, Richmond, Virginia (5/16) Civil Case No. 2:15-CV-112-RAJ-DRM-JAG

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JOHN AND ANDREA BARELLA
496 JASMINE LANE
PETALUMA, CA 94952

June 23, 2017

Claudia McKnight
5000 Canfield Road
Petaluma, CA 94952

Ronald E & K Wilson Trust
9420 Valley Ford Road
Petaluma, CA 94952

John and Barbara Shelling Trust
8064 Washington Avenue
Sebastopol, CA 95475

Kenneth A & C Wilson Trust
1570 Tomales Road
Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements*

Dear Property Owners:

I am writing to you on behalf of myself, and my wife Andrea, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are likely aware, my wife and I were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, my wife and I are reaching out to each of you to determine whether you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact specifications imposed by the County's Department of Public Works in connection with the Quarry's approval.

Would you please advise me and Andrea, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of

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Property Owners

June 23, 2017

Page 2

you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to my wife and me for purposes of completing previously identified road improvements.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. My wife and I are willing to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening will benefit both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three other possibilities will arise.

First, as many of you may be aware, my wife and I have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, my wife and I are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road impacts to an insignificant level. We hope that you can support our efforts and those of the resource agencies in this regard.

The second possibility is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and approve buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the conditions, previously identified Roblar Road improvements.

Third, absent approval of our requested minor modifications to project conditions, the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to complete the Quarry project.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition gravel mining from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval. We now hope that each of you, as neighbors, can embrace broader community environmental and economic goals and put the ongoing dispute to rest.

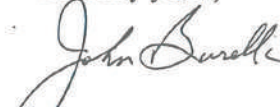
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Property Owners
June 23, 2017
Page 3

We have been good neighbors in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other associated impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

Andrea and I thank you very much for your consideration of our request.

Very truly yours,


John Barella



Andrea Barella

c: Shirlee Zane, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
Stephen K. Butler, Esq.

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cont.

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY
 INCORPORATED

3333 MENDOCINO AVENUE, SUITE 200

SANTA ROSA, CALIFORNIA 95403

FAX: 707 546-1360

TELEPHONE: (707) 523-1181

STEPHEN K. BUTLER

June 6, 2018

**VIA CERTIFIED MAIL
 RETURN RECEIPT REQUESTED**

Claudia McKnight
 5000 Canfield Road
 Petaluma, CA 94952

Ronald E & K Wilson Trust
 9420 Valley Ford Road
 Petaluma, CA 94952

John and Barbara Shelling Trust
 8064 Washington Avenue
 Sebastopol, CA 95475

Kenneth A & C Wilson Trust
 1570 Tomales Road
 Petaluma, CA 94952

Re: *Roblar Road Quarry/Roblar Road Right of Way Improvements/Offer to Purchase
 Land for Right of Way*

Dear Property Owners:

We are writing to you on behalf of John and Andrea Barella, in connection with the road widening improvements associated with the approval of the Roblar Road Quarry (the "Quarry"). As all of you are aware, John and Andrea were applicants for the Roblar Road Quarry which was approved by the Board of Supervisors on December 14, 2010, by way of Resolution No. 10-0903.

In approving the Roblar Road Quarry project, the Board of Supervisors ("Board") recognized that there might be insufficient right of way between the existing fence lines on Roblar Road to complete the road improvements to Roblar Road which were otherwise required as a condition of the project. Recognizing this, the Board made a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") determining that specific economic, legal, social, technological and other benefits of the project outweighed any unmitigated road or other impacts associated with the Quarry's approval. This Statement of Overriding Considerations sanctioned buildout of the project even if Roblar Road could not, due to right of way constraints, be improved to specifications otherwise designated by the County's Department of Public Works.

Regardless, in the spirit of being good neighbors and in the spirit of fulfilling project conditions to the letter, John and Andrea reached out to each of you by way of correspondence dated June 23, 2017, to determine whether each of you would be willing to sell any of your respective lands abutting Roblar Road for the purpose of improving Roblar Road to the exact

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Roblar Road Property Owners
June 6, 2018
Page 2

specifications imposed by the County's Department of Public Works in connection with the Quarry's approval. Such offer was, at that time, responded to by way of deafening silence other than Ronald and Kathy Wilson's letter of July 11, 2017, which rejected the offer. The purpose of this letter is to reiterate the Barellas' offer and to provide greater detail regarding such offer.

Would you please advise us, in writing, whether each or any of you would be willing to sell a small strip of your respective lands abutting Roblar Road which may be necessary to comply with the exact letter of the County Public Works' conditions? We request that you respond within 14 days of the date of this letter or we shall assume that one or more of you are unwilling to voluntarily convey, for just compensation, any portion of your right of way to the Barellas for purposes of improving Roblar Road to previously identified County Road Standards.

The terms of the Barellas' offer follows as to each of you:

<i>Name</i>	<i>APN</i>	<i>Area to be Purchased*</i>	<i>Dollar Amount**</i>
Claudia McKnight	027-080-004	.28 x 8,000 sq. ft.	\$ 2,240.00
	027-210-007	.28 x 32,000 sq. ft.	\$ 8,960.00
			<i>Total \$11,200.00</i>
John and Barbara Shelling Trust	027-080-005	.28 x 15,000 sq. ft.	<i>Total \$4,200.00</i>
Ronald E & K Wilson Trust	027-210-005	.28 x 29,700 sq. ft.	\$ 8,316.00
	022-300-010	.28 x 55,000 sq. ft.	\$15,400.00
			<i>Total \$23,716.00</i>
Kenneth A & C Wilson Trust	022-290-008	.28 x 63,800 sq. ft.	\$17,864.00
	022-290-007	.28 x 20,900 sq. ft.	\$ 5,852.00
			<i>Total \$23,716.00</i>

*One acre is equal to 43,560 square feet

**\$12,000 per acre or .28 square feet

The foregoing offer was based on recent independent appraisal information which identified property values in your area between \$4,800 and \$11,200 per acre. The independent appraisal, not commissioned by the Barellas, was based on eight comparables with a median value of \$7,800 per acre. The offer made here is more than the highest end of the range. Please note that the only contingency in this offer is that the project only requires the acquisition of either the lands of the Ronald E & K Wilson Trust or the lands of the Kenneth A & C Wilson Trust, not both. Accordingly, if either the Ronald E & K Wilson Trust or the Kenneth A & C Wilson Trust accepts the Barellas' offer as set forth herein, then the offer to the other shall be considered immediately withdrawn.

Should you need additional time to consider this matter, we request that you respond, in writing, within 14 days, indicating that you need additional time and the time needed to consider this offer. The Barellas have offered to pay fair market value for any property acquired from any of you for the purpose of further widening Roblar Road. This widening is intended to benefit

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Roblar Road Property Owners
June 6, 2018
Page 3

both your neighborhood and the community at large. In the event that one or more of you are unwilling to voluntarily part with a portion of your land bordering Roblar Road, three options remain.

— First, as all of you are aware, the Barellas have submitted an application for minor modifications to some of the conditions imposed on the Quarry by the Board in 2010. With respect to the conditions relating to the improvement of Roblar Road, the Barellas are now proposing to realign the road and the creek in a southerly direction which would avoid any need to acquire any of your respective properties for purposes of widening Roblar Road. The proposed project modifications relating to Roblar Road not only would avoid the necessity for acquiring a small portion of your respective properties, but, based on communications with all of the resource agencies consulted, will achieve a superior environmental benefit both for the creek and the ongoing use and maintenance of Roblar Road, as well as mitigate Roblar Road traffic/bicycle safety impacts to an insignificant level. We continue to hope that you can support the Barellas' efforts and those of the resource agencies in this regard. Alternatively, should you continue to oppose a modified Quarry project and disregard its environmental benefits and file suit to litigate any modified Quarry project, the Barellas intend to build out the Quarry in accordance with the 2010 Board approvals.

The second option is that the Board does not approve the modifications to the realignment of Roblar Road and the creek, in which case, the County may simply rely on its previously adopted Statement of Overriding Considerations and the Barellas will continue buildout of the Quarry, notwithstanding the fact that insufficient right of way may be available to complete, to the letter of the current conditions, previously identified Roblar Road improvements.

The third option, absent approval of the Barellas' requested minor modifications to project conditions, is that the County may determine that since the road widening improvements were imposed upon the Quarry project as mitigation measures under CEQA, the County may have an obligation, pursuant to its adopted Mitigation Monitoring Program, to condemn the requisite portions of your land. This alternative would, of course, involve both you and the County in condemnation litigation in order to obtain the land which the Barellas have offered to buy as set forth above.

We know that the approval and buildout of the Quarry has been, and continues to be, a long and arduous and, at some times, contentious proceeding, notwithstanding the fact that the Roblar Quarry has been designated as a quarry site by the County since the adoption of its original ARM plan in 1982. While the County has worked hard to satisfy its commitments to transition County gravel production from the Russian River terraces and instream mining of the Russian River and its tributaries in favor of replacing locally needed hard rock through the mining of hard rock quarries, such transition has been subject to past and ongoing delays, as evidenced by the Roblar Quarry approval and your past, and apparently ongoing, opposition. We continue to hope that each of you, as neighbors, can embrace broader community environmental, fire recovery and economic goals and put the ongoing dispute to rest.

The October 2017 fires created tragic havoc upon Sonoma County and resulted in the damage or destruction of thousands of residential and commercial structures. The rebuilding of

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Roblar Road Property Owners
June 6, 2018
Page 4

our community requires not only overburden for soil remediation resulting from the fires, but also construction grade aggregate to rebuild our stricken community. You now have another opportunity to partner with the broader community and further both State and County goals to have a State required local supply of aggregate or choose to oppose these benefits in favor of a perceived defense of your insular enclave to the detriment of both the Barellas and the community at large.

The Barellas have been good neighbors and community supporters in the past and will continue to be so in the future. Currently, suitable road aggregate is being brought in by barge from Canada with associated greenhouse gas, truck and other impacts. The ultimate development of the Roblar Road Quarry will reduce all of these impacts and further long range County planning goals which have been in place for 35 years. We hope that each of you can join with us in the spirit of cooperation by putting aside any past differences in the interests of completing this necessary, critical and long overdue project.

We and the Barellas thank you very much for your consideration of the offers set forth herein.

Very truly yours,


STEPHEN K. BUTLER

SKB/pd

c: James Gore, Chair, Sonoma County Board of Supervisors
David Rabbitt, 2nd District Supervisor, Sonoma County Board of Supervisors
Shirlee Zane, 3rd District Supervisor, Sonoma County Board of Supervisors
Susan Gorin, 1st District Supervisor, Sonoma County Board of Supervisors
Lynda Hopkins, 5th District Supervisor, Sonoma County Board of Supervisors
Jennifer Barrett, Deputy Director-Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel
Arthur F. Coon, Esq.
John and Andrea Barella

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cont.

July 11, 2017

John and Andrea Barella
496 Jasmine Lane
Petaluma, California 94952

Shirley Zane
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403

David Rabbitt
Sonoma County Board of Supervisors
575 Administration Drive, Room 100A
Santa Rosa, California 95403


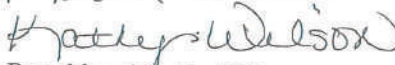
RE: Roblar Road Quarry

Dear Mr. & Mrs. Barella, Supervisor Zane, Supervisor Rabbitt:

This responds to the June 23, 2017 letter of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane and Mr. Rabbit. First, we note the June 23 letter does not specify the exact location or amount of our land adjoining Roblar Road in which you express interest, nor does it offer any specific price for it. Accordingly, we assume it was written primarily to serve as leverage as part of the Quarry owners negotiations with Sonoma County to avoid their compliance with the permit conditions which are referred to in the letter. We believe the June 23 letter to us and the other property owners, since it lacks these specific terms, is insufficient for this purpose. However, we believe Sonoma County should enforce its previously adopted permit conditions on any future operation of the Quarry project, and we write now to express our hope our officials will do so.

While we opposed the permitting of the Quarry Operation, the Board of Supervisors in 2010 eventually approved the project subject to permit conditions necessary to protect the safety of the Sonoma County residents and their environment. We encourage the current Board of Supervisors to enforce any attempts to weaken or change these conditions. To our mind, the proposed modifications to these permits cannot, as the letter asserts, be "minor", otherwise we would not have been sent the letter of June 23. We request Ms. Zane and Mr. Rabbitt and our County officials to continue to insist on these permit conditions to protect our land, water, and public safety.

Sincerely,



Ronald and Kathy Wilson

cc: Jennifer Barrett, Deputy Director – Planning, Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Jeffrey Brax, Chief Deputy County Counsel, Office of the Sonoma County Counsel
Claudia McKnight
John & Barbara Shelling Trust
Kenneth A & C Wilson Trust

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cont.

June 19, 2018

Steven Butler
Clement Fitzpatrick and Kenworthy
3333 Mendocino Ave., Suite 200
Santa Rosa, CA 95403

Ms. Shirley Zane
Shirlee.Zane@sonoma-county.org

Mr. David Rabbitt
David.Rabbitt@sonoma-county.org

Mr. James Gore
James.Gore@sonoma-county.org

Ms. Susan Gorin
Susan.Gorin@sonoma-county.org

Ms. Lynda Hopkins
Lynda.Hopkins@sonoma-county.org

Mr. Butler and Supervisors:

This responds to your June 6, 2018 inquiry on behalf of Mr. and Mrs. Barella to us and three other property owners, which was also copied to Ms. Zane, Mr. Rabbitt, Mr. Gore, Ms. Gorin and Ms. Hopkins.

Like the earlier, June 23, 2017 letter of the Barella's to us on the same subject, we assume it was written primarily to serve as leverage as part of the Quarry owners' negotiations with the County of Sonoma to avoid compliance with existing or possible future permit conditions for the Quarry. To our mind, the proposed modifications sought by the Quarry owners (which are referred to but not described in your letter) to the existing permit are not, as you represent, "minor". We expect and understand that they will and should require review under the California Environmental Quality Act and further consideration by the Sonoma County Board of Supervisors. After this impartial review and consideration has taken place, we expect to be in an informed position to consider your inquiry.

Sincerely,

Ronald and Kathleen Wilson

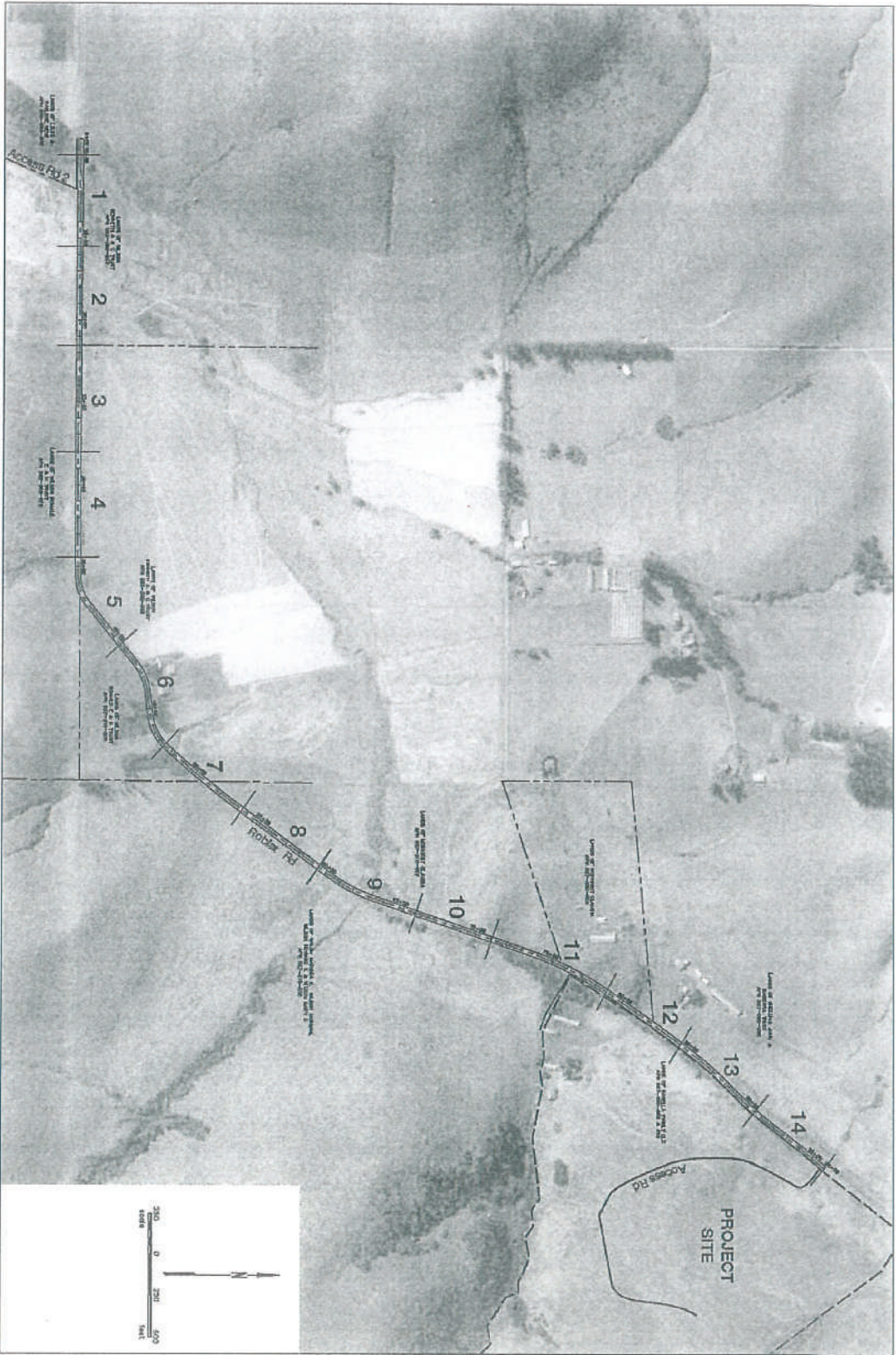


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cc: Jennifer Barrett, Deputy Director - Planning , Sonoma County PRMD
Blake Hillegas, Planning Supervisor, Sonoma County PRMD
Verne Ball, Deputy County Counsel, Office of the Sonoma County Counsel

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cont.

2-14

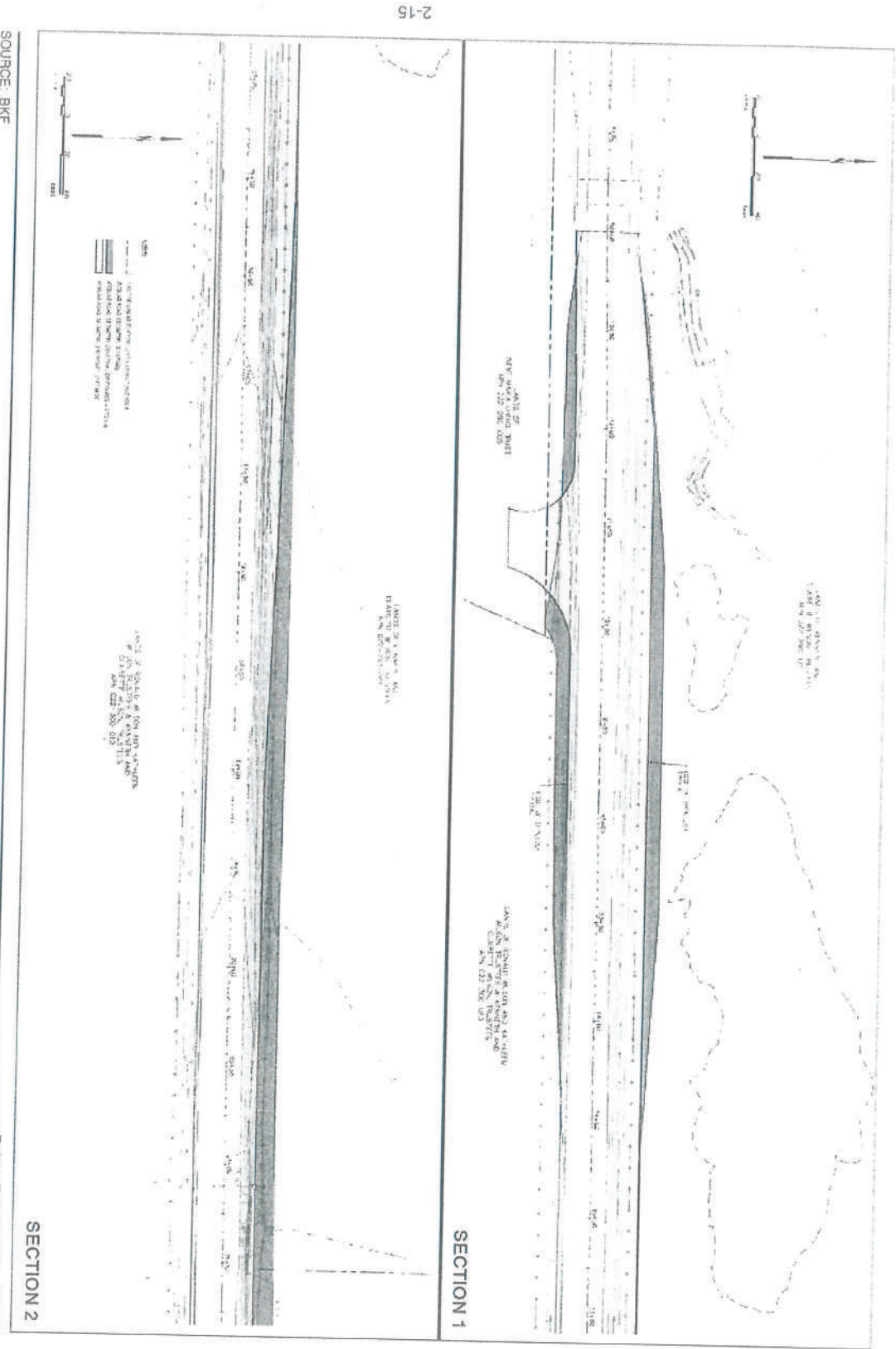


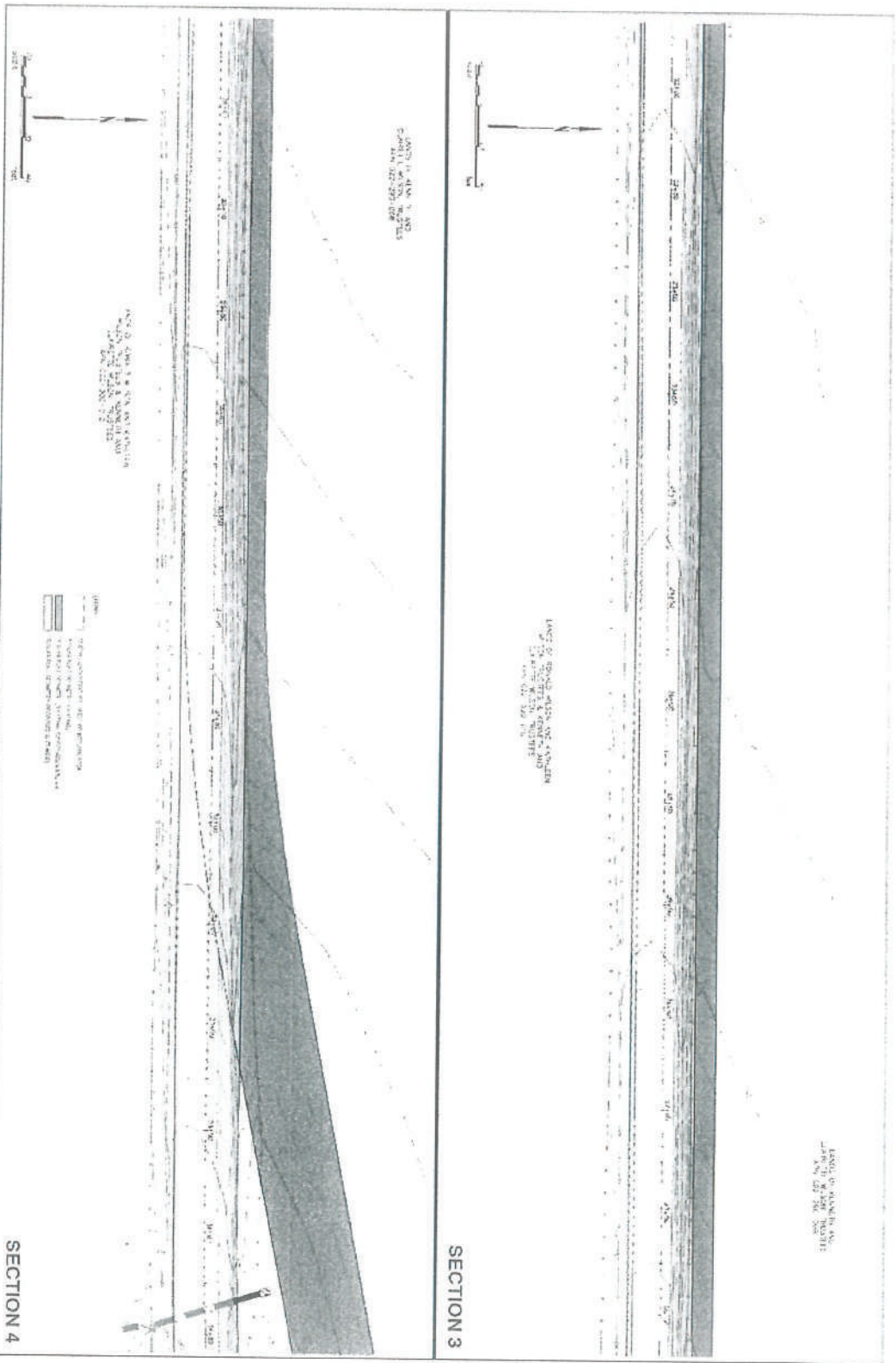
SOURCE: BKF

Roblar Road Quarry, 160752

Figure 2-7a

Index Map to Proposed Roblar Road Improvements Figures





SOURCE: BKF

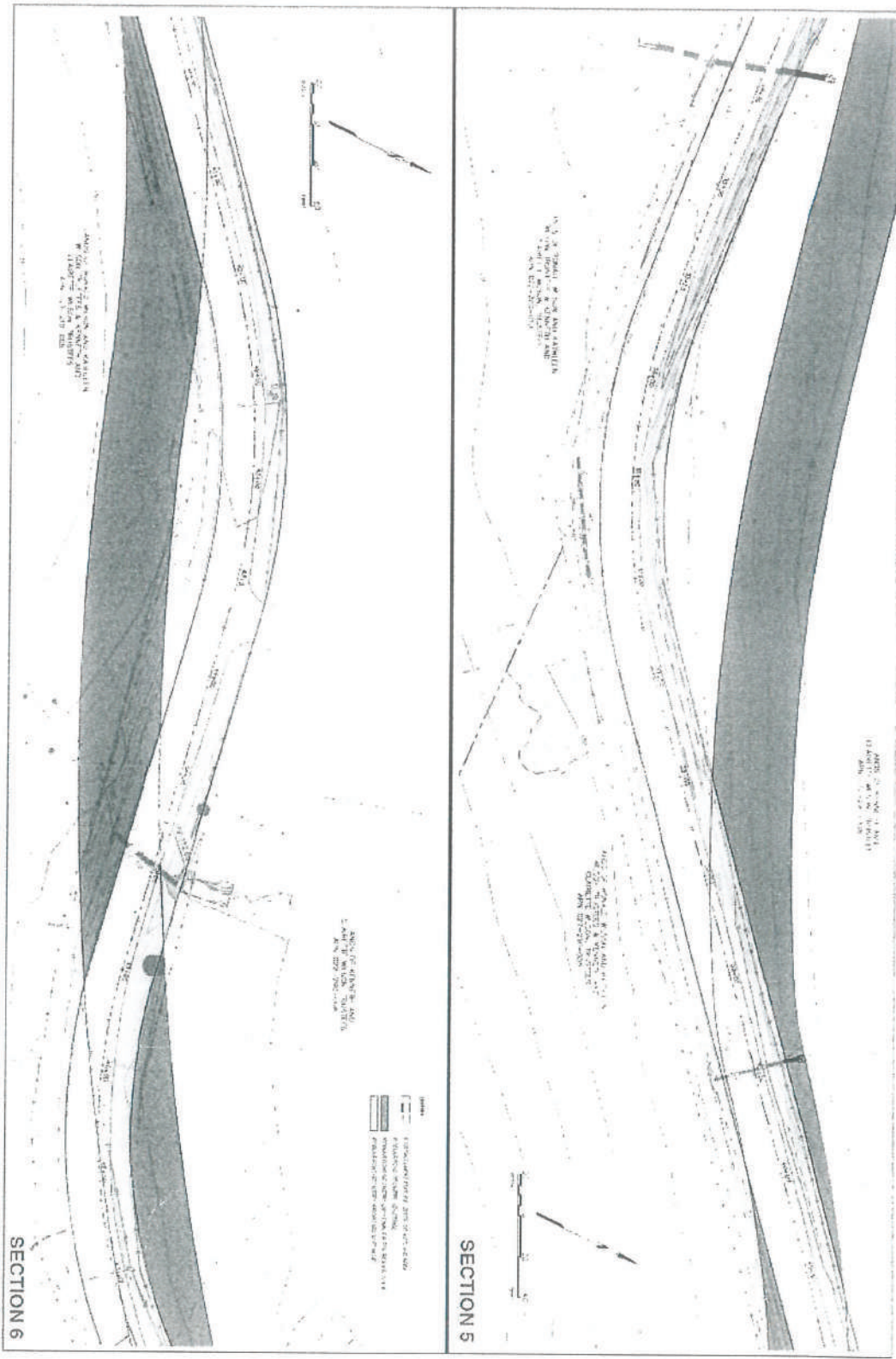
Roblar Road Quarry . 160752

Figure 2-7c

Proposed Roblar Road Improvements,
Sections 3 and 4

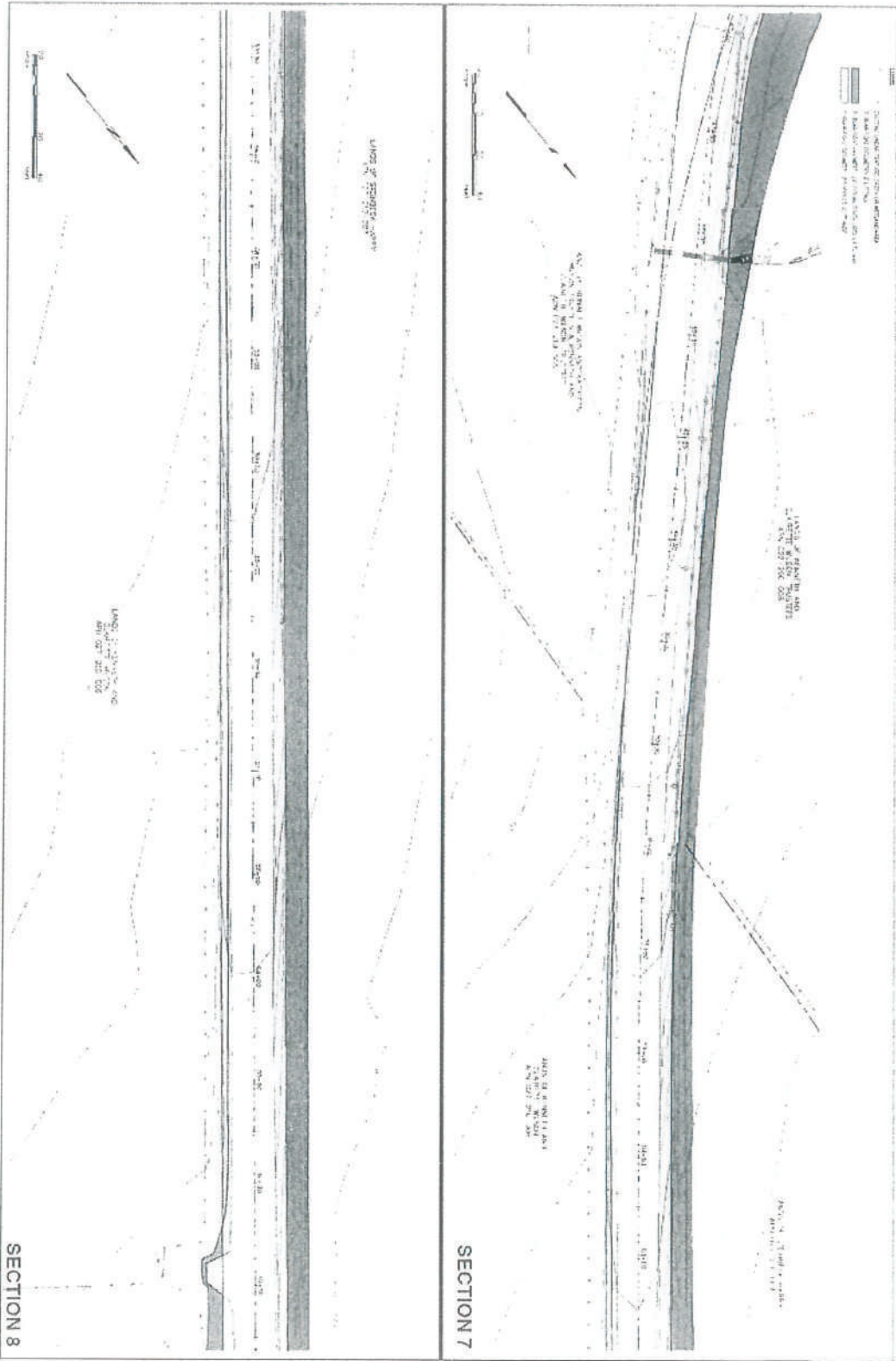


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SOURCE: BKF

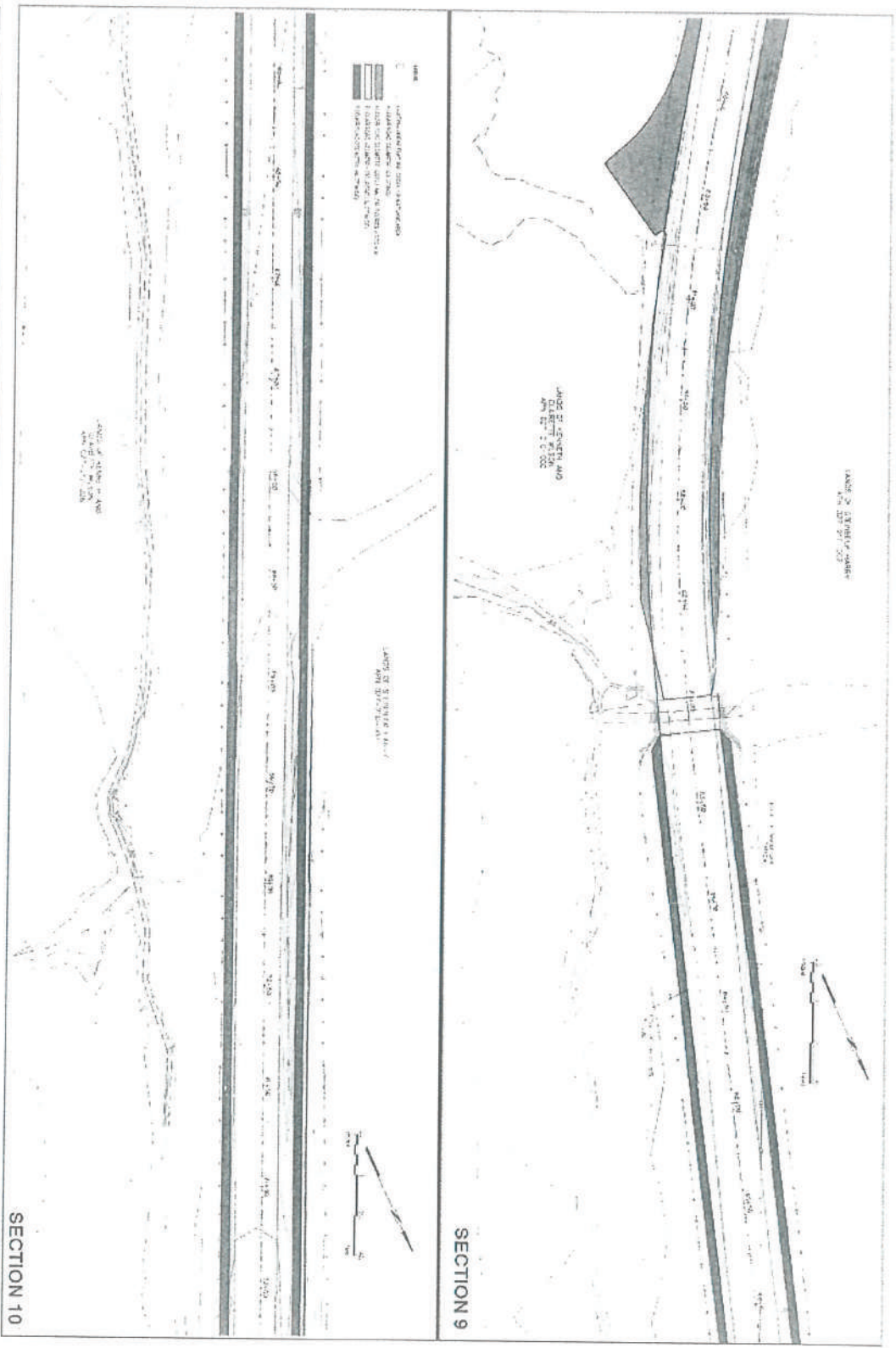
Roblar Road Quarry - 160752
Figure 2-7d
Proposed Roblar Road Improvements,
Sections 5 and 6



2-18

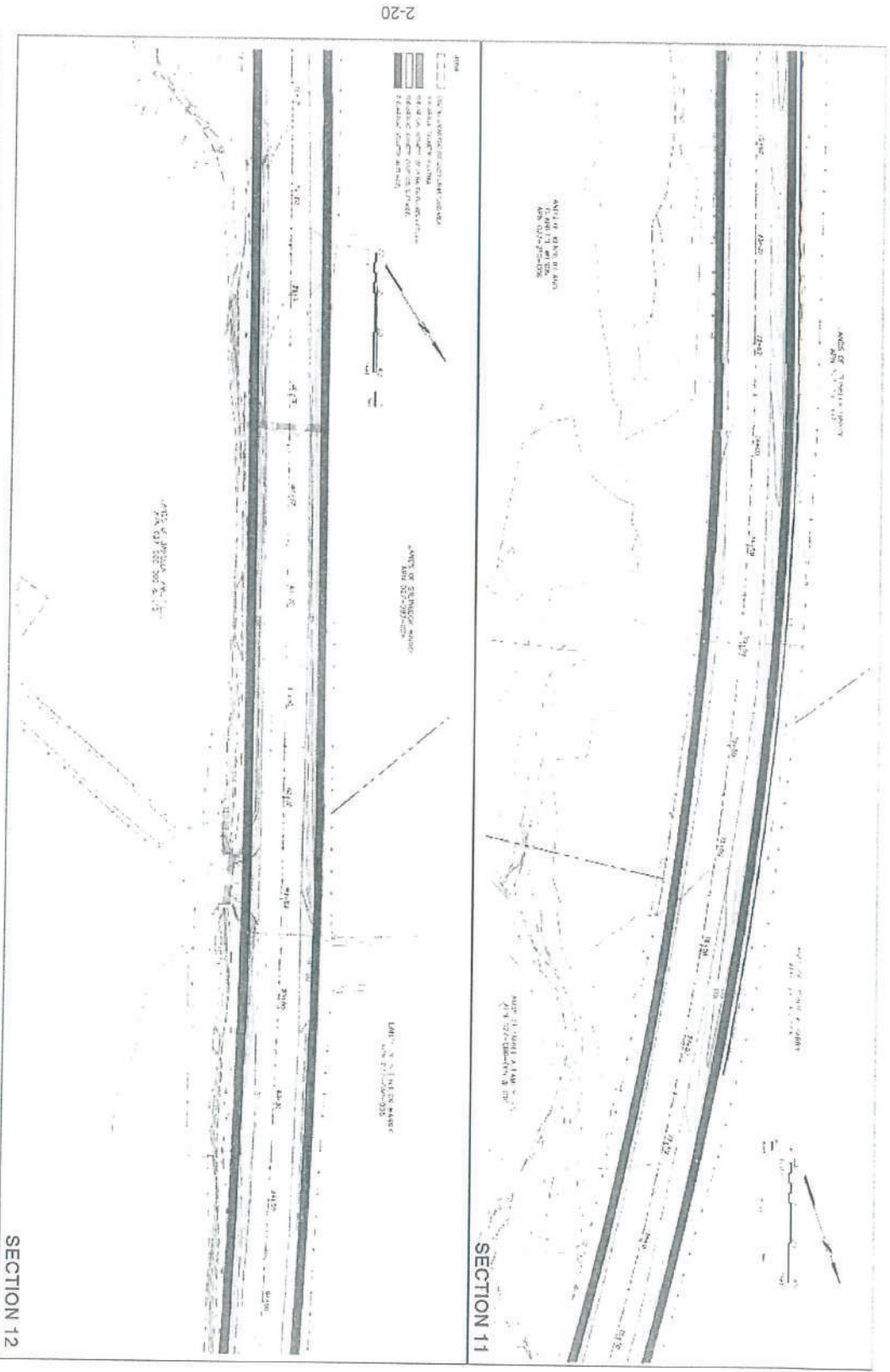
SOURCE: BKF

Roblar Road Quarry, 160752
Figure 2-7e
Proposed Roblar Road Improvements,
Sections 7 and 8



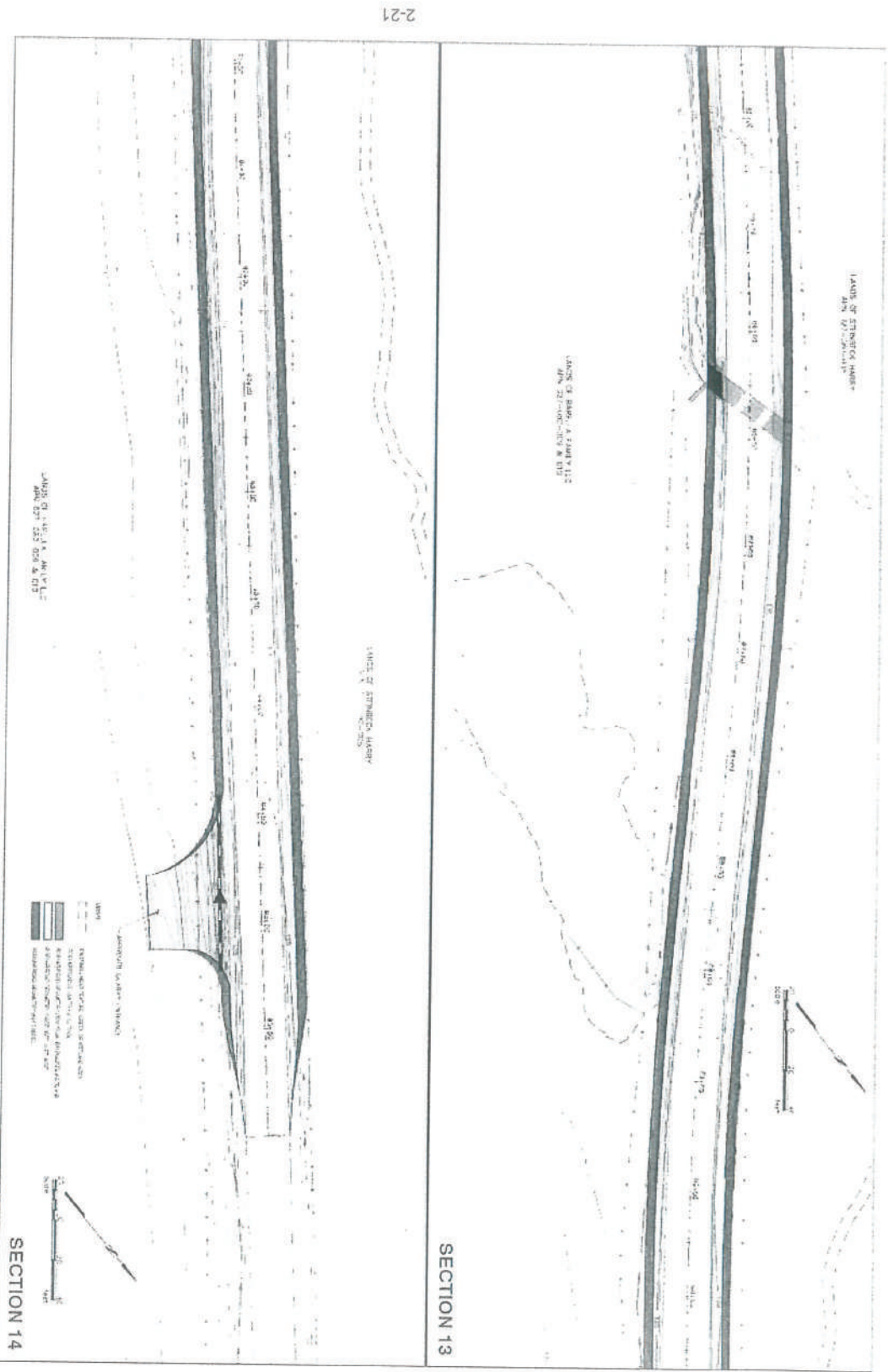
SOURCE: BKF

Roblar Road Quarry - 160752
Figure 2-7f
Proposed Roblar Road Improvements,
Sections 9 and 10



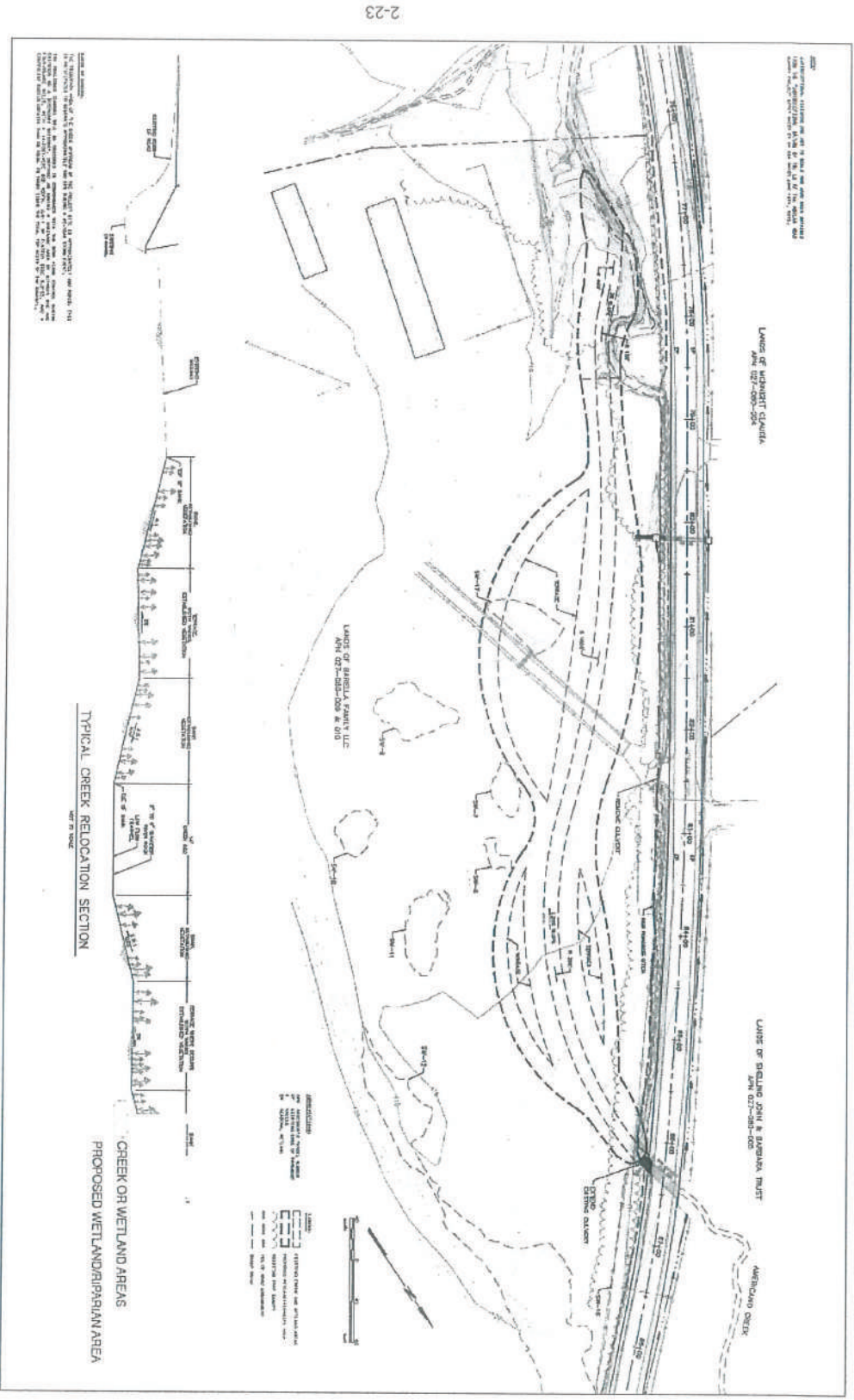
SOURCE: BKF

Roblar Road Quarry, 160752
Figure 2-7g
Proposed Roblar Road Improvements,
Sections 11 and 12



SOURCE: BKF

Proposed Roblar Road Improvements,
Sections 13 and 14



SOURCE: BKF

Roblar Road Quarry, 160752
Figure 2-8
Proposed Relocation of Americano Creek

**SONOMA COUNTY AGRICULTURAL PRESERVATION
AND OPEN SPACE DISTRICT**

**NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT OF
CONSERVATION EASEMENT IN CONNECTION WITH PROPOSED
ROBLAR ROAD QUARRY PROJECT**

APPLICANT: Ken and Clairette Wilson / John E. Barella Tr. and Andrea M. Barella Tr.

On November 9, 2010, at 3:00 p.m. the Sonoma County Agricultural Preservation and Open Space District Board of Directors will consider a request for an amendment to the Roblar Ranch Conservation Easement to allow for establishment of a California Tiger Salamander and California Red-Legged Frog preserve on the Roblar Ranch property (APNs 027-210-006 and 027-200-003). The proposed preserve is for mitigation of impacts to habitat for the federally-protected California Tiger Salamander and California Red-Legged Frog from the proposed Roblar Road Quarry Project (located immediately north of the Roblar Ranch property, at 7601 and 7175 Roblar Road, Sebastopol; APNs 027-080-009 and -010; Supervisorial District No. 2).

NOTICE IS THEREFORE HEREBY GIVEN that a public hearing to consider the proposed amendment to the Roblar Ranch Conservation Easement will be held by the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District at the hour of **3:00 p.m. on November 9, 2010**, in the **Board of Supervisors** meeting room 102-A, Sonoma County Administration Building, 575 Administration Drive, Santa Rosa, California.

ALL INTERESTED PERSONS are hereby invited to be present and heard thereon.

If you challenge the decision on the proposed easement amendment in court, you may be limited to raising only those issues raised at the hearing or in writing prior to the hearing.

Prior to the hearing, the details of the proposal and related correspondence may be reviewed at or written comments submitted to, the Sonoma County Agricultural Preservation and Open Space District, at 747 Mendocino Avenue, Suite 100, Santa Rosa, CA 95401, (707) 565-7360 telephone, (707) 565-7359 fax.

Publish once: Press Democrat

Date: October 28, 2010

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From: Blake Hillegas <Blake.Hillegas@sonoma-county.org>
To: 'kdiamondw@aol.com' <kdiamondw@aol.com>
Subject: RE: Concerns re: UPE 16-0058
Date: Fri, Aug 19, 2016 5:10 pm

Hi Kathy,

Thanks for your follow up. The Roblar Road widening would occur within the fenceline/County right of way on the south side of Roblar, and would occur on Lands of Kenneth and Clairette Wilson on the North side.

We have conceptual plans if you would like to come in to see them.

Blake Hillegas
Blake Hillegas, Planner III
Sonoma County Permit and Resource Management Dept.
2550 Ventura Avenue
Santa Rosa, CA 95403-2829
Blake.Hillegas@sonoma-county.org
(707) 565-1392

OFFICE HOURS: PRMD's Lobby is open Monday through Friday 8:00 AM - 4:00 PM, except Wednesdays, open 10:30 AM to 4:00 PM.

PRMD logo

From: kdiamondw@aol.com [<mailto:kdiamondw@aol.com>]
Sent: Friday, August 19, 2016 2:45 PM
To: Blake Hillegas
Subject: Re: Concerns re: UPE 16-0058

Hi Blake,

I did not hear back from you, but wanted to give you enough time to review my concerns. Please contact me with any updated information.

Thank you,

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Kathy and Ron Wilson

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

From: Blake Hillegas <Blake.Hillegas@sonoma-county.org>

To: 'kdiamondw@aol.com' <kdiamondw@aol.com>

Sent: Thu, Aug 11, 2016 5:06 pm

Subject: RE: Concerns re: UPE 16-0058

Hi Kathy,

Thanks for your email. I will follow up with you tomorrow with an update and we can set a time to meet if necessary.

Blake Hillegas

Blake Hillegas, Planner III

Sonoma County Permit and Resource Management Dept.

2550 Ventura Avenue

Santa Rosa, CA 95403-2829

Blake.Hillegas@sonoma-county.org

(707) 565-1392

OFFICE HOURS: PRMD's Lobby is open Monday through Friday 8:00 AM - 4:00 PM, except Wednesdays, open 10:30 AM to 4:00 PM.

PRMD logo

From: kdiamondw@aol.com [<mailto:kdiamondw@aol.com>]

Sent: Wednesday, August 10, 2016 5:08 PM

To: Blake Hillegas

Subject: Concerns re: UPE 16-0058

Hello Blake,

My name is Kathy Wilson. My husband, Ron and I are owners of Diamond W Ranch, an organic dairy ranch located in the Two Rock area of Petaluma. Our family's dairy has been in operation for approximately 100 years. It has come to our attention that the owners of the proposed Roblar Rock Quarry have filed a request for modifications to the Use Permit for the Roblar Road Quarry Project. I left a message on your voicemail today because I have some questions that I hope you can clarify for me.

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We have very serious concerns regarding the proposed Roblar Road Quarry project that was approved in 2010, and the new requests to modify the existing Use Permit. Our most serious concern has always been water contamination from the unlined landfill adjacent to the quarry site. We, along with our neighbors, addressed our concerns in 2010, but the County approved the quarry project anyway.

The County approved this project with an "Indemnification Agreement". If the County was not seriously concerned about the disruption of the landfill causing contamination to the water supply to Americano Creek and the surrounding community, they would not be requesting to be indemnified!

Our organic dairy and pasture is adjacent to Roblar Road where the 1.5 mile widening and reconstruction is being requested as well as Access Road 2. Our APN # 022-300-009; 022-300-010; 027-210-005 (Please note that on Figure 4,5 & 6, these above numbered parcels are now owned solely by Ronald Wilson & Kathleen Wilson as of July 1, 2016). Another concern is that none of our agricultural land (all with Williamson Act Contracts) be used to widen or reconstruct Roblar Road or the Access Road 2 or used in any way for this project.

If Sonoma County continues to approve this project, then it is our hope that Sonoma County's Permit and Resource Management Department will be responsible for assuring that the new modifications for the Use Permit in no way affect our property. We would appreciate it if you could call me to discuss or set up an appointment regarding our concerns.

Thank you,

Kathy Wilson
(707) 795-5971 - Home
(707) 696-0630 - Cell

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cont.



MOLLAND LAW

30 Fifth Street, Petaluma CA 94952 | Office 707.202.5511 | Cell 415.672.6222 | Fax 707.202.5513
mmolland@mollandlaw.com | www.mollandlaw.com

April 17, 2018

Public Records Act Coordinator
Office of the General Counsel
Department of Fish and Wildlife
1416 Ninth Street, 12th Floor, Suite 1341
Sacramento, CA 95814

RE: Public Records Act Request for application for lake or streambed alteration agreement of permit by Roblar Road Quarry Project (or John Barella or his agent, Ted Winfield) in Sonoma County, California

Dear Department of Fish and Wildlife,

Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain and inspect a copy of the following, which I understand to be held by your agency:

All applications and supporting documents for a lake or streambed alteration agreement or permit behalf of or for the benefit of the Roblar Road Quarry Project in Sonoma County. The application asks for a permit to relocate or move or re-create Americano creek (or a tributary of Americano Creek) in Sonoma County, California. The party requesting the lake or streambed alteration agreement on behalf of the Roblar Road Quarry Project may use the name John Barrella or the Barella Trust, or his agent, Ted Winfield & Associates.

If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you notify me of such decision and redact any exempt portion it for the time being and make the rest available as requested.

In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

If I can provide any clarification that will help expedite your attention to my request, please contact me at mmolland@mollandlaw.com. My cell phone number is 415-672-6222. I ask that you notify me of any duplication costs exceeding \$200.00 before you duplicate the records so that I may decide which records I want copied.

I am happy to discuss my request with you or your legal advisor at any time. My cell phone is 415-672-6222.

Thank you for your time and attention to this matter.

Sincerely,

Michael Molland

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



May 4, 2018

Michael Molland
Molland Law
30 Fifth Street
Petaluma, CA 94952
mmolland@mollandlaw.com

Public Records Act Request No. 18-05-155

Dear Michael Molland:

This letter is in response to the Public Records Act (PRA; Govt. Code, § 6250 et seq.) request you submitted to the Department of Fish and Wildlife (Department) on April 24, 2018 requesting a streambed alteration agreement of permit by Roblar Road Quarry Project.

The Department has determined it will comply with your request by providing copies of all responsive documents that are not exempt from disclosure. The Department will attempt to make the requested documents available within 90 days.

Please note that the PRA requires disclosure of existing records that are in the possession of the Department. The PRA does not require public agencies to create new records in order to comply with requests for documents. The Department will initiate its retrieval process by asking staff to begin searching for responsive records. If the Department is able to locate existing records pertaining to your request, we will assemble these records. At such a time, you will be contacted to make arrangements for inspection or delivery of the records.

Documents maintained in electronic format will be transmitted electronically whenever possible. If you decide to have hard copy records delivered, the Department charges a photocopying fee of \$.15 per page, in addition to shipping costs. The Department does not have a policy that allows it to waive or reduce these fees and costs. However, we will identify the total amount that must be paid before the responsive documents are mailed. Alternatively, responsive documents may be reviewed at the location where they are held in order to avoid shipping charges. When the documents are compiled and you are notified, you may inform the Department of whether you wish to have copies of the documents mailed to you or if you wish to inspect the documents in person.

Conserving California's Wildlife Since 1870

If you have any questions regarding coordination of your request or would like to know the status of your request, please email and reference PRA No. 18-05-155.

Sincerely,



Xochitl Miranda
Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244
916-654-3821
PRACoordinator@wildlife.ca.gov

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cont.

Letter G. Michael Molland, Molland Law (Attorney representing Citizens Advocating for Roblar Road Quality – CAARQ)

- G-1 This comment introduces the comment letter generally. Please see the following responses.
- G-2 Traffic impacts of the Quarry are identified and analyzed in the 2010 Final EIR, in Section 4.E, Traffic and Transportation, and in Chapter 5, Alternatives. See also Draft SEIR section 3.4, Traffic and Transportation.
- G-3 Aesthetic impacts of the Quarry, including impacts to scenic resources, are identified and analyzed in the 2010 Final EIR, in Section 4.I, Aesthetics, in Section 4.E, Traffic and Transportation (impact E.8), and in Chapter 5, Alternatives. See also Draft SEIR Section 3.7, Other Environmental Topics. The proposed changes would not change the conclusions of the 2010 Final EIR.
- G-4 Please see the response to comment G-2. As noted in the Draft SEIR on page 3.4-5, the proposed modifications to the Use Permit Conditions of Approval would not affect operations of the approved Quarry, and as such, project trip generation and trip distribution would not change from that described and analyzed in the 2010 Final EIR.
- G-5 Please see the response to comments G-2 and G-4.
- G-6 Please see the response to comments G-2 and G-4.
- G-7 Environmental review pursuant to CEQA does not include examination of socioeconomic benefits (or direct impacts) of a project. However, public benefits may be relevant to the Statement of Overriding Considerations required for approval.
- G-8 The commenter is correct that the Draft SEIR identifies significant and unavoidable impacts to bicycle and traffic safety associated with the proposal to alter the required geometry of road widening improvements on Roblar Road, because they do not meet County policy adopted for the purpose of roadway safety (Impacts 3.4-3 and 3.4-4 in section 3.4, Traffic and Transportation.). Please see Master Response 1.
- G-9 Comments by Mr. Smith, contained in this same comment letter G, are numbered G-42 through G-52. Please see responses to those comments.
- G-10 The commenter's opposition to the proposed modifications to the Use Permit Conditions of Approval is noted.
- G-11 Environmental review pursuant to CEQA does not include examination of potential financial liability. However, public risks may be relevant to the Statement of Overriding Considerations required for approval.

- G-12 Please see comment G-14.
- G-13 Please see the response to comment G-8.
- G-14 The Draft SEIR does not address the issue of economic feasibility or infeasibility of the conditions/mitigation measures that the Applicant proposes to modify. At the time of approval of the Quarry project (Modified Alternative 2), all mitigation measures were found to be feasible. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- G-15 Please see the response to comment G-11.
- G-16 Regarding feasibility of conditions/mitigation measures, please see the response to comment G-14. The Draft SEIR notes the Applicant's contention that they have been unable to obtain additional land for use as right-of-way, but has not independently assessed the validity of this. The relevant evidence that voluntary negotiations have been attempted is in comment letter D and the response to comment D-1. The commenter is incorrect in asserting that the Draft SEIR has made economic infeasibility findings.
- G-17 Please see the responses to comments G-11 and G-14.
- G-18 This comment introduces the discussion that follows. Please see the following responses.
- G-19 Changes in the environmental and regulatory setting for the Transportation and Traffic analysis in the Draft SEIR are discussed on pages 3.4-1 through 3.4-3. The commenter is correct that there are no sudden and unforeseen developments that give rise to the application.
- G-20 Please see the response to comment G-8, and Master Response 1.
- G-21 Please see the response to comment G-14
- G-22 Please see the response to comment G-14.
- G-23 The commenter notes that there is evidence of feasibility of the already-approved Use Permit. Evidence of economic feasibility or infeasibility is relevant to a Statement of Overriding Considerations and need not be included in the SEIR.
- G-24 The Draft SEIR states that the Applicant's proposal to relocate Americano Creek stems from the constraint imposed on the required road widening by the presence of the creek in close proximity to Roblar Road, the width of the existing right-of-way, and the Applicant's stated inability to obtain additional land for right-of-way on the opposite side of the road. Should the County Board of Supervisors decide to approve the proposed modifications to allow for relocation of Americano Creek, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of the previously adopted measures. Potential conflicts of the proposed creek relocation with

- other County ordinances and policies are discussed in several places in the Draft SEIR, notably in Section 3.4, Biological Resources, discussion of the Regulatory Setting on pages 3.3-2 and 3.3-3; and Section 3.7.4, Land Use and Agricultural Resources. Mitigation Measure 3.3-1 in Section 3.4, Biological Resources, includes revisions to Condition/Mitigation Measure 133 to clarify that the Quarry project is consistent with Chapter 26A of the County Code.
- G-25 This comment summarizes, from the commenter's perspective, the EIR process completed in 2010 and the subsequent lawsuits challenging it. The comment does not address the Draft SEIR.
- G-26 The commenter is correct that the Applicant first submitted an application to modify certain Use Permit Conditions of Approval in July, 2016. That application is the subject of the Draft SEIR.
- G-27 CEQA Guidelines Section 15163(a) is also cited in Draft SEIR Chapter 1, Introduction, on pages 1-3 and 1-4.
- G-28 It is not changed circumstances, but rather the Applicant's proposed changes to the Use Permit, that triggered the initiation of supplemental review pursuant to CEQA Guidelines Section 15163(a).
- G-29 Please see the response to comment G-8.
- G-30 Please see the response to comment G-45.
- G-31 Please see the response to comment G-14.
- G-32 Please see the responses to comments E-8 and G-14.
- G-33 Please see the response to comment G-14, and the following responses.
- G-34 Please see the response to comment D-1 and G-14.
- G-35 This comment does not address the Draft SEIR. With regard to feasibility of conditions/mitigation measures, please see the response to comment G-14.
- G-36 The letters referred to in the comment, which are included as Exhibit 3 to this comment letter G (numbered comment G-61), were also submitted by the Applicant and are included in this document as comment letter D; one additional letter not included in Exhibit 3 is also included as the last page of comment letter D, this being a letter from a landowner expressing their lack of interest in selling any portion of their property. Please see also the response to comment D-1.

With regard to the commenter's statement that "none of the claims and assertions or options stated in these letters are analyzed, discussed, or even mentioned by the SEIR," the Draft SEIR properly confines discussion and analysis to the environmental effects of

- the proposed project, that is, the Applicant's proposed modifications to the Use Permit Conditions of Approval. Please see also the responses to comments G-14 and G-35.
- G-37 Please see the responses to comments G-8, G-35 and G-36.
- G-38 Please see the responses to comments G-8, G-35, and G-36.
- G-39 It is expected that, should the County approve the Applicant's proposed relocation ofAmericano Creek, the Applicant will then seek the necessary permits from other agencies, including California Department of Fish and Wildlife (CDFW), to enable this. Responsible agencies, including CDFW, are listed in Section 2.7, Required Approvals, in Draft SEIR Chapter 2, Project Description. With regard to the environmental review process prescribed by CEQA for a responsible agency (including a trustee agency, such as CDFW), please see CEQA Guidelines Section 15096.
- G-40 The commenter claims that the relocation ofAmericano Creek is inconsistent with Chapter 26A of the County Code due to setbacks. The commenter is incorrect. Where critical habitat is subsequently designated at an approved site, the code does not apply setbacks retroactively. In addition, all impacts to critical habitat are fully mitigated.
- G-41 Contrary to the assertion in this comment, the commenter has not identified any deficiencies in the Draft SEIR that would render it inadequate under CEQA. The Draft SEIR fully and completely complies with the CEQA requirements for a Draft SEIR.
- G-42 This comment provides qualifications of the commenter.
- G-43 Please see the responses to comments G-14, G-35, and G-36.
- G-44 Please see the response to comment G-35. As evidenced by comment letter D, the Applicant has made an offer to purchase land for use as right of way from the Kenneth A. and C. Wilson Trust (Kenneth and Clarette Wilson).
- G-45 The Draft SEIR concludes (Impact 3.4-3 and 3.4-3) that the proposed narrower travel lane and shoulder would result in a significant and unavoidable impact to bicycle and traffic safety, even with mitigation. Please see Master Response 1.
- G-46 Please see Master Response 1.
- G-47 Please see Master Response 1.
- G-48 Please see Master Response 1 and the response to comment G-11.
- G-49 Please see the response to Comment G-45 and Master Response 1.
- G-50 The County is not "deluded" about the need for the Applicant's proposed changes to certain Use Permit Conditions of Approval. The environmental consequences of the proposed changes, including changes that would allow creek relocation, are the subject of

the Draft SEIR. The Sonoma County Board of Supervisors will consider the merits of the proposal in deciding whether to approve it. With regard to the Applicant's proposed revisions to Condition/Mitigation Measure 133, including the proposed insertion of "as feasible," into the text of the condition, please see Draft SEIR Section 3.3, Biological Resources, Mitigation Measure 3.3-1, which specifies revision to the condition without use of the term "as feasible." Please see also the response to comment C-14, which modifies this mitigation measure by adding modifications to Condition 101, and the response to comment G-24.

- G-51 The commenter is incorrect. The Draft SEIR fully evaluates the Applicant's proposed changes to the Use Permit Conditions of Approval, in compliance with CEQA.
- G-52 This comment includes the commenter's resume.
- G-53 This comment and the following comments by the commenter, Michael Kavanaugh, appear to be provided in order to support the claim, made elsewhere in this comment letter, that the Applicant's claim of infeasibility of roadway improvements according to the standards contained in the Use Permit Conditions of Approval is not supported by evidence. Please see responses to comments G-14 and G-16.
- G-54 The figure cited of 11.4 million cubic yards of rock mined over a 20-year period reflects the maximum possible, given the annual limit of 570,000 cubic yards. While the 2010 Final EIR properly uses this figure as a basis for the environmental analysis, it is possible that the Quarry will not actually produce the maximum permitted volume every year that it is in production.
- The density figure used by the commenter is a reasonable estimate. The commenter, however, has made an error by multiplying cubic yards by the density factor to estimate tons, instead of dividing. Using the commenter's conversion factor of 1.3 tons per cubic yard and dividing the cubic yardage figure by this factor results in a figure of 8,769,231 tons.
- G-55 Here, the commenter compounds the error noted in the previous response. Using the corrected figure of about 8.77 million tons total production, and the commenter's price figure of \$12.75 per ton, the total revenue estimate would be about \$111.8 million.
- G-56 This response does not consider the validity of the commenter's methodology. Please see the previous response regarding the corrected revenue estimate.
- G-57 This response does not consider the validity of the commenter's methodology. Using the commenter's estimated equity return figure of 10.6% and the corrected revenue estimate provided in the response to comment G-55, the total return to equity would be about \$11.85 million.
- G-58 The prices for aggregate presented in this table match those currently (as of 12/29/18) shown on the Stony Point Rock Quarry website.

- G-59 This table apparently is presented to support the commenter's estimate of return to equity. Please see the response to comment G-57.
- G-60 This comment includes the resume of the commenter.
- G-61 This comment contains correspondence between the Applicant, his attorneys, and his neighbors, also contained in comment letter D. Please see the response to comment D-1.
- G-62 This comment contains an excerpt from the Draft SEIR Chapter 2, Project Description, specifically Figures 2-7a through 2-7h and 2-8.
- G-63 This comment contains notice of a public hearing from 2010 related to the Quarry project approval, and is referred to in comment G-25. Please see the response to that comment.
- G-64 The comment contains email correspondence between Kathy Wilson, a property owner on Roblar Road near the Quarry, with Blake Hillegas, Sonoma County Planner, referenced in comment G-37. Please see the response to that comment.
- G-65 This comment contains correspondence between the commenter and the California Department of Fish and Wildlife referenced in comment G-39. Please see the response to that comment.
- G-66 This comment (labeled as "Exhibit 9" and included in Appendix C) contains various documents, already in the administrative record for the 2010 Final EIR, from 2009 and 2010. These documents are presented without comment, they do not pertain directly to the Draft SEIR, and they do not require a response.
- G-67 This comment (labeled as "Exhibit 10" and included in Appendix C) contains various documents, already in the administrative record for the 2010 Final EIR from 2010 and earlier, and also documents from the subsequent court case challenging the 2010 Final EIR. These documents are presented without comment, they do not pertain directly to the Draft SEIR, and they do not require a response.

From: [Richard Harm](#)
To: [Shirlee Zane](#)
Subject: Roblar Road Improvements
Date: Thursday, October 25, 2018 11:26:06 PM

Dear Supervisor Zane

As an avid cyclist and frequent rider on Roblar Road I feel it is imperative that you hold firm on the conditions of approval that were certified in 2010 when the Roblar Road Quarry site project was approved. (Two 12 foot travel lanes with 6 foot wide paved shoulders, and 2 foot wide rock shoulders, and associated striping to meet Class 2 bicycle lanes). Roblar Road is relatively straight with the exception of the section under consideration. This is the most dangerous section due the tight curves and limited visibility. Reducing the driving/bicycle lane width in this area, as proposed by Mr. Barella, is a recipe for disaster. It's a fact that a truck and trailer can not hold tight to the center of the lane when negotiating tight turns. It is the wandering of the trailer into the bicycle lane that creates the hazard. Wider driving and bicycle lanes will give the trucks more room to maneuver and cyclists a safe space through the dangerous tight curves west of the proposed quarry. Please remember that the safety of cyclists/public trumps the applicants inability to obtain right-of-way from private property owners.

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Thank you for your consideration in this very important public safety issue.

Richard Harm
President
Petaluma Wheelmen Cycling Club

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Letter H. Richard Harm, President, Petaluma Wheelmen Cycling Club

- H-1 This comment addresses the merits of the proposed modifications to the Use Permit Conditions of Approval that establish roadway standards for Roblar Road. The commenter is opposed to the proposed modifications to the required widening Roblar Road. The comment does not address the environmental analysis contained in the Draft SEIR and does not require a response.
- H-2 The current condition of Roblar Road, and the recent history of accidents along Roblar Road, are discussed in the Environmental Setting discussion in Draft SEIR Section 3.4, Transportation and Traffic, and in Chapter 2, Project Description, in the discussion of the reconstruction and widening of Roblar Road. The proposal is to reduce the width of the road with respect to the existing approval, but to widen it with respect to existing conditions.
- H-3 Please see Master Response 1.



Promoting the bicycle for transportation and recreation

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Santa Rosa, CA 95402

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FAX:

707-573-0147

EMAIL:

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October 12, 2018

Blake Hillegas, Supervising Planner
County of Sonoma
Planning Division / Project Review
2550 Ventura Ave., Santa Rosa, CA 95403

Re: Roblar Road Quarry Project Supplemental Environmental Impact Report

Dear Mr. Hillegas:

On behalf of the Sonoma County Bicycle Coalition, please accept the following comments on the proposed amendments to the Roblar Road Quarry Project and the associated Supplemental Environmental Impact Report (SEIR).

The SCBC is very concerned by the applicant's proposal to eliminate the existing requirement for 6-foot bike lanes and to instead, install a 3-foot paved shoulder and a 2-foot gravel shoulder with no bike lanes whatsoever. As was determined when the original EIR and Use Permit were approved, the safety of all road users, including those on bicycles, is paramount. The addition of more frequent and large truck traffic on this already busy roadway and popular bicycle route will necessarily decrease the safety of our most vulnerable road users.

The applicant cites that new information of substantial importance was not known at the time that the original Use Permit was approved and "given the limited width of the existing prescriptive right of way; the proximity of Americano Creek to Roblar Road, other proximal wetlands and/or linear drainage features to Roblar Road; and other factors, that the required road improvements on Roblar Road are impractical, unnecessary and *infeasible*."

We call upon the County of Sonoma to determine the validity of the above position and whether the existing requirement for a 6-foot bike lane is indeed *infeasible* as the applicant claims.

If implementation of 6-foot bike lanes is determined *infeasible*, we urge that the following be required as part of any project approval:

1. Implementation of Mitigation Measure 3.4-3: The Applicant shall widen Roblar Road on the 1.6-mile segment between the Quarry site entrance and Access Road 2 with two 11-foot-wide vehicle travel lanes, and an 11-foot west-bound left turn lane at Access Road 2, two 5-footwide shoulders (4-foot-wide paved), and appropriate side slope for the entire road design, as determined by the Department of Transportation & Public Works. The

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Applicant shall widen Roblar Road with at least the following cross section dimensions: • 11-foot-wide vehicle travel lanes and 11-foot-wide left turn lane; • 4-foot-wide paved shoulders; • 1-foot-wide unpaved (rock) shoulders.

2. Reduction of the speed limit to 40 mph through the 1.6-mile section where bike lanes are to be installed to decrease the dangers associated with large trucks frequently entering/exiting the roadway and the S-turn along this stretch.
3. Require the applicant to perform street sweeping of the roadway at minimum every 3-months, or as needed to ensure the safety of all roadway users impacted by the project.

Again, we wish to emphasize that the safety of cyclists remains our utmost priority. Thus, if at all feasible, further separation from large, heavy truck traffic in the form of 6-foot bike lanes is overwhelmingly preferred. However, if sufficient evidence exists to indicate that there is *not* enough right of way available for 6-foot bike lanes, we ask that a 4-foot bike lane, the minimum width allowed, be required as part of any project approval.

Thank you for your consideration of the above comments intended to improve the safety of those biking within the project vicinity.

Sincerely,



Alisha O'Loughlin
Executive Director

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Letter I. Alisha O'Loughlin, Executive Director, Sonoma County Bicycle Coalition

- I-1 With regard to lane width and bicycle safety, please see Master Response 1. With regard to the Applicant's statement that achieving the required standards is infeasible, the Draft SEIR does not address the issue of feasibility or infeasibility of the Use Permit Conditions of Approval that the Applicant proposes to modify. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- I-2 The comment, supporting adoption and implementation of Mitigation Measure 3.4-3 from the Draft SEIR if 6-foot wide paved shoulders are found to be infeasible, is noted.
- I-3 Please see Master Response 1.
- I-4 Condition/Mitigation Measure 87 (Mitigation Measure E.3c from the 2010 Final EIR) requires weekly sweeping of the intersections of Roblar Road and Valley Ford Road with the Quarry's private access roads.
- I-5 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's preference for maintaining the existing Conditions of Approval governing widening of Roblar Road, if feasible.

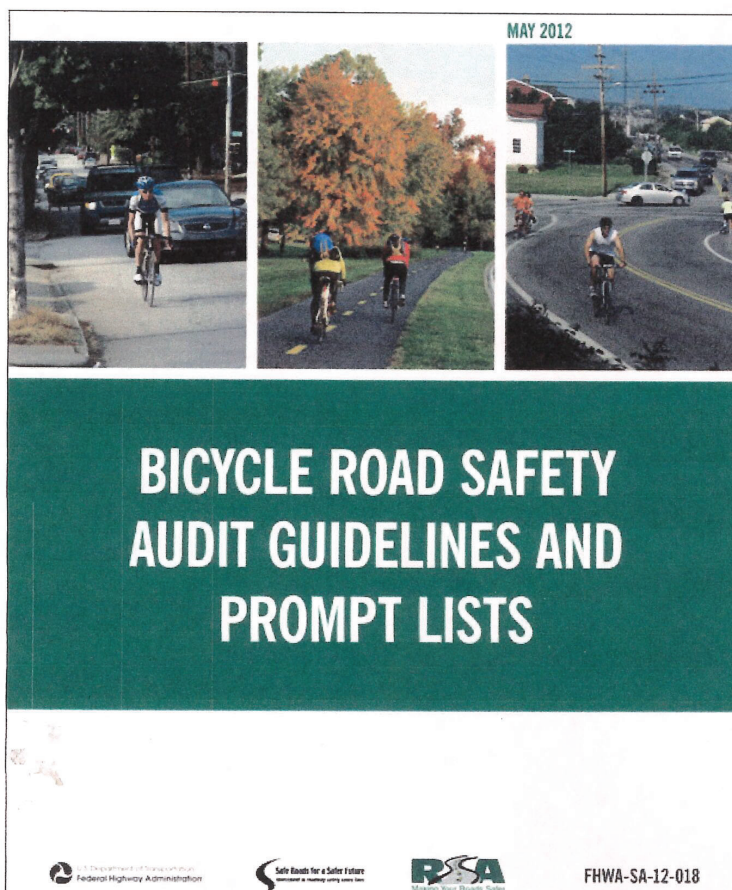
U.S. Department of Transportation

Federal Highway Administration

1200 New Jersey Avenue, SE
Washington, DC 20590
202-366-4000

Safety

Bicycle Road Safety Audit Guidelines and Prompt Lists



Download the Printable Version [[PDF, 25.6 MB](#)]
You will need the [Adobe Acrobat Reader](#) to view this PDF.

May 2012
FHWA-SA-12-018

Notice

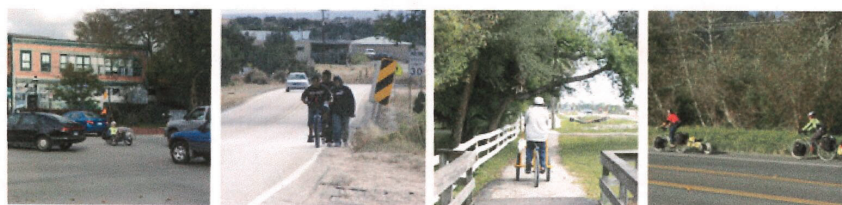
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Technical Documentation Page

2.2 Characteristics of Cyclists

There are many factors that affect the safety of bicycling. It is crucial for the RSA team to understand the range of characteristics exhibited by cyclists using various facility types and how designs may or may not accommodate the range of bicycle types and cyclist abilities.



A wide range of bicycle, cyclist, and facility characteristics should be considered as part of an RSA.

In the past, cyclists were categorized corresponding to riding ability and comfort with speed and proximity to other vehicles to simplify considerations in the planning and design process. Now it is better understood that different abilities of cyclists should be considered on all types of facilities. To accommodate a range of cycling characteristics on any bicycle facility, it is important to understand the physical and operational attributes of bicycles and cyclists.

Space—The required width to accommodate a cyclist is the width of the cyclist plus the width to operate or maneuver a bicycle. Similarly, the required height to accommodate a cyclist considers bicycle and rider dimensions. Figure 3 illustrates the unobstructed space needed by a typical cyclist to safely maneuver. The width of a cyclist should be considered as it relates to facility design, as well as surrounding influencing factors. For example, on shared use paths, cyclists may prefer to ride side-by-side, or there may be a large number of bike trailers on the path. These conditions would require operating space beyond the minimums illustrated in Figure 3. Additionally, cyclists will lean into a curve at moderate or higher speeds, resulting in an angled riding axis, lower pedal clearance from the riding surface, and a possible need for greater horizontal clearance. The amount of space afforded to cyclists may directly impact their ability to safely navigate a route, as cyclists expend a high amount of mental effort to maintain course in narrow or constrained conditions rather than paying due attention to potential obstacles or harmful conflicts with other facility users. (17)

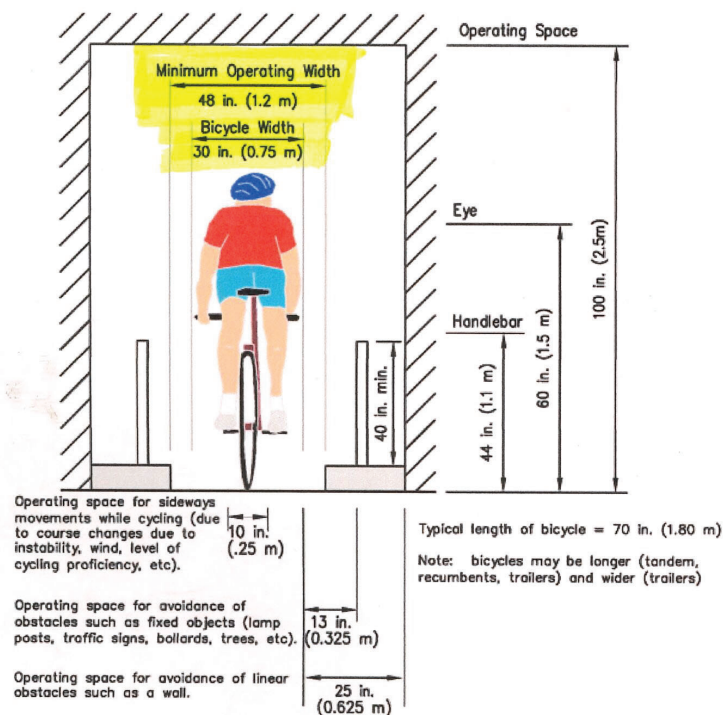


Figure 3. Operating Space for Cyclists.(18)

Length—Relates to space needed for longitudinal clearance, which may be especially critical at intersections where motor vehicles, bicycles, and pedestrians share space. Longitudinal space should consider the varying lengths of bicycles that are expected to use a facility and the impact on safety (see Figure 4). For example, at a midblock crossing of a shared use path, the space dedicated to a cyclist in the refuge area may need to adequately accommodate a bicycle and trailer without encroaching on the roadway.

- A. Adult Typical Bike
- B. Adult Single Recumbent Bicycle
- C. Additional Length for Trailer Bike

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VEHICLE CODE - VEH

DIVISION 11. RULES OF THE ROAD [21000 - 23336] (Division 11 enacted by Stats. 1959, Ch. 3.)

CHAPTER 3. Driving, Overtaking, and Passing [21650 - 21760] (Chapter 3 enacted by Stats. 1959, Ch. 3.)

ARTICLE 3. Overtaking and Passing [21750 - 21760] (Article 3 enacted by Stats. 1959, Ch. 3.)

21760. (a) This section shall be known and may be cited as the Three Feet for Safety Act.

(b) The driver of a motor vehicle overtaking and passing a bicycle that is proceeding in the same direction on a highway shall pass in compliance with the requirements of this article applicable to overtaking and passing a vehicle, and shall do so at a safe distance that does not interfere with the safe operation of the overtaken bicycle, having due regard for the size and speed of the motor vehicle and the bicycle, traffic conditions, weather, visibility, and the surface and width of the highway.

(c) A driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at a distance of less than three feet between any part of the motor vehicle and any part of the bicycle or its operator.

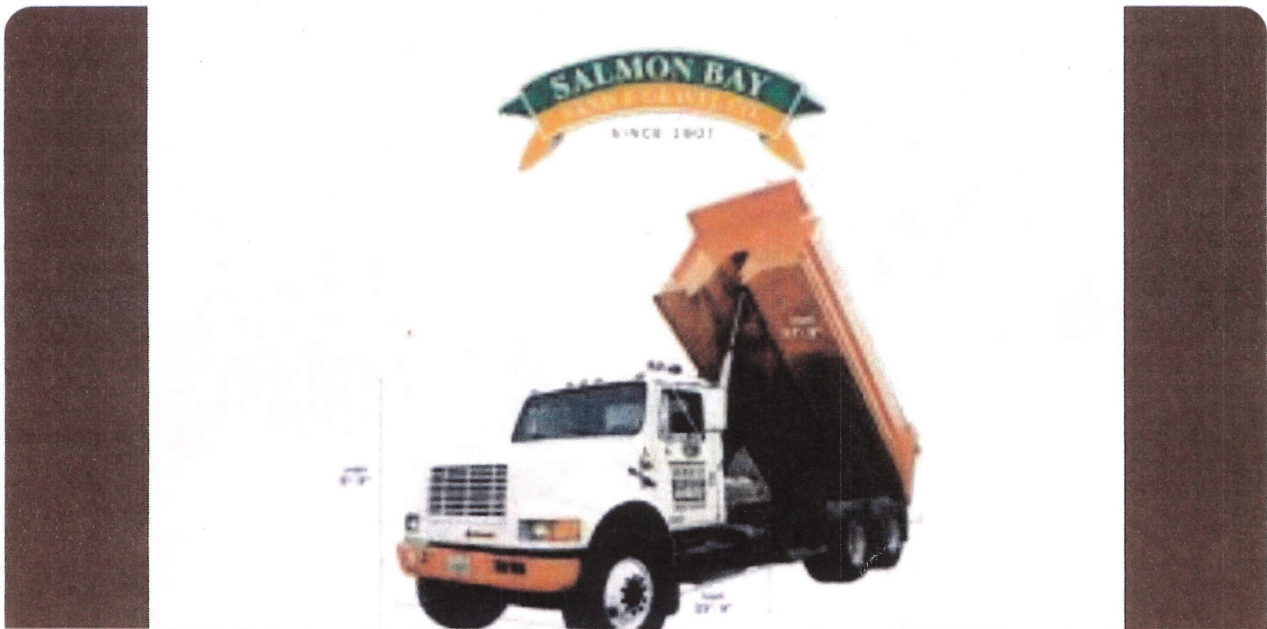
(d) If the driver of a motor vehicle is unable to comply with subdivision (c), due to traffic or roadway conditions, the driver shall slow to a speed that is reasonable and prudent, and may pass only when doing so would not endanger the safety of the operator of the bicycle, taking into account the size and speed of the motor vehicle and bicycle, traffic conditions, weather, visibility, and surface and width of the highway.

(e) (1) A violation of subdivision (b), (c), or (d) is an infraction punishable by a fine of thirty-five dollars (\$35).

(2) If a collision occurs between a motor vehicle and a bicycle causing bodily injury to the operator of the bicycle, and the driver of the motor vehicle is found to be in violation of subdivision (b), (c), or (d), a two-hundred-twenty-dollar (\$220) fine shall be imposed on that driver.

(f) This section shall become operative on September 16, 2014.

(Added by Stats. 2013, Ch. 331, Sec. 3. (AB 1371) Effective January 1, 2014. Section operative September 16, 2014, by its own provisions.)

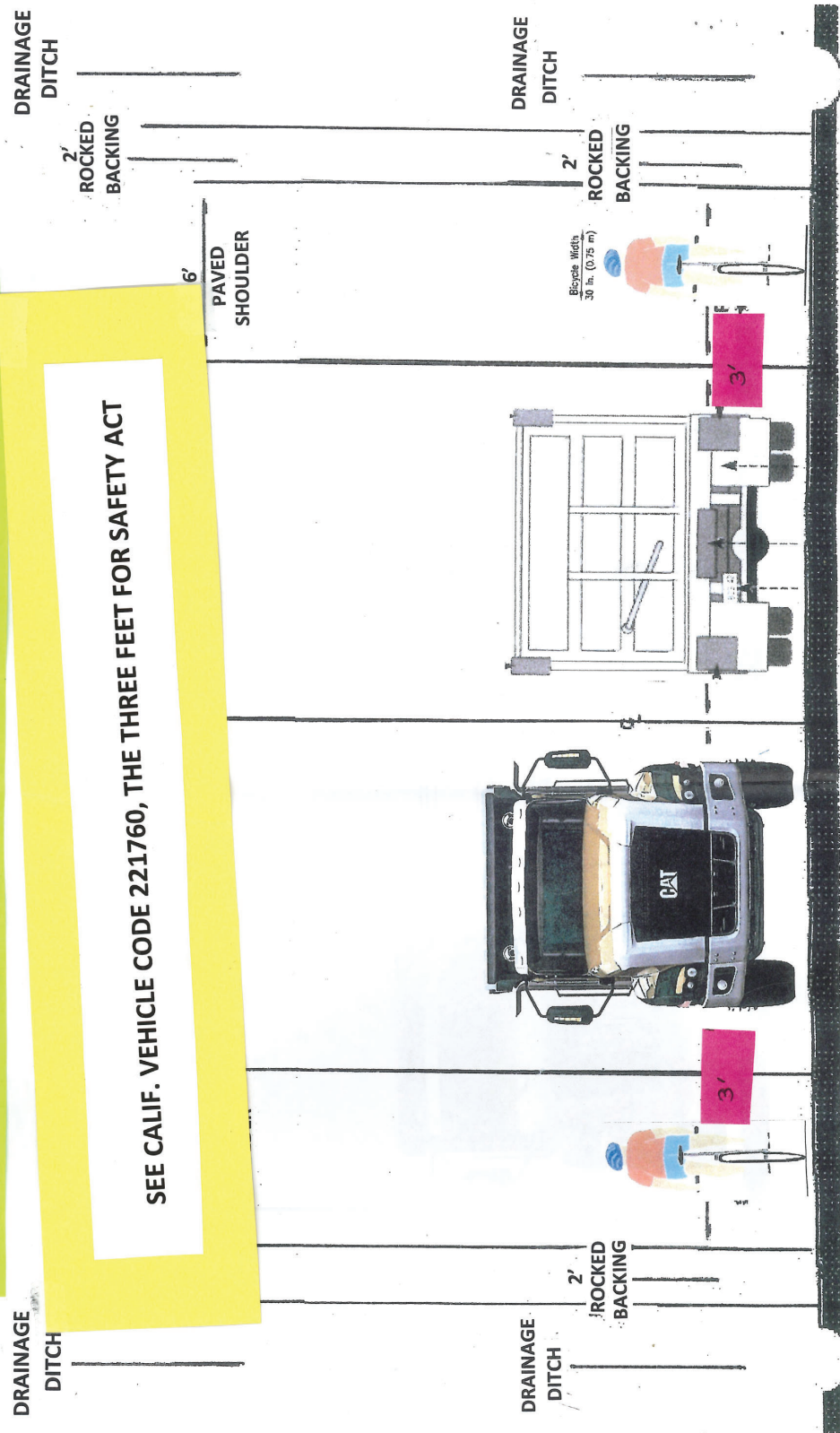


International 10 Yard Dump Truck

- **Weight:** 50,000 lbs Fully Loaded.
- **Height:** 9 feet 4 **inches** at the top of dump bed.
- **Height:** 17 feet 3 **inches** at full dump position.
- **Width:** 9 feet 6 **inches** at the mirrors.
- **Width:** 8 feet 5 **inches** at bed.
- **Length:** 23 feet 8 **inches**.

3 FOOT MINIMUM CLEARANCE IS POSSIBLE GIVEN THIS ROAD WIDTH

SEE CALIF. VEHICLE CODE 221760, THE THREE FEET FOR SAFETY ACT



B. Currently Required per Conditions 49 and 59: 36' Paved Width

Letter J. Margaret Hanley, Printed Materials Presented at the Sonoma County Board of Supervisors Public Hearing, October 16, 2018

- J-1 With regard to bicycle safety and lane width, please see Master Response 1.
- J-2 The “Three Feet for Safety Act” (Vehicle Code Section 21760) is discussed in the Draft SEIR, in the Regulatory Setting discussion in Section 3.4, Transportation and Traffic. Please see also Master Response 1.
- J-3 With regard to bicycle safety, including conflicts between bicycles and trucks on Roblar Road, please see Master Response 1.
- J-4 With regard to bicycle safety, including conflicts between bicycles and trucks on Roblar Road, please see Master Response 1.

From: [Sean](#)
To: [David Rabbitt](#); [Susan Gorin](#); [Shirlee Zane](#); [James Gore](#); [Lynda Hopkins](#)
Subject: Roblar Road quarry and use permit modifications
Date: Friday, October 26, 2018 8:32:02 AM

It has come to my attention that the Roblar Road quarry developer wishes to modify the terms of use a use permit so that a portion of the road can be made narrower than what was agreed to.

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I am a cyclist living in Cotati. Roblar Road currently is narrow with blind rises and blind curves, and no turnouts to speak of west of the Canfield intersection. I ride on that road regularly and dread the notion of having large gravel trucks crowded into 11 foot lanes with a 3 foot paved shoulder for me to ride in; that would put me right at the edge of the pavement up against the rock shoulder with less than 3 feet of space between me and the trucks.

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The gravel trucks themselves will encounter each other rolling in opposite directions regularly; I expect 11 foot lanes would cause them to veer away from the centerline and onto the paved shoulder briefly to pass each other safely, but not safely pass cyclists unfortunate to be riding on a 3 foot paved shoulder when that happens. 12 foot lanes will reduce the veering and a 6 foot paved shoulder will provide more 'cushion' between wandering trucks and cyclists.

I want Roblar Road to meet safety standards agreed in the initial EIR (certified by the county in 2010) to keep motorists and bicyclists safe.

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-Sean Butler
 Cotati

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Letter K. Sean Butler

- K-1 This comment accurately summarizes a portion of the Applicant's proposal that is the subject of the Draft SEIR.
- K-2 With regard to bicycle safety, including conflicts between bicycles and trucks on Roblar Road, please see Master Response 1.
- K-3 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval governing widening of Roblar Road.

From: [Keith Devlin](#)
To: [Shirlee Zane](#)
Subject: Requested changes to Use Permit (UPE16-0058)
Date: Thursday, October 25, 2018 9:02:29 PM

Dear Ms Zane,

I am writing to ask the County to deny the request by the owner of the Roblar Road Quarry site to eliminate the inclusion of Class 2 bicycle lanes on either side of the 1.6 mile section of Roblar Road involved in the proposed changes. I am one of many local residents who cycle along Roblar Road regularly. Significantly increased heavy vehicle traffic on Roblar Road already presents an increased danger to cyclists. Without adequate cycle lanes, it is simply a matter of time before one or more of us is killed. I have no problem with a local business seeking to increase profits, but not at the cost of lives of local residents.

Thank you for your attention.

Dr. Keith Devlin

Keith Devlin
171 King Road
Petaluma, CA 94952-19007
USA

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Letter L. Keith Devlin

- L-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval governing widening of Roblar Road.
- L-2 Please see Master Response 1.

Oct. 29, 2018

TO: Sonoma County Board of Supervisors
Tennis Wick
Chris Seppeler
Blake Hillegas
NOAA, Rick Rogers
Calif. Fish & Wildlife, Eric Larson

FROM: Rue Furch

RE: Supplemental Environmental Impact Report
Roblar Road Quarry
7175 Roblar Road, Petaluma, CA
APN: 027-080-009 and 027-080-010

The proposed amendments to the approved project raise a number of issues. In brief:

- An inadequate analysis of existing conditions
- Changes to Conditions of Approval that have not met the standard of alternatives analysis
- Proposed amendments do not meet required safety standards
- California's Sustainable Groundwater Management Act (SGMA) impacts have not been analyzed in the proposed realignment of 930 feet of Americano Creek, which not only is a likely recharge area within the Basin that cannot be reproduced; it has also been identified as critical habitat for endangered species (GP Chapter 26, OSE map)

I apologize for not providing greater detail, but have only just learned of this deadline and would be happy to respond to any questions or comments you may have.

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Letter M. Rue Furch

- M-1 Existing conditions are described in the Draft SEIR in Chapter 2, Project Description, and also in the Environmental and Regulatory Setting sections of each analytical section in Chapter 3. The description of existing conditions in the Draft SEIR fully meets the requirements of CEQA.
- M-2 The Draft SEIR is a “supplemental EIR” prepared pursuant to CEQA Guidelines Section 15163 and Public Resources Code section 21166. As such, it need contain only the information necessary to make the previous EIR adequate for the project as revised. Because the 2010 Final EIR contained a full and adequate alternatives analysis, no further alternatives analysis is required.
- M-3 The intent of the comment is vague; the commenter does not specify which aspects of the Applicant’s proposal analyzed in the Draft SEIR do not meet safety standards. Safety standards of the proposed modification to the Use Permit Conditions of Approval governing intersection design and widening of Roblar Road are evaluated in terms of traffic safety standards in Draft SEIR Section 3.4, Transportation and Traffic; see particularly Impacts 3.4-2, 3.4-3, and 3.4-4. See also Section 3.5, Hazardous Materials. For a discussion of the need for an override, see Master Response Number 1.
- M-4 Most changes to the project will not impact groundwater. The potential for proposed relocation of Americano Creek to affect groundwater recharge is discussed in Draft SEIR Section 3.2, Hydrology and Water Quality, on page 3.2-5. This discussion concludes that the proposed creek relocation would not adversely affect groundwater recharge. Potential effects of the proposed creek relocation on endangered species are discussed in Draft SEIR Section 3.3, Biological Resources.
- M-5 No response is required to this conclusion of the comment letter.

From: [Angela Levinger](#)
To: [Shirlee Zane](#)
Subject: Roblar Road Quarry
Date: Thursday, October 25, 2018 10:06:48 PM

Dear Ms Zane,

I recently read the SEIR and proposed changes to the 2010 agreement on the Roblar Road Quarry. I wish to state my opposition to allowing the concessions requested.

As the report states, Roblar Road currently has between 1700-2000 cars during daylight hours and is a major cycling route for a growing population of recreational cyclists. The quarry would add 600 trucks per day to this mix, all for private gain. The proposed amendments would leave the local taxpayers with substandard conditions for the private gain of a gravel company. As the population grows, this imbalance will only increase. It makes me wonder, to what gain would we allow our citizens to be subject to unnecessary hazards on an increasingly busy road?

Please advocate for the citizens, the environment and the future of the area. I implore you to think of the longer range, as changes later are much harder to implement than they are now. Clearly, the initial agreement was made because it was thought to be the best. Don't we deserve that from you?

Angela Levinger

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Letter N. Angela Levinger

- N-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval governing widening of Roblar Road. The commenter is referred to Master Response 1.

Mr. Chris Seppeler and the Sonoma County Board of Supervisors,

My name is Claudia Steinbeck Mcknight and I own and live directly across from the proposed Quarry on Roblar Road. I strongly disagree with ANY mitigations to the original Quarry proposal. My family has owned the property since 1890s and I have lived there all my life as did my father .

When the Quarry was approved in 2010 there were many conditions to be adhered to for it to go forward. I DO NOT believe that road situation has improved, or the Americano Creek and the surrounding wetlands have become less of a concern as the county ordinance passed 2012 shows.

If you have ever driven on Roblar or gone the the Washoe House you will also see that the intersection has become even more difficult and dangerous so to even think about mitigating any of these issues is beyond comprehension . Roblar Road is also positioned between Open Space and Williamson Act agriculture preserve and is a very scenic drive to Bodega. There have several vehicle accidents on Roblar Road that resulted in property and physical damages in the last few months as I'm sure you know. Ask the bicyclists if they feel safe now on Roblar let alone with numbers of trucks and support vehicles that it will bring. ou also know that the truck traffic will increase exponentially on Canfield, Petersen and by the school because it will a short cut from Cotati, Sebastopol and Santa Rosa.

I again request that you hold the original conditions force. Don't narrow the road or destroy the creek habitat . Please remember that what you choose to do will impact many people lives all of it negatively except for Mr. Barella and his associates who stand to gain millions at our expense and all of your future generations. Once nature is destroyed or disturbed we can not rebuild it.

Sincerely

Claudia Steinbeck Mcknight

707-795-2515

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Sent from my iPhone

Letter O. Claudia Steinbeck Mcknight

- O-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying any of the existing Conditions of Approval.
- O-2 The commenter's family's long residence on Roblar Road is noted.
- O-3 The Environmental and Regulatory Setting sections of each analytical section in Chapter 3 of the Draft SEIR provide an update to conditions described in the 2010 Final EIR, including the condition of Roblar Road and Americano Creek.
- O-4 Current Use Permit Conditions of Approval require upgrading of the Stoney Pont Road/Roblar Road intersection, including signalization and installation of left turn lanes, as described in Chapter 2, Project Description, of the Draft SEIR. Chapter 3.4, Traffic and Transportation of the Draft SEIR examines the Applicant's proposed modifications to the intersection upgrade design and finds that, with mitigation, they would not have a new or more severe impact on level of service and traffic safety, including bicycle safety, compared to the previous design. Please refer to Draft SEIR Impacts 3.4-1, 3.4-2, and 3.4-5.
- O-5 Aesthetic impacts of the Applicant's proposed modifications to the Use Permit Conditions of Approval are considered in Draft SEIR Section 3.7, Other Environmental Topics, commencing on page 3.7-1.
- O-6 Recent accident history on Roblar Road is discussed in Draft SEIR Section 3.4, Transportation and Traffic, on page 3.4-3. This history is through 2015. The County is aware that a recent accident involving a rolled crane indicates that the road can be difficult for large vehicles, however this accident did not occur on the 1.6-mile segment that is at issue in this approval.
- O-7 The Draft SEIR, Section 3.4, Traffic and Transportation, Impact 3.4-3 examines the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle safety hazards, and finds that, even with mitigation, the impact would be significantly and unavoidably more severe. Please see Master Response 1.
- O-8 Quarry haul trucks will be restricted to the designated haul route, as shown in Figure 2-1 in Chapter 2, Project Description, of the Draft SEIR. The haul route does not include any portions of Canfield Road, Peterson Road, or Roblar Road east of the Quarry entrance.
- O-9 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying any of the existing Conditions of Approval, as well as the commenter's general concern for impacts of the Quarry operation on the environment. These concerns are noted.

From: [Chris Seppeler](#)
To: [Verne Ball](#); [Blake Hillegas](#)
Subject: FW: Public Comments: Draft ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099
Date: Monday, October 29, 2018 10:19:19 AM

From: chillinvillin@gmail.com [mailto:chillinvillin@gmail.com]
Sent: Monday, October 29, 2018 6:15 AM
To: Chris Seppeler <Chris.Seppeler@sonoma-county.org>
Subject: Public Comments: Draft ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099

October 29, 2018

Natural Resources Division, Permit Sonoma
 2550 Ventura Avenue
 Santa Rosa, CA 95403-2829

Dear Mr. Chris Seppeler,

My name is Justin Merrick. I have lived almost the entirety of my life on Roblar Road in the County of Sonoma just outside of Petaluma. I am writing you with concerns for a Use Permit application (UPE16-0058) to modify Use Permit (PLP03-0094). A draft SEIR has been submitted for the requested changes to an approved project developing a rock quarry on Roblar Road in Petaluma.

I remember the days as a child when I use to ride my bicycle on Roblar to the nearby towns. That is not possible anymore. I am not naive to the changes over the last 34 years near the home my parents built. But that is not an excuse to allow a wealthy developer to come in and negate the necessary safety requirements which were already agreed upon in 2010. The changes the SEIR are proposing will threaten the men, woman, and children that travel Roblar Road every day. This is what will happen if the road is allowed to be modified and narrowed beyond the known safety guidelines.

I'm not coming to you as just a citizen of Roblar Road but also a professional. I have been a professional Firefighter-Paramedic for over 13 years. My experience has been developed over those years in Alameda County in the Eastbay. I have spent much time on roadways, freeways, and highways with heavy equipment, transports, and trucks and the dangers they possess. Can you image what its like helping those in need while 50,000 pound trucks drive by at 50mph speeds and more. I can. Not only is it known that the new guidelines will be unsafe for walkers and bicyclists but what happens when, not if, there is an accident on Roblar Road. What's to be said for the safety of the men and women in law enforcement and the fire department doing their jobs. Instead of 40 trucks a day there will be 600 trucks a day traveling Roblar. Does that sound safe to you? Should we not require the developer to commit to their due diligence to provide for the safety of those traveling the roads.

Again, remember that the developer already agreed in 2010 to the approved requirements for the quarry. Do you allow your children to get away with breaking a rule that you imposed 10 minutes after imposing it? What makes the developer of this quarry special and more important than the lives of myself and my neighbors? What does it say about Sonoma County and its Administrators if we are to allow this kind of corrupt behavior to overlook the safety of

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its people? These concerns are real as are those who live their lives and raise their children on Roblar Road. Just think of what you would want if this was happening on your road. What would you expect of the developer, what would you expect of those in charge of ensuring the safety of its people? Just as I myself have been afforded an amazing task to help those in need as a Firefighter-Paramedic, so have you, Chris Seppeler, Senior Environmental Specialist.

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cont.

With the Utmost Sincerity and Integrity,

Justin Merrick

4422 Roblar Road
Petaluma, CA 94952
(707)338-8637

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Letter P. Justin Merrick

- P-1 This comment introduces the comment letter and does not require a separate response.
- P-2 The Draft SEIR examines the potential environmental impacts, including impacts to bicycle and traffic safety, of the Applicant's proposed modifications to Condition/Mitigation Measure 49 and Condition 59, which establish design standards for an improved Roblar Road, including an examination of the proposed modifications in relation to safety standards. Please refer to Draft SEIR Section 3.4, Transportation and Traffic, and particularly Impacts 3.4-3 and 3.4-4. Please see also Master Response 1.
- P-3 Please see the previous response.
- P-4 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying any of the existing Conditions of Approval.

From: [Barry Weinzveg](#)
To: [Shirlee Zane](#)
Subject: ROBLAR ROAD QUARRY
Date: Friday, October 26, 2018 11:49:16 AM

Do not agree to narrowed road widths or narrowed bicycle lanes.

I¹

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Letter Q. Barry Weinzveg

- Q-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval requiring widening of Roblar Road.

From: [Jane Nielson](#)
To: blake.hillegas@sonomacounty.org; [Chris Seppeler](#)
Subject: ROBLAR ROAD QUARRY File UPE16-0058 Draft Supplemental EIR SCH #20040902099
Date: Thursday, October 25, 2018 5:04:10 PM
Attachments: [JNSignature-2.pdf](#)

Dear Mr. Hillegas and Seppler,

I am a Ph.D. geologist and California Professional Geologist (Lic No. 9011). These comments supplement those that I submitted in 2009 and 2010. This time I am particularly concerned about the intention to move the channel of Americano Creek, to accommodate the project and allow lanes for the many daily hauling trips by large trucks on Roblar Road.

There is no way of accomplishing this intention without severely impacting the fluvial regime in downstream segments of Americano Creek and degrading the environmental qualities of Estero Americano, into which the creek flows. It's clear that the County intends to fight all future lawsuits as the creek and esteros become degraded, undercutting statements of environmental concern by members of the County Board of Supervisors.

Sincerely,

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Jane E. Nielson
Geologist

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Letter R. Jane Nielson

- R-1 Comments submitted on the 2010 Final EIR and 2010 Recirculated Draft EIR were responded to previously and are not responded to here.
- R-2 Hydrologic and water quality effects of the proposed relocation of the channel of Americano Creek are examined in Draft SEIR Section 3.2, Hydrology and Water Quality, and are found to be less than significant. Please see Impact 3.2-1.

From: ed.ryska@gmail.com
To: Susan Gorin; David Rabbitt; Shirlee Zane; James Gore; Lynda Hopkins
Subject: ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099
Date: Friday, October 26, 2018 10:21:36 AM
Importance: High

To: Sonoma Board of Supervisors

First District—Susan Gorin

Second District—David Rabbitt

Third District—Shirlee Zane

Fourth District—James Gore

Fifth District—Lynda Hopkins

Re: ROBLAR ROAD QUARRY Supplemental Environmental Impact Report SCH # 2004092099

I recommend you strongly oppose any changes that effect safety and change environmental conditions from the original stipulations of the quarry permit.

1) Modify the Design of the Intersection of Stony Point Road/Roblar Road – The applicant is trying to reduce lanes causing decreased safety at the intersection for vehicle and bicycle traffic. This could relate to more collisions. The change should not be allowed.

2) Modify the design of Roblar Road Improvements between the Quarry Site and a Private Access Road – Again any reduced clearances (smaller lanes) decrease the safety for all users of Roblar Rd. including pedestrian, vehicle and bicycle traffic. According to the SEIR, Roblar Road is used by approximately 1700-2000 cars per day and many bicyclists. Once the quarry starts operation there will be up to 600 Roblar Quarry trucks per day added to the 2000 cars. The changes will make the road unsafe for cars and bicyclists.

3) Realignment of Americano Creek. There is an existing environmental County ordinance passed in 2012 about creek setbacks which the quarry will violate by moving the creek.

In addition, as a retired insurance professional the board needs to engage the County's Risk Manager to assure the limits of liability, annual certificates of insurance, hold harmless and indemnification requirements are adequate to protect the County. As many homeowners found out during the wildfires insurance policy limits are static but present value costs are not.

The developer is trying to save money on road improvements despite the huge amounts of money he will make from the quarry. The County needs to hold him accountable to maintain the safety requirements of the original use permit.

My qualification to speak to this subject are:

California Licensed Insurance Agent/Broker (# 0C15738).
 Master of Science - Safety Engineering - 8/77
 Northern Illinois University / University of Southern California
 Bachelor of Science - Industrial Management - 2/72
 Northern Illinois University

PROFESSIONAL AFFILIATIONS:

- ~ National Safety Council Board of Directors (1988-1997)
- ~ National Safety Council Board Executive Committee (1988 to 1993)
- ~ National Safety Council Public Safety Vice President (1988 to 1993)
- ~ Sacramento Safety Center Board of Trustees & Board of Directors since (1989 to 2004)
- ~ Safety Center Board Chairman 1999/2000
- ~ National Safety Council Risk Management Committee, Chairperson

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- “ National Safety Council Consumer Product Advisory Committee
- “ Professional Member - American Society of Safety Engineers
- “ Certified Hazard Control Manager #1569
- “ Certified Safety Executive #702
- “ National Safety Management Society #3894
- “ Recipient of the National Safety Council’s Distinguished Service to Safety Award for 2000

Edward Ryska

Edward Ryska

6010 Roblar Rd.

Petaluma, CA 94952

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cont.

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Letter S. Edward Ryska

- S-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.
- S-2 Chapter 3.4, Traffic and Transportation of the Draft SEIR examines the Applicant's proposed modifications to the intersection of Stony Point Road and Roblar Road to upgrade design and finds that, with mitigation, they would not have a new or more severe impact on level of service and traffic safety, including bicycle safety, compared to the previous design. Please refer to Draft SEIR Impacts 3.4-1, 3.4-2, and 3.4-5.
- S-3 The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, with mitigation, these impacts would be significant and unavoidable. Please see Master Response 1.
- S-4 Please see the discussion of the consistency of the Applicant's proposed relocation of Americano Creek with the Sonoma County Riparian Protection Ordinance in Draft SEIR Section 3.3, Biological Resources, Impact 3.3-2. This impact discussion concludes that implementation of the Applicant's Conceptual Planting Plan (Draft SEIR Appendix A) would not conflict with the ordinance.
- S-5 Environmental review pursuant to CEQA does not include examination of potential financial risk or liability. The proposal does not include indemnification of the County for road improvements.
- S-6 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.
- S-7 This comment presents the qualifications of the commenter.

From: [Harriet Saunders](#)
To: [Shirlee Zane](#)
Subject: Roblar Road quarry
Date: Thursday, October 25, 2018 7:35:09 PM

This is to let you know that I am adamantly opposed to Mr. Barella's proposed changes to the EIR you approved in 2010. It is clear from the SEIR that his proposed changes do not meet county safety standards with regards to the narrower road, nor do they meet county environmental standards with regards to American Creek. I can see no possible justification to agreeing to these changes.

I travel frequently on Roblar Road to go from Rohnert Park to Bodega Bay. I am very concerned about the safety issues for cars and bicyclists sharing a road with gravel trucks even with the 2010 requirements. Modifying those requirements is unacceptable.

Harriet Saunders

6098 Dawn Court
Rohnert Park, CA 94928

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Letter T. Harriet Saunders

- T-1 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.
- T-2 The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, even with mitigation, these impacts would be significantly and unavoidably more severe. Please see Master Response 1.
- T-3 Please see the discussion of the consistency of the Applicant's proposed relocation of Americano Creek with the Sonoma County Riparian Protection Ordinance in Draft SEIR Section 3.3, Biological Resources, Impact 3.3-2. This impact discussion concludes that implementation of the Applicant's Conceptual Planting Plan (Draft SEIR Appendix A) would not conflict with the ordinance.
- T-4 Please see the response to comment T-2.

From: [Donna Spilman](#)
To: [Susan Gorin](#); [Shirlee Zane](#); [Lynda Hopkins](#); [David Rabbitt](#); [James Gore](#)
Cc: [Blake Hillegas](#); [Chris Seppeler](#)
Subject: Comments on UPE16-0058 Roblar Road Quarry SEIR Public Hearing
Date: Sunday, October 14, 2018 3:13:30 PM

October 14, 2018

To: Sonoma County Board of Supervisors

RE: Public Hearing on the Roblar Road Quarry Supplemental EIR UPE16-0058

Dear Supervisors,

We are unable to attend the October 16, 2018 Public Hearing regarding changes requested to the Use Permit for the Roblar Road Quarry, but would like to submit some comments on the application. First, we are grateful the County required the SEIR to be done in response to the developer's application to change some of the Conditions mandated when the project was certified in 2010. Our comments:

- 1) Condition/Mitigation Measure #44 re: change in design for signal at Stony Point and Roblar Roads: We know this is a difficult area for the installation of the traffic signal. Reducing the bike lanes to 4 feet and not moving the east-side private driveway opposite Roblar Road, however, seem to be ripe for accidents waiting to happen. Does the Three Feet Safety Act (Vehicle Code section 21760) apply here?
- 2) Condition/Mitigation Measure #49 and Condition #59 to reduce the required width of Roblar Road from 40 feet to 32 feet for a 1.6 mile segment west of the quarry access point: Changes to these Conditions and Mitigations are our biggest concerns. As is known, Roblar Road is already a sub-standard road among most of its length. We are greatly concerned that reducing the width to 32 feet and the subsequent reduction in shoulder and bike lane widths are serious public safety issues for drivers, those who have to pull over to the side of the road to fix tires, etc., and bicyclists. Gravel trucks are very wide. Emergency vehicles and RV's are very wide. For every foot reduced in the lane widths, we fear an increase in accidents. We are aware Bike Sonoma seems to think narrowing the lanes is OK, but they do not travel this road daily as residents in Bloomfield and the Roblar area do. We do not think road widths can be reduced to insignificant under CEQA. The County should also hold the developer to the 2010 Bikeways Plan for the minimum 5 foot width Class II bike lane measurement to assure that bike riders, motorcyclists (RIP City Riders motorcycle club now have their headquarters on Roblar Road), emergency vehicles and drivers can safely pass gravel trucks

An additional concern is that the SEIR noted the need to prevent off tracking when road lane width is considered. As an aside, there have been two accidents on Roblar Road in the past couple of months that were potentially very serious. Granted these accidents happened east of the quarry closer to Canfield Road where Roblar is in better condition than westward, but to us they speak of the overall danger along substandard Roblar Road. In both cases, power poles were destroyed when hit first, by a huge commercial crane that off tracked close to a residence while traveling to a construction site, and second, by a car plowing into telephone poles. In both cases, downed power lines could have caused fires and did cause power outages for many hours

- 3) Condition 101 and Condition/Mitigation #133 regarding the relocation of 930' of Americano Creek: Our comment here is just one of consternation that Americano Creek did not seem to raise concerns for the developer or the County when the project was certified. Public input that the creek was too close to the road not to be impacted by roadway construction was

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dismissed. The current application now gives credence to people's original concerns about taking care of Americano Creek and the surrounding riparian and wetland areas and must be done carefully.

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cont.

The project was certified in 2010 with the expectation the developer would acquire right of way to make promised improvements along Stony Point Road and Roblar Roads and that Americano Creek would not be a factor to access road or Roblar Road construction. We now know these things are not true. The developer has not been able to procure the needed right of way along Stony Point and Roblar Roads. The SEIR now says condemnation of people's personal property (not ours) is potentially on the table. The SEIR says the developer will have to pay the costs of any condemnation as though that makes this possibility less egregious or less disruptive to property owners who will be most impacted by quarry truck traffic and/or the mining operations.

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The SEIR describes the permitted annual gravel production projected for the quarry as 570,000 tons per year and as 570,000 cubic yards per year. These descriptions seem inconsistent because we assume much more gravel will be extracted per year if the measurement is in cubic yards. Either way, the net income we assume this quarry will generate each year will easily be in the millions of dollars for 20+ years. The County should not allow the developer to cut costs at the expense of public and environmental safety or allow the potential use of condemnation power because he does not find the original Conditions feasible. The County should not weaken the original Conditions of Approval at the expense of public safety.

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Sincerely,

David and Donna Spilman

4981 Canfield Hill Lane
Petaluma, CA 94952



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Letter U. David and Donna Spillman

- U-1 Mitigation Measures 3.4-1 and 3.4-2 in Draft SEIR Section 3.4, Transportation and Traffic would require modifications to the Applicant's proposed intersection upgrade on Stony Point Road and Roblar Road design to require a southbound left-turn lane into the private driveway and 5-foot wide shoulders through the intersection, unless such widening would disturb drainage ditches. With these mitigation measures, impacts on traffic and bicycle safety associated with the Applicant's proposed intersection design would be less than significant.
- U-2 As noted in the discussion of the Regulatory Setting in Draft SEIR Section 3.4, Transportation and Traffic, the Three Feet for Safety Act applies throughout the State of California.
- U-3 The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, even with mitigation, these impacts would be significantly and unavoidably more severe. Please see Master Response 1.
- U-4 Please see the previous response.
- U-5 Please see Master Response 1.
- U-6 Please see the response to comment U-3.
- U-7 The 2010 Final EIR examined potential impacts of the Quarry project on the biology and hydrology of Americano Creek; see Impacts C-1, C-2, C-4, and C-5 in Section IV.C, Hydrology and Water Quality, and Impact D-7 in Section IV.D, Biological Resources. See also the discussion of road widening impacts on biological resources in Section IV.E, Transportation and Traffic, Impact E8. The 2010 Final EIR included numerous mitigation measures to reduce impacts of quarry development and operation on Americano Creek, and found that for Modified Alternative 2 (the approved version of the Quarry project) impacts to the creek would be less than significant. These mitigation measures were adopted as Use Permit Conditions of Approval. Impacts of the Applicant's current proposal to modify Use Permit Conditions to allow relocation of Americano Creek were found to be less than significant with regard to biological resources and hydrology and water quality (see Draft SEIR Impact 3.2-1 in Section 3.2, Hydrology and Water Quality, and Impacts 3.3-1 through 3.3-7).
- U-8 Should the County Board of Supervisors decide to approve the proposed Use Permit modifications, it will do so only after making findings to support that decision, including, if warranted, a statement of overriding considerations, pursuant to CEQA Guidelines Section 15093.

- U-9 The statement in Draft SEIR Chapter 1, Introduction page 1-1, and Executive Summary page S-1 that, “The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 tons per year” is incorrect, since the Use Permit, Condition 148, limits annual production to 570,000 cubic yards per year. This statement is corrected to read as follows:

The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year.

- U-10 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter’s opposition to modifying the existing Conditions of Approval.

In the Matter Of:

Roblar Road EIR

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

October 16, 2018

Job Number: 513629

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SPECIAL CLOSED SESSION AGENDA

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BOARD OF SUPERVISORS

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SONOMA COUNTY

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575 ADMINISTRATION DRIVE, ROOM 102A

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SANTA ROSA, CA 95403

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REPORTER'S TRANSCRIPT OF THE HEARING ON DRAFT

12

SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR

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MODIFICATIONS TO CONDITIONS OF THE USE PERMIT FOR THE

14

ROBLAR ROAD QUARRY, FILE UPE16-0058: INFORMATIONAL ITEM

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TO HOLD A PUBLIC COMMENT HEARING ON THE DRAFT

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SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (DRAFT SEIR)

17

(SECOND DISTRICT) HELD ON OCTOBER 16, 2018

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Transcribed By:

25

Amber M. Harlan, CSR No. 14074

Job Number: 513629

PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 2

1 APPEARANCES:

2 County of Sonoma Board of Supervisors:

3 Chairman James Gore - Fourth District
Susan Gorin - First District
4 David Rabbitt - Second District
Shirlee Zane - Third District
5 Lynda Hopkins - Fifth District

6

7 Also present:

8 Jennifer Barrett - Deputy Director of the Permit
Resources Management Department
9 Blake Hillegas - Supervising Planner with the Permit
Resources Management Department

10

11 Public Comments:

12 Margaret Hanley
Sue Buxton
13 Jason Merrick
Gentleman One
14 Joe Morgan
Woman One
15 Daniel
Gentleman Two

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PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 3

1 The October 16, 2018, Hearing on Draft Supplemental
2 Environmental Impact Report for modifications to
3 conditions of the Use Permit for the Roblar Road Quarry,
4 File UPE16-0058: Informational item to hold a public
5 comment hearing on the Draft Supplemental Environmental
6 Impact Report (Draft SEIR) (Second District), County of
7 Sonoma, was held, videotaped, and later transcribed by
8 me, Amber M. Harlan, on December 6, 2018:

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12 CHAIRMAN GORE: Hello.

13 MS. BARRETT: Yes, thank you, Mr. Chairman --

14 CHAIRMAN GORE: Okay. Let's jump on in.

15 MS. BARRETT: -- Members of the Board. I'm

16 here today with Blake Hillegas who is the project
17 planner for this project. The Board had previously
18 approved the Roblar Quarry, and we had some challenges
19 with some of the conditions, and so this item is related
20 to some changes to those conditions that will be needed
21 to carry the project forward.

22 So with that, I'll turn it over to Blake, and
23 we'll move forward.

24 MR. HILLEGAS: Thank you, Chair, Members of the
25 Board. Blake Hillegas, Permit Sonoma. The item before

PH-1

PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 4

1 you is a public hearing to take testimony on a Draft
2 Supplemental Environmental Impact Report prepared for
3 proposed modifications to conditions of approval for the
4 Roblar Road Quarry located at -- to be located at 7175
5 Roblar Road.

6 This shows the location of the quarry. It's
7 about four miles west of Stony Point Road on Roblar
8 Road. The Board of Supervisors certified an EIR in 2010
9 and approved the project at that time. There was a
10 lawsuit filed, and it was held up in the courts until
11 2014 when the Court of Appeals upheld your decision.
12 The application before you was filed in 2016, and this
13 Board took original jurisdiction of the application in
14 August of this year.

15 The purpose of today's meeting is to take
16 public comment on the adequacy of the Draft EIR. Public
17 comment period was open on September 14th and will close
18 this October 29th. Subsequent to the public comment
19 period being closed, Staff and the consultants will
20 prepare a final EIR and bring the project back for
21 consideration.

22 This sort of gives an overview of the -- the
23 area around the quarry. Looking for our -- so
24 essentially, the proposed modifications are to the
25 required intersection improvements at Stony Point Road

PH-1
cont.

PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 5

1 and Roblar Road. Secondly, the roadway width on a
2 1.6-mile segment of Roblar Road west of the quarry, and
3 then third, proposing relocation of a segment of
4 Americano Creek along the project frontage.

5 The proposed intersection designed for Stony
6 Point and Roblar Road is close to the same as what was
7 approved. So the applicant would install a full signal
8 at that intersect with turn lanes north and southbound
9 on Stony Point Road. The proposal varies in that the
10 shoulders would not be as wide. They're proposing to
11 have a minimum four-foot shoulders in order to stay
12 within the existing developed area and avoid potential
13 biological resources CTS habitat in the area. The
14 proposed mitigation would require the shoulders be a
15 minimum of five-feet wide at this intersection.

16 This shows the location of the haul route
17 headed west along Roblar Road, so that would be the
18 1.6-mile segment of Roblar Road that's required to be
19 improved by the applicant. And in the original
20 approval, you can see it was a 12-foot travel lane --
21 12-foot travel lanes, 8-foot-wide shoulders, which is
22 the center section in this view. The top view is the
23 existing road which is basically 8- to 10-foot travel
24 lanes and no shoulder. The applicant's proposal is for
25 11-foot travel lanes, 3-foot -- I should say 5-foot

PH-1
cont.

1 shoulder, 3-foot of that paved with 2 feet of rock
2 backing.

3 The mitigated -- the mitigation in the
4 Supplemental EIR requires that -- it accepts the 11-foot
5 travel lane as being adequate. It requires a five-foot
6 shoulder, four feet of that to be paved. And that
7 particular section was supported by the Department of
8 Transportation and Public Works, and that section is
9 supported by the Bicycle -- Pedestrian-Bicycle
10 Committee.

11 The third component is the relocation of
12 Americano Creek, and the reason for all the changes are
13 basically a result of constraints with prescriptive
14 right-of-way on Roblar Road and biological -- potential
15 biological impacts.

16 So as you can see from this view foil or this
17 overhead, there the creek currently crosses Roblar Road
18 and runs right along the side of the road at this
19 location. And the applicant has not been able to secure
20 right-of-way on the north side of the road in order to
21 widen -- improve the road; therefore, he's proposing
22 to -- to re- -- relocate a portion of the creek, so this
23 would ultimately be an enhancement project. The
24 mitigations that are spelled out basically require that
25 impacts be limited to the -- to what's shown on these

PH-1
cont.

PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 7

1 plans, and existing mitigation measures regarding
2 wetlands and riparian habitat would be required to -- to
3 be implemented.

4 So with that, I'd just like to remind the Board
5 that, you know, this -- the purpose of this hearing is
6 to take public testimony and that subsequent to this
7 meeting, we will prepare a response to comments, final
8 EIR, and then bring the proposed project changes back to
9 you for consideration.

10 That concludes my presentation.

11 CHAIRMAN GORE: Thank you very much.
12 Appreciate that.

13 I want to thank everybody for your patience
14 being here today. This is a longstanding issue. I
15 think, actually, Supervisor Zane, you're probably --

16 SUPERVISOR ZANE: I was the only --

17 CHAIRMAN GORE: -- the only one on -- on this
18 Board that originally went through this. So all of you
19 have a decade plus experience on this issue from all
20 sides, and we'll give you a chance to -- to -- to ask us
21 some questions or give us your comments on where we
22 stand.

23 I do want to open it up for questions from the
24 Board to start with. I'm going to start with the
25 district representative and see if there's -- there's

PH-1
cont.

PH - Public Hearing Comments

HEARING ON SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT - 10/16/2018

Page 8

1 any opening comments or any -- any -- any thoughts you
2 might have on this.

3 SUPERVISOR RABBITT: No. Other than, I think
4 everyone knows that this wouldn't have been here without
5 this Board taking original jurisdiction, that it would
6 have been at the planning commission for this,
7 basically, input of comments from -- in a public
8 setting, but also very much appreciate everyone working
9 through the issues that have been so complicated in the
10 amount of time that it's taken to get us to this place.

11 I -- I don't really have any questions. I'm
12 glad that we have the letters from both Caltrans and the
13 Bicycle Advisory Committee, because I know that some of
14 those issues were -- were really -- just dealing
15 with some of those issues was -- was difficult at best
16 at times.

17 The roadway, actually, the section, if you look
18 at the top section versus what -- what it's going to
19 actually be at the end of the day, it's -- it's a much
20 wider section and, therefore, hopefully that translates
21 into a safer section as well. And I know that the
22 traffic input on the corner of Stony Point and Roblar,
23 the -- I think this project adds just a few percentage
24 of the overall impact, but it's actually footing the
25 bill on the entire signal. So appreciate that going

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PH-1
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PH-5
V

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		Page 9	Y
1	forward as well. And -- and I know that it's a less of		
2	an environmental impact to stay out of the critical		
3	habitat area for a variety of reasons, but appreciate		PH-5
4	that. Look forward to taking the input and moving on.		cont.
5	Thank you.		I
6	SUPERVISOR ZANE: Can I --		I
7	CHAIRMAN GORE: Thank you.		
8	Yeah.		
9	SUPERVISOR ZANE: Thanks.		
10	CHAIRMAN GORE: Then I'll come over to		
11	Supervisor Gorin afterwards.		PH-6
12	SUPERVISOR ZANE: Since I'm the only one		
13	sitting here who actually voted on this.		
14	First of all, I think Mr. Barella has had a lot		
15	of patience. It's been a long time. What, nine years?		
16	It's been about nine years. Yeah.		I
17	I -- I did have some real concerns about		I
18	bicycle safety, but I don't necessarily always agree		
19	with the Bike Coalition. I'm glad our -- our Advisory		PH-7
20	Board from the county -- the Bike and Pedestrian		
21	Advisory Board weighed in on this.		I
22	You know, I believe for many years this Board		
23	has -- has advocated to widen lanes when we do projects		
24	and -- which was always kind of ridiculous to me because		PH-8
25	every time we widen a road, people speed, and it's speed		↓

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1 that kills cyclist. So it's just something we need to
2 be aware of. And my -- my main concern has been, you
3 know, the speed on -- on this particular road given the
4 fact that you've got trucks. And -- and by the way, I
5 just want to say, we really do need another source of
6 aggregate in this county. We have for a long time.

7 But I understand that part of this going
8 forward, there's going to be difference -- differences
9 in speeds depending upon what part of the road that
10 you're on, is that correct, the speed requirements go
11 down?

12 MR. HILLEGAS: Yes. They're -- at this segment
13 of Roblar Road, there's a prima facie 55-mile-an-hour
14 un-posted speed limit; however, there are curves in this
15 road, all of which have warning speed signs.

16 SUPERVISOR ZANE: Well, I don't know how we
17 change that, but 55 miles an hour on this road is
18 just -- is not safe in my opinion. I -- I will tell you
19 guys that in five years of taking the cycling group, the
20 projects that I started on different routes every month,
21 this is the only route that we actually aborted because
22 it was so scary. Just really, really terrifying because
23 the cars were so fast and the shoulder was so narrow.
24 And I just said, "We got to get off this road." So we
25 did. We took a whole different route. But that was the

PH-8
cont.

PH-9

PH-10

PH-11

1 only time we've ever done that.

2 So my concern is -- anyway, for the bicyclist
3 safety, we always have to look at that, and we have to
4 find ways that we can mitigate it. And I would argue as
5 we move forward that we need to just slow down all the
6 cars and all the trucks on that road, and that it really
7 isn't a road that you should be going 55 on.

8 And -- and I drive Petaluma Hill Road every
9 single week when I go down to my stables. And we go
10 from 40 -- 55 to 45 or 40 in front of Taylor Mountain,
11 and we deliberately had to slow that down because of the
12 entrance into the park. And I can't tell you how many
13 times I have driven behind somebody and they're --
14 they're not slowing down at all. And they're not
15 slowing down because it's a well-paved road, and it's
16 now wide, and they don't really see a -- a need to slow
17 down. So if -- if you just put up a sign for, you know,
18 an eighth of a mile, it doesn't necessarily slow people
19 down.

20 So I'm hoping as we move forward that there are
21 going to be some traffic calming considerations. I
22 think that's really necessary because cyclists will
23 continue to use this route. Out -- out west of Petaluma
24 is some beautiful cycling and a lot of -- a lot of
25 people do use it.

PH-11
cont.

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1 Anyway, thank you, Mr. Barella, for your
2 patience all these years.

3 CHAIRMAN GORE: Supervisor Gorin.

4 SUPERVISOR GORIN: I would echo all of the
5 comments made by Supervisor Zane. I also am a cyclist.
6 I also have bicycled on Roblar Road, though not
7 recently. And I'm concerned about the speed of traffic
8 and how it effects cyclists.

9 We bicycle on a tandem. We have a lot of mass.
10 And when trucks go closely next to us, they're not
11 giving us the three-feet right-of-way that they should
12 be giving us. We are buffeted by the wind. And so it
13 makes me extremely nervous that we're going to have a
14 significant increase in very large trucks on these
15 roads. I do appreciate the fact that the roads are
16 going to be widened somewhat, but I do have some
17 concerns about perhaps the inadequate width for bicycles
18 in certain segments of it.

19 And I know -- I also -- Supervisor Gore and I
20 share a boundary coming down from the Mark West Quarry,
21 and we frequently have challenges with speeding gravel
22 trucks coming down either Calistoga Road or Porter Creek
23 and Mark West Springs. Gravel trucks over --
24 overturning, narrow misses with cars. They're traveling
25 too fast. I have yet to resolve differential speeds for

PH-11
cont.

PH-12

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1 trucks versus cars on those roads.

2 So let me ask you a question since I was not
3 involved in this conversation a while ago and I did go
4 through the EIR: How many additional truck trips will
5 potentially be a result from this project or the
6 expansion of the project?

7 MR. HILLEGAS: So that varies. On average, 302
8 truck trips a day to 580 on a peak day.

9 SUPERVISOR GORIN: I'm absorbing that. I can't
10 even imagine being a bicyclist or -- or a car on this
11 road with that many trucks.

12 All right. So tell me our ability to move
13 forward. What is it that we can do? Supervisor Zane
14 did ask for reduced speeds. Can we really specify as
15 mitigation significantly reduced speeds? Perhaps
16 flashing speed signs.

17 And I don't -- at this point, I don't know that
18 we can totally go back and revisit the approval of this
19 project, but -- so I'm looking for what we -- what we
20 can do. What we're charged with here, we're just going
21 to listen, but at some point --

22 MS. BARRETT: Yes.

23 SUPERVISOR GORIN: -- we'll -- we'll have more
24 of an opportunity to comment.

25 MS. BARRETT: So through the Chair, if I could

PH-12
cont.

PH-13

PH-14

PH-15

PH-16

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1 just respond briefly to the question about speeds.
2 The -- you have to do a speed study to set a speed
3 limit, and it has to be set right at the 85th
4 Percentile. So to just go in and change speeds is not
5 something we can say as a mitigation. We don't know
6 what they are until we do that study.

7 But traffic calming measures are something
8 that's commonly used to slow things down by the -- the
9 geometry of the road, for example, or in the case of a
10 flashing sign that says, you know, a bicyclist is on the
11 road ahead, to slow down, and things like that; like we
12 did on Mark West Springs. So we can look at those types
13 of measures. Measures to -- that would physically slow
14 traffic down.

15 SUPERVISOR GORIN: You know, sometimes I
16 dislike working with staff people. I just want to go in
17 there and change the speed limits. And -- and the
18 director of TPW or the Public Works director of Santa
19 Rosa says, "No, we have to do a speed survey and
20 warrants." You guys are -- are not working with us
21 here. I totally understand what you're saying, but I
22 think --

23 MS. BARRETT: Well, you can change the speed
24 limit; you just can't enforce it.

25 SUPERVISOR GORIN: Just can't enforce it.

PH-16
cont.

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1 Yeah, I've heard that too.

2 I -- I understand why you need to do what you
3 need to do, and I think you understand our concerns of
4 community members being in the car with that many trucks
5 and that many trucks moving really fast. So as we move
6 forward in considering traffic calming traffic
7 mitigation, one of the -- as Supervisor Zane said,
8 "We're -- we're doing exactly opposite of traffic
9 calming. We're widening the road."

10 Let me ask you another question: What's the
11 width of the normal traffic -- gravel truck?

12 MS. BARRETT: I think -- (inaudible).

13 MR. HILLEGAS: Yeah.

14 SUPERVISOR GORIN: Because you're proposing an
15 11-foot road width, and --

16 MR. HILLEGAS: Yeah.

17 SUPERVISOR GORIN: -- I'm just wondering how
18 wide the truck is.

19 MR. HILLEGAS: They're generally 8 and a half,
20 but 10 foot with the mirrors.

21 SUPERVISOR GORIN: Okay. Ten feet.

22 MR. HILLEGAS: Yeah.

23 SUPERVISOR GORIN: Okay. So you have about
24 half a foot for the truck to go hither and yon, not --
25 not very much.

PH-16
cont.

PH-17

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1 I think those are the questions that I have.

2 Thank you.

3 SUPERVISOR HOPKINS: My questions were
4 primarily surrounding the sort of bike safety and the
5 road. But I do have one question, and that's -- I
6 assume that we have reached out to sort of all of the
7 usual agencies and might expect to see something from
8 CDFW or (inaudible) regarding the realignment of the
9 creek, so we're doing this public comment period, that
10 we would then be able to view at our next hearing; is
11 that correct?

12 MS. BARRETT: Yes, that's correct. And it's my
13 understanding that the applicant has been working with
14 those agencies --

15 SUPERVISOR HOPKINS: Okay.

16 MS. BARRETT: -- on their enhancement plan --

17 SUPERVISOR HOPKINS: Wonderful.

18 MS. BARRETT: -- and they have already had some
19 preliminary discussions.

20 SUPERVISOR HOPKINS: Great. So we would
21 receive documentation, whatever documentation we receive
22 from those agencies before the next discussion.

23 MS. BARRETT: Right.

24 SUPERVISOR HOPKINS: Thank you very much. That
25 was my main question.

PH-17
cont.

PH-18

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1 SUPERVISOR GORIN: One more question: Because
2 of the number of gravel trucks on the road, I assume
3 even though they may be covered that gravel would bounce
4 out of the trucks or be caught in the tires. There was
5 a proposal for street sweeping, especially roadside
6 sweeping, and it really affects the creek because of
7 the -- the agencies are really concerned about gravel
8 and silt entering into the creek system.

9 Is there a proposal for a street sweeping on
10 the roads that the trucks use?

11 MR. HILLEGAS: There's existing conditions of
12 approval that require the applicant to maintain Roblar
13 Road including sweeping, keeping gravel off the road.

14 SUPERVISOR GORIN: So that is something that we
15 could really investigate and perhaps, if necessary,
16 increase the frequency and -- and the -- and the
17 direction as part of the condition of approval and
18 mitigation for this.

19 MS. BARRETT: Yes.

20 SUPERVISOR GORIN: Okay. Thank you.

21 CHAIRMAN GORE: (Inaudible). Open to public
22 hearing (inaudible).

23 PUBLIC HEARING OPENED

24 LADY ONE: And I had a problem because I
25 can't -- I was -- I had a procedure -- (inaudible).

PH-19

PH-20

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1 Okay. Thank you.

2 MARGARET HANLEY: Thank you very much. Yes,
3 Margaret Hanley. I use Roblar Road on a daily basis,
4 and I'm here today to appeal to you all to disapprove
5 the proposed modifications for the project.

6 The approval by the Board of Supervisors in
7 2010 was based on numerous mitigations that were
8 specifically required for the safety of operations of
9 the quarry and to ensure public safety impacts, and that
10 all were considered seriously. The safety of the
11 community and its visitors are of upmost concern to me
12 with the submission of this SEIR.

13 The applicant's request to narrow by eight feet
14 the paved width of Roblar Road improvements is
15 completely unacceptable. Gravel trucks are fully nine
16 feet six inches in width. The request to narrow the
17 travel lane from 12 feet currently to 11 feet allows
18 only 9 inches on either side of a traveling truck
19 weighing upwards of 50,000 pounds for clearance from
20 opposite traffic in the bicycle lane. Modification of
21 the bicycle lane from six feet to three feet is less
22 than the minimum operating standard stated in the
23 Federal Highway Administration Audit Guidelines of which
24 I have attached a copy to my letter. Per this federal
25 guideline, a minimum operating distance for a cyclist is

PH-20
cont.

PH-21

PH-22

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1 48 inches.

2 California Vehicle Code is -- also has Three
3 Feet for Safety Act. I have also attached that to my
4 letter.

5 It is impossible for a gravel truck operating
6 on the applicant's proposed road width to pass a cyclist
7 without going over the centerline of the road; which
8 means every time a cyclist is passed on Roblar Road, the
9 truck must pass over the centerline into oncoming
10 traffic lane, every time. Great risk to the public is
11 involved with any modification for this commercial
12 operation. And I urge you to carefully view and study
13 the visual charts I submit today which show the width of
14 those trucks and the proximity to the bicyclist. You
15 narrow the lanes, the bicyclist are -- are in grave
16 danger every time.

17 The applicant believes the conditions and
18 modifications of Measures 49 and 59 are impracticable --
19 impracticable -- infeasible and unnecessary, and I find
20 that to be an extremely callous statement given that the
21 requirements modified will endanger not only the
22 cyclists but any pedestrians and any other traffic --
23 traffic on Roblar Road, and it's not a question of if,
24 but when a tragedy is going to strike on this road with
25 the condition of -- modification of the conditions that

PH-22
cont.

PH-23

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1 he is asking for.

2 I also see liability to the county. I'm not a
3 lawyer. I truly don't know, but knowing that this is a
4 hazardous condition, I think should be taken into
5 consideration.

6 So I -- I -- I urge you to vote no to the
7 modifications of this. And please do view the size of
8 the trucks. They're all to scale. The issue of
9 three-foot width -- yes, I'm done.

10 All right. I do have a copy of my letter and
11 of each of those visuals for every one of you here.

12 Thank you.

13 CHAIRMAN GORE: (Inaudible).

14 SUE BUXTON: Hi. Thank you for hearing me
15 today. I'm Sue Buxton. I live on Roblar Road. I also
16 represent CARRQ, Citizens Advocating Roblar Road
17 Quality. I'd like to comment on the Supplemental EIR.

18 This Supplemental EIR does not show that John
19 Barella cannot buy the needed right-of-way at some
20 price. It just says that Mr. Barella says he cannot do
21 so. It doesn't show or state where the right-of-way is
22 that he needs to purchase.

23 Where is the proof that Mr. Barella made a good
24 faith offer to any of the landowners? I have personally
25 spoken to the landowners involved, and that's -- I'm

PH-23
cont.

PH-24

PH-25

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1 getting a different story from them than what I hear in
2 the Supplemental EIR. Mr. Barella is required to do
3 more under CEQA to show infeasibility than write a
4 letter to the right-of-way landowners and then say he
5 got no response.

PH-27
cont.

6 This is not a public project. It's a
7 moneymaking venture for Mr. Barella. He should required
8 to hold the conditions of approval originally set out
9 for the project and make the road safe for both cars and
10 bicyclist using the road, no matter how much it cost
11 him.

PH-28

12 The Supplemental EIR admits that the proposed
13 modifications to the existing permit are unsafe and a
14 substantial environmental impact. The Board of
15 Supervisors have the option of forcing Mr. Barella to
16 build the road required in the permit or not let the
17 project go forward. The law requires the county show
18 it's infeasible to build the road required in the
19 existing EIR. This Supplemental EIR doesn't state facts
20 that establish the compliance with the existing permit
21 is infeasible under CEQA, and therefore is defective and
22 cannot serve as a basis to modify the permit.

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PH-30

23 I urge you to vote no on this Supplemental EIR.
24 Thank you.

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25 CHAIRMAN GORE: (Inaudible).

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1 JASON MERRICK: Good afternoon, Supervisors.
2 My name is Jason Merrick. I've lived -- or my family's
3 owned a ranch on Roblar Road since 1981.
4 And I would briefly like to point out before my
5 time starts that what PRMD with what Blake Hillegas
6 stated is different than what is in the proposed EIR --
7 or Supplemental EIR. And that is he mentioned that the
8 shoulders would be expanded to four feet whereas it
9 states "reduce lane" -- if you look at the proposal, it
10 is three feet. So if it has been changed officially, we
11 need a new Supplemental EIR, because that is not within
12 the record under 2.5 -- 2.5 Reconstruction of Widen of
13 Roblar Road. So that being said, legally, we need a new
14 Supplemental EIR.

15 So to go on my comments starting at my two
16 minutes, and I'll probably go a little bit over.

17 CHAIRMAN GORE: (Inaudible).

18 JASON MERRICK: Okay. So the county has
19 already permitted the quarry in 2010 and required it as
20 part of that permit to make Roblar Road safe. Now the
21 developer wants to get out of what he promised the
22 county in 2010 and undo and change the permit to
23 allowing him to use Roblar Road as a haul road for his
24 gravel trucks without first making it safe.

25 The current SEIR done by the county, mixed with

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1 the developer, backs out of the existing permit, and if
2 he gets his way, Roblar Road will be unsafe. The SEIR
3 admits the road developer now wants the county to
4 approve what -- (inaudible) wouldn't meet standard
5 safety guidelines when its 600 gravel trucks start using
6 it every day.

7 That's 40 trucks a day; 17 cars currently
8 travel on the road a day with many bicyclist. His
9 gravel trucks would six -- six days a week drive down
10 that road every one to two minutes. And if you look at
11 a dump truck, it weighs 50,000 pounds; approximately
12 10-feet wide, 8 feet 5 inches at the bed, 23 feet 8
13 inches wide -- long. It takes approximately 525 feet to
14 stop traveling at a given distance of 45 to 55 miles per
15 hour. The developer wants to reduce the lane width from
16 12 to 11 feet, and shoulder width from 6 to 3 feet, not
17 4 feet.

18 I have seen a rock truck as a kid run my sister
19 off the road when the old Hagemann's Quarry used to be
20 there. A rock truck during fog wiped out my bus stop 10
21 minutes prior to when we were to be there on Roblar
22 Road. It also collided with horses on Roblar Road
23 killing them instantly. There's no funny issue with
24 rock trucks on Roblar Road.

25 Now the developer says they can't buy the

PH-33
cont.

PH-34

PH-35

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1 right-of-way to make the road safe, but when the quarry
2 was permitted in 2010, the developer told the county
3 that he would.

PH-36
cont.

4 I'm a paramedic and nurse in this county. I've
5 seen auto versus pedestrian accidents, regular SUVs. I
6 can tell you an auto versus pedestrian with a gravel
7 truck stands no change. I won't go into the gory
8 details.

PH-37

9 Thank you.

10 CHAIRMAN GORE: (Inaudible).

11 GENTLEMAN ONE: Good afternoon. I'm here to
12 also address the applicant's proposal regarding
13 modifications to the original EIR, specifically on 44
14 and 59. These modifications would decrease the width of
15 the vehicle and bike lanes and shoulders on 1.6 miles of
16 Roblar Road. These proposed modifications of reducing
17 both paved vehicle lanes from 12 feet to 11 feet and
18 reducing the paved shoulders from 6 feet to 3 feet will
19 create a dangerous condition for trucks, cars,
20 motorcycles, bikes, hikers, people and walkers,
21 salamanders.

PH-38

22 This proposal will remove the possibility also
23 of creating Class II bike lanes that were originally
24 agreed to. We just got some of those in Sebastopol.
25 They look really beautiful, and that's not quite that

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1 heavily traveled by gravel trucks.

2 So how does this create -- create a dangerous
3 situation? I think Margaret pointed it out pretty well,
4 but I'm jump in just for a second. You have an average
5 gravel truck at 9 foot 6 or 10 with the mirrors, and
6 picture two of those trucks passing each other with
7 cyclists on both sides, doesn't leave much margin of
8 error -- for error. So to the -- you know, to the right
9 of the trucks where the bikes are at, given the width of
10 the handlebars and -- and outstretched shoulders or
11 elbows, you're lucky to get about an eight-inch buffer
12 zone there.

13 So the other piece that nobody really mentioned
14 yet is we -- we live in an age of very distracted
15 drivers, also. And, you know, we think of, well -- you
16 know, everybody ought to be able to stay in the center
17 lane and -- and --

18 CHAIRMAN GORE: (Inaudible).

19 GENTLEMAN ONE: Okay. Thank you.

20 Could I add just one more thing?

21 CHAIRMAN GORE: Yeah.

22 GENTLEMAN ONE: The information that I've been
23 reading says that if your speed limit is above 40 miles
24 an hour, that would require a 6-foot bike lane, so
25 somebody might want to check that out.

PH-39
cont.

PH-40

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1	CHAIRMAN GORE: Thank you. (Inaudible).	
2	JOE MORGAN: Good afternoon, Supervisors. My	
3	name's Joe Morgan. I am David Rabbitt's representative	
4	on the Bicycle and Pedestrian Committee. I'm here	PH-42
5	because I'm very concerned. I really would like a	
6	12-foot lane and a 5-foot-wide shoulder for bicycles to	
7	pass.	
8	I was one of the ones who voted and agreed to	
9	the 11 foot and a 4-foot-paved shoulder and a 1-foot	
10	edge. And we did that because if it's really being	
11	practical, if something's going to be built, we want to	
12	make sure that we get at least four feet. That is	
13	better than the eight-foot roads that we have in some	PH-43
14	places it's narrow, and there is no place to ride except	
15	in the middle of the road, if you're doing it properly.	
16	Because if you let cars pass you in that section of road	
17	on Roblar, you're going to get run over or run off the	
18	road. I mean, it's just impossible to do anything else.	
19	I wouldn't accept anything less than a	
20	four-foot shoulder. Because one thing that doesn't	
21	happen in this county is we don't clean roads. And I	
22	say that and then yesterday I watched a truck sweep	
23	Petaluma Hill Road, so I can't say that they don't do it	PH-44
24	because it was done right in front of me, and I think	
25	it's from the new construction. If you're going to	

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1 permit something like this, it needs to -- I know that
2 they're supposed to do it every three months. They need
3 to do it like the dumps; post their phone number, when
4 there's an issue, they can call and get it swept.

5 The other thing is it needs to be done once a
6 month. Mr. Barella even mentioned in an earlier
7 environmental report that there will be gravel on the
8 road. It -- it's an issue because what happens is
9 cyclists can't ride on the edge -- outside edge of the
10 four feet; they've got to ride right next to the white
11 line because that's the only -- where the traffic pushes
12 all the gravel out to the side.

13 Now you're putting a truck who isn't going to
14 slow down under the current standards, and he's going to
15 go right on by. And I guarantee you what we call a
16 "triestral event," two trucks and one bicycle, and it
17 happens to us all the time -- with cars, it's not so
18 bad -- but two trucks -- and you're talking about trucks
19 that can actually go --

20 CHAIRMAN GORE: (Inaudible).

21 JOE MORGAN: Okay -- well, 80,000 -- just think
22 about 80,000 pounds and 160 trips a day.

23 CHAIRMAN GORE: Thank you. (Inaudible).

24 LADY ONE: Thank you all very much. I was just
25 in listening to what's been presented today. And I live

PH-44
cont.

PH-45

PH-46

1 right kitty-corner from where the quarry's going in,
2 right at Canfield and Roblar. We have a bike. We do
3 ride. We take those roads in all directions.

4 The thing that was being stressed today was
5 that maybe the safety -- you know, the main safety
6 concerns could be addressed by lowering the speed.
7 Please don't put your emphasis there necessarily. That
8 is important and it should be, but the width is
9 extremely important.

10 For one thing, that does get a lot of fog. You
11 know, the fog sucks in there every night. It also has
12 no lighting, so you've got -- you know, you have to
13 think about all of these conditions.

14 Also, it was mentioned as far as the draft when
15 trucks do go by. Well, maybe if everybody was on a real
16 straight track and there wasn't that push and pull and
17 suction, you know, that -- that might be okay, but there
18 will be. There's also hay trucks. This is a rural
19 area. They're sometimes wider or -- you know.

20 Please think about -- if you're going to -- if
21 you're going to start, what, narrowing your idea of
22 safety on roads, this is a road where you should not.
23 It should be the widest possible area. You know, don't
24 start cutting corners. So it's just please not just the
25 speed but figure out all of those other factors and the

PH-46
cont.

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1 fact that it does get late or -- you know, during the
2 winter, it starts getting dark at about 4:30. You know,
3 this will mean -- excuse me -- very dangerous
4 condition -- conditions for a long period of time.

5 So anyway --

6 CHAIRMAN GORE: Thank you.

7 LADY ONE: -- please take those into
8 consideration and thank you.

9 CHAIRMAN GORE: Appreciate it.

10 Daniel, sir. (Inaudible).

11 DANIEL: Some of you may know me from my 30 or
12 40 years of activism as a marine and freshwater habitat
13 activist. Also happen now to live in your county, which
14 is relatively a new thing, near Sebastopol.

15 I fully concur with everything that has been
16 said in support of -- of -- of full reevaluation of
17 these issues since they have come up. I've lost track
18 of this situation since it faded from view about 10
19 years ago. I haven't had a chance to review the
20 document -- review the document.

21 However, my concerns relate to water quality
22 and the fishery habitat as part of the marine estuaries.
23 And I'm very concerned about any attempt to modify or
24 move that habitat without a full scientific review.

25 More than that, I'm just alarmed by the idea

PH-46
cont.

PH-47

PH-48

PH-49

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1 that that many heavy-duty trucks will be traversing that
2 area of the county under any circumstance. It just --
3 it's inconceivable. Whatever the count 40, 100, 500,
4 completely unsuited to that area of the county and
5 particularly that road. So there are overwhelming
6 public trust and public interest issues related to that
7 kind of traffic burden.

PH-49
cont.

8 I'm quite concerned. I pass through Stony
9 Point and Roblar Road a couple times a week, and I can't
10 image what gravel trucks on that stretch of the roadway
11 will do. It's already facing severe issues with
12 congestion certain times of the day. It's not the route
13 shown on their map, apparently.

PH-50

14 So what's the -- what's the incentive to
15 improve that intersection? It's already dangerous. A
16 traffic light may improve things, but with the addition
17 of gravel trucks, I can't imagine.

18 So I'll be following this project. I urge you
19 to do a complete and thorough review of the Supplemental
20 EIR, and hope that the state and federal agencies that I
21 worked with in the past will again comment.

PH-51

22 Thank you.

23 CHAIRMAN GORE: Thank you, sir.

24 Is there anybody else who hasn't been heard?

25 Come on up, sir.

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1 GENTLEMAN TWO: Thank you, Mr. Chairman --

2 Chairman Gore, Members of the Board. Good news, bad

3 news; I just want to let you know we have a team of five

4 here, but none of them are going to make presentations.

5 So Mr. Barella wanted to make sure that the entire team

6 was here in the event that you had questions, and with

7 that, I'll leave it.

8 CHAIRMAN GORE: Thank you very much. I

9 appreciate that.

10 Okay. I'm bringing this back to -- anybody

11 else? Did I miss anybody?

12 Coming back to the Board. Closing the public

13 comment on this or the public hearing on this.

14 PUBLIC COMMENT CLOSED

15 CHAIRMAN GORE: So as -- as many of you know,

16 the purpose of the today was to hold a public hearing to

17 receive public comment on the Draft Supplemental EIR.

18 We are not at this point deliberating specific

19 conditions. We are not diving into different areas.

20 It's always important to kind of look at that, because,

21 you know, I mean, as we've talked about, a lot of the

22 us -- there's at least four of us on this Board who

23 weren't involved when -- when you all first went through

24 this process.

25 So I want to go back and look if there's any

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PH-54

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1 questions from the Board. I -- I also want to make sure
2 I mention that -- that after this, it's going to be open
3 to public -- written comments for how long, 45 days?

4 Excuse me?

5 MR. HILLEGAS: Until the end of the month,
6 October 29th.

7 CHAIRMAN GORE: October 29th.

8 MR. HILLEGAS: Yeah.

9 MS. BARRETT: For written comments.

10 CHAIRMAN GORE: Okay. Good. Okay. Here we
11 go. After this public -- okay. Here it is. Additional
12 written comments will accepted until the close of the
13 overall 45-day comment period on October 29th, 2018, at
14 5:00 p.m.

15 Okay. So first, any questions from my
16 supervisors on this side?

17 Go ahead, Supervisor Zane.

18 SUPERVISOR ZANE: I might have missed it, but
19 how do you deal with Vehicle Code 21760 if you only have
20 nine inches between a truck and a bike? Vehicle Code
21 21760 is the new law that says you have to have three
22 feet if you're going in the same direction in passing --
23 passing a cyclist. How do you deal with that with nine
24 inches?

25 MS. BARRETT: So you'd have to wait until you

PH-54
cont.

PH-55

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1 have that clearance to pass the bicyclist, just like you
2 would have to wait to pass a slow moving agg truck or
3 something like that.

4 SUPERVISOR ZANE: So -- and you think all of
5 these aggregate trucks are going to wait?

6 MS. BARRETT: I not saying what I think about
7 that, but I'm just saying that that is the law. That
8 you have to wait.

9 SUPERVISOR ZANE: Well, it's -- it's a fair
10 question, but it needs to be grappled with as we --

11 MS. BARRETT: Yes, yes.

12 SUPERVISOR ZANE: -- move forward, you know. I
13 mean, that's the law. And it's a good reason why
14 there's a law. Because, you know, I'm tired of seeing
15 cyclist killed on our -- everywhere, all the time. It's
16 just -- it's really frustrating. And that is the new
17 law, so you guys got to grapple with that somehow.

18 What -- and did you consider a buffer line at
19 all? I don't know.

20 MS. BARRETT: You mean a rumble strip?

21 SUPERVISOR ZANE: No. A buffer line is -- is
22 where you put in the more dangerous, more narrow places
23 of the road, where you have a whole other line with
24 striping, diagonal striping, that indicates to the
25 vehicle that you cannot not pass that buffer --

PH-55
cont.

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1 MS. BARRETT: Oh, yeah.

2 SUPERVISOR ZANE: -- in narrow portions.

3 Is that being considered at all?

4 MS. BARRETT: Oh, of course. We'll take a look
5 at that, and verify.

6 SUPERVISOR ZANE: Okay. Well, a truck passing
7 at that speed at nine inches is just going to suck that
8 bike rider right into his draft. So you're going to
9 have figure out a better way of moving forward.

10 CHAIRMAN GORE: Thank you.

11 Supervisor, any questions?

12 SUPERVISOR RABBITT: Yeah. And I -- I should
13 know this by heart, but what's the existing roadway
14 section? I got the smallest print on this printout. I
15 can't see it. I know what the proposal was. I know it
16 was in the previous EIR, and I know what's proposed
17 today, but what's the existing situation out there right
18 now?

19 MR. HILLEGAS: Yeah. So along this particular
20 segment, it's about nine feet. I think it varies from 8
21 and a half to 9 feet, maybe 10 feet in some areas, but
22 it's on each lane.

23 SUPERVISOR RABBITT: With -- is there a fog
24 line, or do we not put fog lines when we have
25 substandard conditions?

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cont.

PH-57

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1 MR. HILLEGAS: No, there's fog lines.
2 SUPERVISOR RABBITT: There's a fog line.
3 MR. HILLEGAS: Yeah.
4 SUPERVISOR RABBITT: Is there any -- is there
5 any -- so what would be the shoulder? There's no
6 shoulder?
7 MR. HILLEGAS: Rock -- very little rock
8 backing.
9 SUPERVISOR RABBITT: Okay.
10 MR. HILLEGAS: Yeah.
11 SUPERVISOR RABBITT: And then to the point --
12 and I want to make sure, you know, what's written in the
13 Supplement to the gentleman's point regarding what's
14 described versus what the proposal is, can you just
15 speak real briefly on that?
16 MR. HILLEGAS: Yeah, surely. Applicant's
17 proposal is for 11-foot travel lanes and 5 -- 5-foot
18 shoulders, 3-foot paved, 2-foot rock backing; so that's
19 5-foot shoulder, 3-foot paved, 2-foot rock backing. The
20 mitigation measure in the Draft Supplemental is for a
21 four -- a five-foot shoulder with a four-foot paved and
22 a one-foot rock backing. So that's the difference.
23 SUPERVISOR RABBITT: Okay. I get that then.
24 And as to the overall standards that are being
25 met here, I know there's variation in roadway width.

PH-57
cont.

PH-58

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1 Can you speak to what standard that this is
2 being -- the proposal is compliant with and who's
3 reviewed it?

4 MR. HILLEGAS: Yeah. So in general, AASHTO
5 Standards, which is what we use per our general plan,
6 would require -- generally require a 12-foot travel
7 lane; however, they do allow for exception based on no
8 accident history, essentially. And so Department of
9 Public Works felt that whether it's 11 feet or 12 feet,
10 you know, either one is sufficient. They -- they felt
11 11 feet is appropriate in this case.

12 In regards to the shoulder, the bikeways plan
13 would call for a five-foot shoulder; however, the AASHTO
14 Standards will allow you to go to a four-foot-paved
15 shoulder provided the overall section is not less than
16 30 feet. And I think they also have a -- you know, a --
17 a number of vehicle trips may weigh in -- may weigh on
18 that as well. But in any case, the 11, the 4, and 1 is
19 what Department of Public Works felt they could support,
20 and what the (inaudible) also supported as a minimum.

21 SUPERVISOR RABBITT: And then I know, you
22 know -- I -- I realize someone said it, and I think it's
23 probably true, you know, relying on a reduced speed.
24 You know, we have reduced speed elsewhere in the county,
25 and it -- it doesn't really -- it all depends on what

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cont.

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1 the drivers are doing as opposed to what the sign says.

2 But do you know when the last speed study was
3 done on this section of road?

4 MR. HILLEGAS: No, I do not.

5 MS. BARRETT: But we can look that up.

6 SUPERVISOR RABBITT: I'm sorry, what?

7 MS. BARRETT: We can look into that.

8 SUPERVISOR RABBITT: Yeah. It'd be -- it'd be
9 worth looking into. It'd be worth doing it now before
10 the road is widened. Because typically what happens is
11 that we get requests to do speed studies all the time,
12 because of the 85th Percentile, usually the speeds go
13 up, not down, because state law rules how you actually
14 do that.

15 MS. BARRETT: Right.

16 SUPERVISOR RABBITT: Especially, if a road is
17 widen and paved, which we're having in some areas now.
18 So it'd be -- it might be worth looking into at this
19 time, to do it at this time. And even when we've done
20 them in the past, when we've kind of wanted to work to
21 get a lower speed limit, we also would put up -- or ask
22 our CHP friends to go out and do extra patrols, and then
23 also to put up perhaps the -- the trailers to make sure
24 that people are aware of how fast they're going, all
25 beforehand so you can kind of suppress it somewhat, and

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cont.

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1 then -- and then do the speed study. You will be
2 required to do it, I think, on a -- is there five-year
3 cycles?

4 MS. BARRETT: Yeah, I think that's correct.

5 SUPERVISOR RABBITT: Yeah. Sometimes it's --
6 you know, and I'm not sure on this section of road,
7 because it's sub -- it's substandard now because of the
8 widths, when the last one would have been done.

9 MS. BARRETT: Right.

10 SUPERVISOR RABBITT: Because that's also an
11 issue that we have in the county. So I'd -- I'd just
12 throw that out there as something that we can probably
13 do in the -- in the interim.

14 MS. BARRETT: Yeah.

15 SUPERVISOR RABBITT: And my office can work on
16 it too.

17 MS. BARRETT: (Inaudible).

18 SUPERVISOR RABBITT: Yeah. Thank you. Okay.
19 Perfect.

20 CHAIRMAN GORE: Yeah, sure. Go ahead.

21 SUPERVISOR ZANE: You've got to deal with
22 Vehicle Code 21760.

23 You know, the only -- one thing that was
24 flashing through my mind is you know how sometimes when
25 you've got construction on a road, you will have a light

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cont.

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1 on either side, and you will allow one lane? I mean --

2 MS. BARRETT: Right.

3 SUPERVISOR ZANE: -- the whatchamacallit

4 bridge, the Wohler Bridge is a one-lane bridge, right?

5 Right? Well, it is. There's a one-lane bridge, yeah.

6 So I don't know; I'm just throwing out all

7 possibilities.

8 I -- I think the way it's designed right now,

9 it's going to -- you're -- you're in violation of

10 Vehicle Code 21760. And somebody -- and people are

11 going to get killed. You've got to come up with some

12 resolutions.

13 MS. BARRETT: Right. And we can look at those

14 creative ideas that, you know, how we --

15 SUPERVISOR ZANE: The buffer line.

16 MS. BARRETT: -- manage.

17 SUPERVISOR ZANE: Yeah.

18 MS. BARRETT: Yeah, the buffer line. And

19 the -- the lighting and the indicators to indicate if

20 there's a bicyclist on the road --

21 SUPERVISOR ZANE: Yeah.

22 MS. BARRETT: -- ahead. This is only a

23 one-mile segment of the road, so I think --

24 SUPERVISOR ZANE: That's all it takes.

25 MS. BARRETT: -- those solutions might be

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cont.

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1 something to work with.

2 SUPERVISOR ZANE: Well, you know, I know as a
3 cyclist if I'm in a very narrow shoulder, I'm going to
4 stay over as far as I can. But as you know as a cyclist
5 if you hit debris in that shoulder and you've got to
6 move towards the lane, you know, that's when you get
7 hit. But sometimes, you know, if you don't move, if
8 you're suddenly coming upon some debris in the lane,
9 you're going to crash, you know.

10 MS. BARRETT: Right. So the sweeping might me
11 be an important component of multi-mitigation measures
12 that we can look at, so we'll take another look at
13 those.

14 SUPERVISOR ZANE: I would say
15 multiple-mitigation measures is necessary.

16 MS. BARRETT: Yeah.

17 CHAIRMAN GORE: Thank you, Supervisor.

18 Supervisor Gorin, anything you want to add?

19 SUPERVISOR GORIN: No. I -- I -- I appreciate
20 all the public here, and I do appreciate the complexity
21 of this. I totally understand why we need gravel for
22 our construction process -- processes moving forward,
23 both with the widening of the highway and working on
24 foundations in all the building that we need to do. And
25 I -- I -- I now have a sense of why this was so

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cont.

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1 controversial a number of years ago, because it's --
2 it's difficult access and some significant issues moving
3 forward.

4 I -- I -- I would hope that we would take note
5 of some of the public comments about: Have all efforts
6 been made to widen the road? Is this something that the
7 county can confirm that, in fact, this process was
8 completed? If we are going to approve the Supplemental
9 EIR with some reduced road widths and bicycle widths, I
10 want to make absolutely sure that this is the best
11 alternative moving forward.

12 Thank you.

13 CHAIRMAN GORE: Thank you.

14 Supervisor Hopkins.

15 SUPERVISOR HOPKINS: I am definitely interested
16 in learning if there might be other ways of kind of
17 enhancing awareness, like Supervisor Zane suggested. We
18 have some green painted-on bike lanes that go into
19 Sebastopol. For those of you who live in Sebastopol,
20 you know how -- what a controversial process that has
21 been. But if there are ways of, you know, sort of
22 exploring that that could really enhance bicycle safety.
23 Because I do think that once you do widen and improve
24 roads, people tend to speed and that could lead to very
25 dangerous outcomes.

PH-62
cont.

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1 But this -- I mean, this is a very, very
2 complicated process. And not having been here through
3 the initial, it's almost sort of hard to then just --
4 we're not -- we're not looking at the whole thing.
5 We're just kind of looking at this little subset, and
6 even that little subset is very complicated. And I also
7 look forward to sort of hearing comments from other
8 agencies on the creek -- proposed creek realignment and
9 learning a little bit more about their perspective on
10 that.

11 So thank you for your work.

12 CHAIRMAN GORE: Thank you very much.

13 You know, from my part, it's -- it's
14 interesting to look at the two letters, the Caltrans
15 letter then also this one. And, you know, I mean, you
16 can't help but -- but -- but get into the wider
17 discussion about -- about where we are with aggregate
18 and -- and -- and totally understand and got to
19 appreciate everybody's concerns.

20 You know, we also live in a crazy world where
21 we are, I would call us, culprits of environmental
22 injustice every day as we ship in huge areas of
23 aggregate and other things from Canada and other sources
24 because we can't find ways to manage what we need to do
25 in our own areas.

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cont.

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1 And I can't help but compare this against, you
2 know, Mark West Springs Road where basically one of
3 the -- one of the measures was to put in bicycle signs
4 and other things, and it caused a huge public safety
5 issue because there wasn't enough area up there on the
6 road to handle bikes at all.

7 SUPERVISOR ZANE: (Inaudible).

8 CHAIRMAN GORE: Yeah. And it's a problem.
9 It's a huge problem. It didn't work.

10 SUPERVISOR ZANE: It didn't work.

11 CHAIRMAN GORE: It didn't work. It causes huge
12 public safety issues where you have like a half of
13 section of a -- of a 100 yards that say -- signs that
14 say "Bicycle access," and then it cuts off and it goes
15 into a mountain.

16 SUPERVISOR ZANE: But what's the resolution
17 then?

18 CHAIRMAN GORE: There is no resolution still to
19 this point. It's a classic example of planning gone
20 awry. That -- that something happened and the
21 mitigation was not functional, was not able to be met.
22 And it's caused -- as much as good intentions, it's
23 caused huge amount of problems on a road.

24 And it gets back to the core issue of: Is that
25 a bicycle friendly road? Is that a road that -- you

PH-65
cont.

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1 know, unfortunately as you say, it's like some of these

2 roads are very dangerous to ride upon, and --

3 MS. BARRETT: And -- and we do have --

4 CHAIRMAN GORE: -- and people still ride on

5 them. But --

6 MS. BARRETT: And the trucks --

7 CHAIRMAN GORE: Excuse me. Let me -- I

8 apologize.

9 But -- but, you know, I mean, these are wider
10 issues for us to discuss. Right now we're accepting
11 public comment on a Draft Supplemental EIR. And you're
12 right, a lot of good concerns out there.

13 I do appreciate the letter from the Bike and
14 Pedestrian Committee that, you know, says, "If you're
15 going to be able to do it in this area, definitely get
16 the four-foot-wide, you know, asphalt" and other things.
17 But, you know, the reality is is that it doesn't matter
18 what happens here, it's not going to be perfect. And
19 that's not telling you how I'm going to vote, but
20 it's obviously a -- you know, a -- a very big thing that
21 you all have dealt with for a long time, and now we're
22 taking on.

23 Other comments? Anything else?

24 Okay. So guide me through, we are --

25 MS. BARRETT: Just give us direction to

PH-65
cont.

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1 complete the Final EIR --

2 CHAIRMAN GORE: Thank you.

3 MS. BARRETT: -- and we will re-notice and

4 schedule this when that's completed.

5 CHAIRMAN GORE: Perfect. Guidance given --

6 MS. BARRETT: Thanks.

7 CHAIRMAN GORE: -- to do exactly what you just

8 said.

9 Appreciate your time. Thank you everybody for

10 being here and -- and good work.

11 If you're going to quote that number, I'm going

12 to start -- think you're --

13 SUPERVISOR ZANE: No, no, no.

14 CHAIRMAN GORE: -- (inaudible) just say Martial

15 Law 1072.3.

16 SUPERVISOR ZANE: I know, I'm going to keep

17 quoting that vehicle code. No.

18 CHAIRMAN GORE: (Inaudible). State and

19 Standard 103552.

20 SUPERVISOR ZANE: I was -- I was making up an

21 abbreviation of all things. MM, multiple mitigation.

22 CHAIRMAN GORE: Yeah. Thank you very much.

23 That's good. There you go.

24 Okay. I appreciate that. I'm going to take us

25 to the next item. Thank you everybody for your time

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cont.

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I, Amber M. Harlan, a Certified Shorthand Reporter, do hereby certify that the transcribing of the foregoing tape in the above-entitled matter to the best of my ability is a full, true, and correct transcription of the proceedings held at the scheduled hearing.

I further certify that I am not of counsel or attorney for either or any of the parties in the above-named cause, or in any way interested in the outcome of said cause.

I hereby affix my signature this 21st day of December, 2018.



Amber M. Harlan
CSR #14074

PH – Public Hearing Oral Comments

Below are the responses to oral comments received at the Public Hearing held October 16, 2018, as well as questions and comments from the Sonoma County Board of Supervisors before and after the Public Hearing. Members of the public who commented include the following (commenters whose names could not be determined from the audio/visual taping of the Public Hearing are designated “Woman” and “Gentleman”):

- Woman One
- Margaret Hanley
- Sue Buxton
- Jason Merrick
- Gentleman One
- Joe Morgan, Sonoma County Bicycle and Pedestrian Committee
- Woman Two
- Daniel (last name inaudible)
- Stephen Butler

Responses to Comments of Sonoma County Supervisors and Staff Prior to the Public Hearing

- PH-1 This comment includes preliminary remarks by Chairman Gore and a presentation by County staff. This comment does not require a response.
- PH-2 This comment by Supervisor Rabbitt recounts that the Board of Supervisors has retained “original jurisdiction” over consideration of the proposed modifications to the Use Permit Conditions of Approval, rather than delegating the initial consideration to the Planning Commission as is customarily done.
- PH-3 CalTrans submitted a comment letter, which is included above as comment letter B. No comment letter was received from the Sonoma County Bicycle and Pedestrian Advisory Committee (SCBPAC), though one of the Committee members, Mr. Joe Morgan, provided oral comments; see comments PH-42 through PH-45. The Supervisor may be referencing the recommendation from the SCBPAC, described in the discussion of Impact 3.4-3 in Section 3.4, Transportation and Traffic, in the Draft SEIR. This recommendation states that the SCBPAC considers the minimum acceptable roadway cross-section for Roblar Road to be two 11-foot travel lanes, two 4-foot bike lanes, and two 1-foot unpaved road backing areas, for a total 32-foot cross-section.
- PH-4 Supervisor Rabbitt refers in this comment to Draft SEIR Figure 2-6. Regarding lane and shoulder width and bicycle and traffic safety, please see Master Response 1.

- PH-5 The Applicant's responsibility for paying for improvement of the Stony Point Road/Roblar Road intersection is stated in Condition/Mitigation Measure 44, and reiterated in Mitigation Measure 3.4-1 in Section 3.4, Transportation and Traffic, in the Draft SEIR. The Draft SEIR examines the biological impacts of the Applicant's proposed intersection design, compared to the currently-approved County preliminary design, in Section 3.3, Biological Resources, on page 3.3-4, and concludes that the Applicant's proposed design would not result in a new or more severe impact to biological resources.
- PH-6 These preliminary remarks by Supervisor Zane do not require a response.
- PH-7 Please see Master Response 1 regarding bicycle safety. Please see also the response to comment PH-3, above. The Sonoma County Bicycle Coalition also submitted a comment letter, included as comment letter I
- PH-8 Please see Master Response 1, which includes a discussion of the correlation between speed and risks to bicyclists and pedestrians.
- PH-9 The Draft SEIR does not discuss the availability or need for aggregate in the County. See, however, the Statement of Overriding Considerations adopted as part of the approval of the Quarry project in 2010.
- PH-10 This comment does not require a response.
- PH-11 Please see Master Response 1.
- PH-12 In this comment, Supervisor Gorin refers to the "Three Feet for Safety Act" (Vehicle Code Section 21760), which is described in the Regulatory Setting of Draft SEIR Section 3.4, Transportation and Traffic, on page 3.4-4. Please see also Master Response 1.
- PH-13 According to the 2010 Final EIR, expected trip generation for the Quarry is an average of 302 one-way truck trips per day (151 loads) and a peak of 480 truck trips (240 loads), not 580 as stated. See the 2010 Final EIR, Section IV.E, Transportation and Traffic, page IV.E-18.
- PH-14 Please see Master Response 1 and comment PH-16.
- PH-15 The Use Permit for the Quarry is valid and in effect. Any aspect of the project may be modified, and the proposed modifications may also be denied. Denial, in this case, would mean that the original use permit would remain unmodified.
- PH-16 In this comment, PRMD Deputy Director Jennifer Barrett and Supervisor Gorin have a discussion about the authority of the County to set and enforce speed limits. As noted in the response to comment C-23, the 2010 Final EIR describes the results of a speed study on Roblar Road in 2005. At a location .65 miles west of Canfield Road, the 85th percentile speed was 59.4 mph. Please see Master Response 1.

- PH-17 In this comment, Supervisor Gorin discusses typical truck width with County Supervising Planner Blake Hillegas.
- PH-18 The California Department of Fish and Wildlife did not submit comments on the Draft SEIR. Please see comment letter A from the State Clearinghouse, which has the responsibility to distribute EIRs to relevant State agencies, and to compile and forward comments from State agencies to the lead agency.
- PH-19 Supervising Planner Hillegas is referring to Condition/Mitigation Measure 87, which requires truck tire scrapers and wash facilities at the Quarry exit and weekly sweeping of the intersections of Roblar Road and Valley Ford Road with the Quarry's private access roads; and Condition/Mitigation Measure 154, which requires the Applicant/Quarry operator to ensure that all loaded trucks are covered or maintain at least two feet of free board to prevent spillage of materials onto haul routes.

At this point in the transcript, Chairman Gore opens the Public Hearing

Response to Comment of Woman One

- PH-20 The comment is not intelligible.

Responses to Comments of Margaret Hanley

- PH-21 This comment addresses the merits of the Applicant's proposed modifications to the Use Permit Conditions of Approval, and expresses the commenter's opposition to these modifications.
- PH-22 Please see Master Response 1. The graphics that the commenter refers to are included as comment letter J.
- PH-23 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- PH-24 Environmental review pursuant to CEQA does not include examination of potential financial risk or liability.
- PH-25 Please see the response to comment PH-2.
- PH-26 The graphics that the commenter refers to are included as comment letter J.

Responses to Comments of Sue Buxton, Citizens Advocating Roblar Road Quality (CARRQ)

- PH-27 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures. With regard to the Applicant's attempts to purchase land for additional right-of-way from his neighbors, please see comment letter D and the response to comment D-1.
- PH-28 Environmental review pursuant to CEQA does not include examination of socioeconomic benefits (or direct impacts) of a project. The commenter's opposition to modifying the existing Conditions of Approval is noted. The Draft SEIR, Section 3.4, Traffic and Transportation, Impacts 3.4-3 and 3.4-4 examine the potential for the Applicant's proposed modifications to the required widening of Roblar Road to increase bicycle and traffic safety hazards, and find that, even with mitigation, these impacts would be significantly and unavoidably more severe. Please see Master Response 1.
- PH-29 The commenter is correct, that approval of the Applicant's proposed modifications to the Use Permit Conditions of Approval is a discretionary action.
- PH-30 Please see the response to comment PH-8.
- PH-31 This comment addresses the merits of the proposed modifications to the Use Permit, and expresses the commenter's opposition to modifying the existing Conditions of Approval.

Responses to Comments of Jason Merrick

- PH-32 As described in Draft SEIR Chapter 2, Project Description, the Applicant's proposed modifications to Use Permit Condition/Mitigation Measure 49 and Condition 59 would allow for widening Roblar Road to include three-foot wide paved shoulders with two-foot wide rocked shoulders. The Draft SEIR, Section 3.4, Transportation and Traffic, includes Mitigation Measure 3.4-3, which would require minimum four-foot wide paved shoulders with one-foot rocked shoulders. The Draft SEIR accurately describes and fully analyzes the Applicant's proposed modifications to the Use Permit Conditions of Approval, and is legally adequate under CEQA.
- PH-33 The Draft SEIR does not advocate for nor approve the Applicant's proposed modifications to the Use Permit Conditions of Approval; it analyzes the potential for these modifications to result in a new or substantially more severe environmental impact, compared to the previously-approved Quarry project. Approval of the Applicant's proposed modifications to the Use Permit Conditions of Approval is a discretionary action that will be considered by the Sonoma County Board of Supervisors.

- PH-34 The Applicant has not proposed changes to the level of operations or the number of daily haul trucks approved by the County in 2010. With regard to bicycle and traffic safety issues, please see Master Response 1.
- PH-35 Please see the previous response.
- PH-36 While the Applicant contends that the mitigation measures and Conditions of Approval he seeks to modify are infeasible, the County has not reached this conclusion. Should the County Board of Supervisors decide to approve the proposed modifications, it will do so only after making findings to support that decision, including, if warranted, findings of infeasibility of those previously adopted measures.
- PH-37 With regard to bicycle and traffic safety, please see Master Response 1. The commenter's opposition to modifying the existing Conditions of Approval on the basis of safety concerns is noted.

Responses to Comments of Gentleman One

- PH-38 Please see Master Response 1.
- PH-39 Please see the discussion of consistency of the Applicant's proposal with standards for Class II bikeways contained in the Sonoma County Bicycle and Pedestrian Plan, in Draft SEIR Section 3.4, Transportation and Traffic, Impact 3.4-3.
- PH-40 Please see Master Response 1.
- PH-41 Please see Master Response 1.

Responses to Comments of Joe Morgan, Sonoma County Bicycle and Pedestrian Committee

- PH-42 The commenter's preference for the currently-required road geometry for improved Roblar Road is noted.
- PH-43 The Sonoma County Bicycle and Pedestrian Committee's recommendation for 11-foot travel lanes and four-foot wide paved shoulders with one-foot wide rock backing is discussed in Draft SEIR Section 3.4, Transportation and Traffic, Impact 3.4-3. Please see Master Response 1.
- PH-44 Condition/Mitigation Measure 87 (Mitigation Measure E.3c from the 2010 Final EIR) requires weekly sweeping of the intersections of Roblar Road and Valley Ford Road with the Quarry's private access roads. The Applicant has not proposed to modify this condition.
- PH-45 Please see Master Response 1.

Responses to Comments of Woman 2

PH-46 Please see Master Response 1.

Responses to Comments of Daniel (last name inaudible)

PH-47 The Draft SEIR accurately describes and fully analyzes the Applicant's proposed modifications to the Use Permit Conditions of Approval, and is legally adequate under CEQA. Further evaluation is not necessary.

PH-48 Hydrologic and water quality effects of the proposed relocation of the channel of Americano Creek are examined in Draft SEIR Section 3.2, Hydrology and Water Quality, and are found to be less than significant. Please see Impact 3.2-1. Potential impacts on fish habitat are examined in Section 3.3, Biological Resources, Impact 3.3-7, and also are found to be less than significant.

PH-49 Please see Draft SEIR Chapter 1, Introduction, for background information on approval of the Quarry project, including the use of portions of Roblar Road by haul trucks.

PH-50 Condition/Mitigation Measure 44 requires the Applicant to upgrade the intersection of Stony Point Road and Roblar Road. The Applicant seeks to modify this condition to allow a different design for the upgrade. The Draft SEIR, Section 3.4, Transportation and Traffic, examines the potential for the altered design to result in a new or substantially more severe significant effect with regard to intersection level of service (Impact 3.4-1 and 3.4-5) and bicycle safety (Impact 3.4-2). With the mitigation measures specified in the Draft SEIR, these impacts would all be reduced to less-than-significant.

PH-51 These concluding remarks are general and do not require a response.

Responses to Comments of Stephen Butler

PH-52 This commenter is the Applicant's attorney, offering to answer questions from the Supervisors. The comment does not require a response.

PH-53 Here, Chairman Gore closes the Public Hearing

Responses to Comments of Sonoma County Supervisors and Staff Following the Public Hearing

PH-54 The close of the public comment period on the Draft SEIR was, in fact, October 29, 2018.

PH-55 The "Three Feet for Safety Act" (Vehicle Code Section 21760 is described in the Regulatory Setting of Draft SEIR Section 3.4, Transportation and Traffic, on page 3.4-4. Please see also Master Response 1.

PH-56 The current requirement for widening of Roblar Road, contained in Condition/Mitigation Measure 49 and Condition 59, is for 6-foot wide paved shoulders, with "associated

- striping/signage to meet Class II bike facilities.” As shown in the California Manual on Uniform Traffic Control Devices (MUTCD), Figure 9C.3 and 9C.101, Class II bike lanes are typically divided from the travel lane by a “normal white line” with a 6-inch width (CalTrans, 2014). Please see also Master Response 1.
- PH-57 The current condition of Roblar Road between Canfield Road and Valley Ford Road is also described in the Draft SEIR, in footnote 4 on page 2-12 and in Figure 2-6 in Chapter 2, Project Description.
- PH-58 The Applicant’s proposed roadway geometry is described in Draft SEIR Chapter 2, Project Description, page 2-12 and Figure 2-6. The mitigated design is described in Mitigation Measure 3.4-3 in Section 3.4, Transportation and Traffic.
- PH-59 The AASHTO guidelines and exceptions are described in the Draft SEIR in the discussion of Impact 3.4-3, in Section 3.4, Transportation and Traffic. See also Master Response 1. While the Department of Public Works and the Sonoma County Bicycle and Pedestrian Advisory Committee both determined that the exception to the standard would be adequate, the Draft SEIR concludes that, because this design would be substantially less safe than the currently-required design, the impact to bicycle and traffic safety would be significant and unavoidable (Impacts 3.4-3 and 3.4-4).
- PH-60 Please see the response to comment PH-16. It is likely that the 85th percentile speed will change after completion of roadway widening.
- PH-61 Please see the response to comments PH-19, PH-56, and Master Response 1.
- PH-62 Please see the response to comment PH-9.
- PH-63 As no formal survey exists of Roblar Road’s right-of-way, and no detailed design for road-widening has been provided to the County, it is premature to conclude that a roadway wider than the Applicant’s proposed 32-foot cross section would not be possible without condemnation. Note, however, that Condition/Mitigation Measure 49 requires the Applicant to obtain additional right-of-way or easements, as necessary, in order to accomplish the required roadway widening.
- PH-64 Please see the responses to comments PH-56 and Master Response 1 for discussion of additional measures to increase bicycle safety. With regard to Resource Agency comments on proposed relocation of Americano Creek, please see response to comment PH-18. Specifically with regard to green-painted bike lanes, the National Association of City Traffic Officials (NACTO) Urban Bikeway Design Guide (NACTO, 2019) includes information and guidelines for “colored bike facilities.” As described by NACTO, colored pavement within a bicycle lane increases the visibility of the facility, identifies potential areas of conflict, and reinforces priority to bicyclists in conflict areas and in areas with pressure for illegal parking. Colored pavement can be utilized either as a corridor treatment along the length of a bike lane or cycle track, or as a spot treatment, such as a bike box, conflict area, or intersection crossing marking. Color can be applied

along the entire length of bike lane or cycle track to increase the overall visibility of the facility. Consistent application of color across a bikeway corridor is important to promote clear understanding for all users.

PH-65 Please see the response to comment PH-9. With regard to Mark West Springs Quarry, please see footnote 3 on page 3.4-11 in Section 3.4, Transportation and Traffic, in the Draft SEIR.

PH-66 Chairman Gore's comment is noted.

PH-67 In this comment, the Board directs County staff to complete the Final SEIR.

PH-68 Please see the response to comment PH-12 and Master Response 1.

Reference

National Association of City Transportation Officials (NACTO), 2019. *Urban Bikeway Design Guide: Colored Bike Facilities*. <https://nacto.org/publication/urban-bikeway-design-guide/bikeway-signing-marking/colored-bike-facilities/> Accessed January 14, 2019.

CHAPTER V

Revisions to the Draft SEIR

The following corrections and changes are made to the Draft Supplemental Environmental Impact Report (Draft SEIR) and incorporated as part of this Final SEIR. Revised or new language is underlined. Deleted language is indicated by strikethrough text. Preceding each revision **[in bolded brackets]** is a reference to the letter and number of the comment (see Chapter IV, Comments on the Draft SEIR and Responses to Comments) that prompted or suggested the revision, or a note that the change was initiated by County staff.

A. Revisions to Summary Chapter (Chapter S)

[C-1, U-9] The text on page S-1 of the Draft SEIR is amended to read:

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Reclamation Plan and a Use Permit (Use Permit PLP03-0094) for a modified version of one of the alternatives to the originally-proposed Quarry project described in the Final EIR, Alternative 2 (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year. The Final EIR included the May, 2008 Draft EIR, the October 2009 Response to Comments Document, the June 2010 Recirculated Portions of the Draft EIR, and the 2010 Response to Comments Document for the Recirculated Portions of the Draft EIR.

B. Revisions to Chapter 1, Introduction

[U-9] The text on page 1-1 of the Draft SEIR is amended to read:

On December 14, 2010, the Sonoma County Board of Supervisors (Board) certified the Roblar Road Quarry Final Environmental Impact Report (Final EIR), and approved a Use Permit for Alternative 2 as modified by the Board (herein referred to as “Modified Alternative 2”). The Use Permit allows for a 20-year mining permit with an annual limit of 570,000 ~~tons~~ cubic yards per year.

C. Revisions to Chapter 2, Project Description

[C-10 and Staff-initiated] Table 2-1 on page 2-10 is revised as follows:

**TABLE 2-1
COMPARISON OF INTERSECTION DESIGN FEATURES**

Design Feature	Existing Condition	County Preliminary Design-Condition/ Mitigation Measure 44	Applicant's Proposed Design
Traffic Control	Stop sign on Roblar Road. No controls on Stony Point Road	4-way traffic signal, including signal for driveway opposite Roblar Road	4-way traffic signal, including signal for driveway opposite Roblar Road
Travel Lanes: Stony Point Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Travel Lanes: Roblar Road	One 12-foot lane in each direction	Same as Existing	Same as Existing
Paved Shoulders: Stony Point Road (each side of road)	4 feet	8 to 10 feet	minimum 4 feet
Paved Shoulders: Roblar Road (each direction)	1 to 1.5 feet	6 feet	3 feet
Bike Lanes (each direction)	None	8 – 10 feet	4-foot-wide paved shoulder in each direction on Stony Point Road for use by bicyclists
Left Turn Lanes: Stony Point Road	Southbound: None; <u>Northbound</u> : 10 feet wide and <u>70-80</u> -foot-long stacking length	Southbound: 11 feet wide and <u>50- 90</u> -foot-long stacking length; <u>Northbound</u> : 11 feet wide and <u>over 250- 90</u> -foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.	Southbound: 11 feet wide and <u>50- 40</u> -foot-long stacking length; <u>Northbound</u> : 11 feet wide and <u>120- 50</u> -foot-long stacking length The taper lengths (approach and bay) and deceleration lane lengths shall be designed in accordance with Caltrans standards.
Turn Lanes: Roblar Road	Single lane widens to accommodate turns	Same as Existing	Same as Existing
Driveway on east side of intersection	at south end of intersection	relocated north, opposite Roblar Road	not relocated
Drainage Ditches	Existing ditch on east side of Stony Point Road and on portions of Roblar Road	Portions of existing ditches on Stony Point Road filled and relocated	Existing ditches not filled

SOURCE: Sonoma County PRMD, 2005; BKF Engineers, 2016, W-Trans 2015.

D. Revisions to Section 3.3, Biological Resources

[C-5, C-14, C-16] Revisions to Impact 3.3-1 and Mitigation Measure 3.3-1 (note that new changes to the text of the impact and mitigation measure, as well as previous changes to Conditions of Approval from the Draft SEIR are single-underlined. New changes to Conditions of Approval are double-underlined).

Impact 3.3-1: The proposed relocation of Americano Creek would involve construction and grading activities that could disturb or remove wetland and riparian habitat. (*Beneficial Impact / No New or Substantially More Severe Significant Impact, After Mitigation*)

Final EIR Impact D.1 concluded that the Quarry project would directly impact wetlands, other waters, and riparian habitat, resulting in the permanent fill of potentially jurisdictional wetlands or other waters of the U.S. and waters of the State. The Final EIR specified Mitigation Measures D.1a (mitigate the filling or excavating of jurisdictional wetlands by conducting a formal wetland delineation, compensating for loss of jurisdictional wetlands at specified ratios, and implementation of a five-year monitoring program with applicable performance standards¹); D.1b (avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary [i.e., Ranch Tributary] and the southwestern corner [i.e., seasonal wetlands on valley floor adjacent to Americano Creek] of the property); and D.1c (monitor base flows in Ranch Tributary and if necessary augment them with releases of stored surface water) to reduce the Quarry project impacts to wetlands and riparian habitats to a less-than-significant level. These mitigation measures were adopted as Conditions/Mitigation Measures 132, 133, and 115 respectively. Condition 101 was also adopted. Condition 101 states that, “Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways.”

The proposed relocation of Americano Creek to accommodate the required widening of Roblar Road would result in the filling of the existing Americano Creek channel along most of its course on the Quarry project site, and relocation of the creek away from Roblar Road. Most of the existing riparian habitat adjacent to the south side of the existing creek would not be disturbed. A review of the 2015 USACE wetland delineation for the Quarry property and roadway alignment (U.S. Army Corps of Engineers, 2015) and the proposed relocation of Americano Creek shown in Figure 2-8 in Chapter 2, Project Description, shows that approximately 750 feet of Americano Creek would be filled to accommodate Roblar Road widening. This would fill an estimated 0.40 acre (17,599 s.f.) of waters of the State, which includes 0.18 acre (7,701 s.f.) of waters of the U.S. The 2015 USACE wetland delineation did not clarify the extent of federally-jurisdictional wetlands within the waters of the U.S.; hence, for this assessment, the entire 0.18-acre area was presumed to support federally jurisdictional wetlands. These jurisdictional areas include a portion of the riparian area along the south side of the existing creek, which is a part of an approximately 0.90-acre riparian area that supports native willows [arroyo willow (*Salix lasiolepis*), Pacific willow (*S. lucida* spp. *lasindra*), and red willow (*S. laevigata*)]. Only a portion of this riparian area would be removed to accommodate road widening and creek relocation. The remainder of this riparian area would not be disturbed. In addition, the realigned channel would fill (remove) an approximately 0.05-acre seasonal wetland identified as SW-17 (Figure 2-8 in Chapter 2, Project Description).

As part of the proposed modifications to the Use Permit, a realigned Americano Creek channel would be created that measures approximately 935 feet long with a 14-foot wide

creek bed covering approximately 0.30 acre and an additional 0.45 acre of low flood terraces. The creek banks would be vegetated with willows and other native species as identified in the Applicant's "Conceptual Planting Plan for Americano Creek Realignment" (Winfield, 2017; included as Appendix A; hereafter, "Planting Plan"). A new roadside ditch would be created adjacent to the widened Roblar Road.

The Applicant proposes to modify Condition/Mitigation Measure 133 to state that all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on the valley floor adjacent to Americano Creek) of the Quarry site would be avoided "as feasible." The Applicant also proposes to modify Condition 101 to provide an exception to the prohibition against grading and land disturbance in proximity to waterways. These changes ~~This change~~ would enable the widening of Roblar Road and the proposed relocation of Americano Creek, since both the road widening and creek relocation would necessarily impact existing wetlands and occur within 50 feet of Americano Creek. This would increase the severity of Final EIR Impact D.1, by increasing the extent of wetlands that would be filled.

Condition/Mitigation Measure 132, which requires compensatory mitigation for the fill of jurisdictional waters, applies to the proposed modifications to the Use Permit, and would be effective in compensating for the increased loss of wetlands. While there would be a temporary loss of function on approximately 750 linear feet of Americano Creek while revegetated areas become established, creek relocation would not cause a long-term loss of wetland functions or habitat values because: 1) a greater area of wetlands would be created than filled: about 0.23 acres of wetland (0.18 acres of existing channel and associated riparian vegetation, plus 0.05 acres of seasonal wetland) would be filled, and about 0.30 acres of wetland/stream channel would be created. In addition, 0.45 acre of low flood terraces (waters of the State) would be created; 2) with implementation of the Planting Plan, the enhanced areas would provide similar or better habitat values than the existing creek; and 3) long-term monitoring provided in Mitigation Measure D.1a (COA 132) would ensure that the restored areas meet minimum performance criteria and adequately enhance functions and values of the created riparian corridor. Therefore, with the continued application of Condition/Mitigation Measure 132, the proposed modifications to the project would not result in any new or substantially more severe significant impacts to wetlands or riparian habitat. However, the Applicant's proposed modification of Condition/Mitigation Measure 133, which would add "as feasible" to the requirement to avoid wetlands and riparian habitat, would introduce uncertainty regarding the extent of wetland and riparian habitat that would be disturbed or destroyed. This could cause a new or more severe significant impact to wetlands and riparian habitat. Therefore, the Applicant's proposed revisions are rejected, and other revisions to Condition/Mitigation Measure 133 are specified below as mitigation.

In addition, Condition/Mitigation Measure 133 has been revised to confirm that the referenced 100-foot setback from critical habitat (Chapter 26A County Code) does not apply retroactively to sites that were reviewed pursuant to the California Environmental

Quality Act and approved prior to the designation of relevant critical habitat in the General Plan. The Roblar Road Quarry was approved by the Board of Supervisors in December, 2010. The site was included in a federal critical habitat rulemaking by the U.S. Fish and Wildlife Service in August, 2011. On October 23, 2012, the Board of Supervisors adopted map amendments to the Open Space Element of the General Plan to designate critical habitat for the California Tiger Salamander. However, these setback provisions were not intended to be applied retroactively, and independent of any setbacks, the mitigation measures already mitigated the impact to California Tiger Salamanders to a level that is less than significant. The approved Quarry project includes Condition/Mitigation Measure 143 and 144 to mitigate potential impacts to CTS to less than significant as noted below under Impact 3.3-3.

The Applicant's proposed modifications to Condition 101 are also rejected, and this condition is modified as specified below (new changes to the text below are indicated with double underline and double strike-through).

Mitigation Measure 3.3-1a: Revise wording of Condition/Mitigation Measure 133 as follows to confirm that the referenced 100-foot setback to critical habitat does not apply retroactively and to allow creek relocation, but with specific parameters for wetland and riparian habitat disturbance (additions to the text of the adopted Condition are underlined):

133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017. Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:

- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on [Final EIR] Figure IV.D-1 except for the wetland that would be impacted by the relocation of Americano Creek to protect these features from all project construction and operation activities.;
- Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Condition 161);
- Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property, unless otherwise approved by resource agencies.
- Except as stated above for the relocation of Americano Creek, the project Applicant shall maintain the minimum allowed 200-foot and 100-foot setback for quarry mining operations from stream banks (Americano

Creek and Ranch Tributary) respectively and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code), provided, however, that setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the General Plan.

- Nothing in this condition or other conditions will preclude enhancements to the North Pond subject to resource agency approvals.

Mitigation Measure 3.3-1b: Revise wording of Condition 101 as follows to allow the widening of Roblar Road and relocation of Americano Creek in proximity to waterways:

101. Except for stream crossings and also except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.

Significance with Mitigation: The additional revisions to Condition/Mitigation Measure 133 and Condition 101 would ensure that disturbance of wetlands and riparian habitat would be restricted to the areas shown in the Applicant's plans for relocation of Americano Creek and evaluated in this document. This would ensure that all impacts to wetlands and riparian areas are adequately mitigated. The additional specification regarding setbacks from designated critical habitat would clarify that the Quarry project is consistent with Chapter 26A of the County Code. Therefore, with implementation of Mitigation Measures 3.3-1a and 3.3-1b, the impact would be less than significant.

[C-15] Revision to Footnote 1 on page 3.3-4:

- ¹ Performance standards specified for the monitoring program for creation of compensatory wetlands include: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system. It is anticipated that absence of invasive species within compensatory wetlands will be demonstrated by the applicant to the extent required by applicable CDFW, USFWS, Water Board, and/or Army Corps of Engineers permit requirements.

CHAPTER VI

Report Preparers

A. Report Authors

County of Sonoma
Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, California 95403-2829

EIR Manager:	Chris Seppeler, Senior Environmental Specialist
Planner:	Blake Hillegas, Supervising Planner
County Counsel:	Verne Ball, Deputy County Counsel

B. EIR Consultants

Environmental Science Associates
550 Kearny Street, Suite 800
San Francisco, California 94108

Project Director:	Paul Mitchell
Project Manager:	Dan Sicular, Sicular Environmental Consulting
Staff:	Lisa Bautista, Document Preparation Brian Pittman, Biological Resources Robin Hoffman, Cultural Resources Peter Hudson, Sutro Sciences, Geology, Soils and Seismicity Jack Hutchison, P.E., Transportation and Traffic Justin Taplin, Sutro Sciences, Hydrology and Water Quality Ron Teitel, Graphics

C. Project Applicant and Property Owner

Quarry Owner:	Barella Family LLC
Project Applicant:	John Barella Land Investments

Applicant's Consultants:	BKF Engineers Ted Winfield, Ph.D. W-Trans Scott Briggs, Ph.D.
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APPENDIX A

Draft Mitigation Monitoring and Reporting Program

Introduction

The California Environmental Quality Act (CEQA) requires public agencies to adopt a Mitigation Monitoring and Reporting Program (MMRP) at the time that a Project with an EIR is approved (Public Resources Code §21081.6(a)(1)). A public agency adopting measures to mitigate or avoid the significant impacts of a proposed project is required to ensure that the measures are fully enforceable, through permit conditions, agreements, or other means (Public Resources Code §21081.6(b)). The program must be designed to ensure project compliance with mitigation measures during project implementation. For the currently-approved Roblar Road Quarry Use Permit, the MMRP is incorporated into the Conditions of Approval: for each condition that is derived from a mitigation measure from the 2010 Final EIR, the mitigation monitoring requirement follows the text of the condition. If the proposed Project changes are approved, The MMRP will be incorporated into the amended Conditions of Approval.

Format

The draft MMRP is organized in a table format, keyed to each mitigation measure included in the Final SEIR. Each mitigation measure is set out in full, followed by a tabular summary of monitoring requirements. The column headings in the tables are defined as follows:

Mitigation Measure: This column presents the full text of the mitigation measure identified in the SEIR.

Mitigation Monitoring Measure: This column provides information on how implementation of the mitigation measures will be monitored.

Monitoring Responsibility: This column contains an assignment of responsibility for the monitoring and reporting tasks.

Monitoring and Reporting Schedule: The general schedule for conducting each monitoring and reporting task, identifying where appropriate both the timing and the frequency of the action.

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>Mitigation Measure 3.3-1a: Revise wording of Condition/Mitigation Measure 133 as follows to confirm that the referenced 100-foot setback to critical habitat does not apply retroactively and to allow creek relocation, but with specific parameters for wetland and riparian habitat disturbance (additions to the text of the adopted Condition are <u>underlined</u>):</p> <p>133. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property, <u>except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017.</u> Prior to construction activities, the project Applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:</p> <ul style="list-style-type: none"> • Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on [Final EIR] Figure IV.D-1 except for the wetland that would be impacted by the relocation of Americano Creek to protect these features from all project construction and operation activities; • Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Condition 161); • Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property, <u>unless otherwise approved by resource agencies.</u> • <u>Except as stated above for the relocation of Americano Creek, the project Applicant shall maintain the minimum allowed 200-foot and 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) respectively and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code), provided, however, that setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the General Plan.</u> • <u>Nothing in this condition or other conditions will preclude enhancements to the North Pond subject to resource agency approvals.</u> 	<p>Prior to issuance of grading permits for roadway improvements, creek relocation, and Quarry project site development, PRMD Project Review staff will verify that plans provide all wetland protection measures. County staff will verify compliance in the field during inspection.</p>	<p>PRMD Project Review staff</p>	<p>The monitoring schedule is tied to the application for and issuance of grading permits necessary for completion of work that has the potential to disturb wetland and riparian habitat. Reporting, in the form inspection reports, will verify compliance.</p>
<p>Mitigation Measure 3.3-1b: Revise wording of Condition 101 as follows to allow the widening of Roblar Road and relocation of Americano Creek in proximity to waterways:</p> <p>101. Except for stream crossings <u>and also except as shown in the Applicant's plans for relocation of Americano Creek, including related roadway improvements, specifically the drawing by BKF Engineers, "Americano Creek Relocation" dated September 1, 2017 and the "Conceptual Planting Plan for Realigned Americano Creek" prepared by Ted Winfield, Ph.D., dated August 21, 2017,</u> no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure.</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.			
Mitigation Measure 3.4-1: Prior to the commencement of mining, the applicant shall enter into an improvement and reimbursement agreement with the Department of Transportation and Public Works (DTPW) and install a signal at the Stony Point Road/Roblar Road intersection. The applicant shall have plans prepared for the work in conformance with the Applicant's preliminary design plans, including widening all approaches to the intersection, lengthening the northbound left-turn lane, and adding a southbound left-turn lane (for access to the private driveway across from Roblar Road). The applicant shall widen or relocate to the north the private driveway opposite Roblar Road, within the County right-of-way, or revise the plans to show a relocation of the stop line for the northbound left-turn lane, to provide sufficient turning radius for larger vehicles and vehicles with trailers. The signal shall be designed in accordance with Caltrans guidelines, subject to review and approval by DTPW. An offset of the payment of traffic mitigation fees may be considered.	Conformance of construction plans with mitigation requirements will be confirmed during plan review by DTPW staff. Conformance of construction of intersection improvements with plans be confirmed through DTPW inspections.	DTPW	Intersection improvements must be completed prior to commencement of mining.
Mitigation Measure 3.4-2: Widen the paved shoulders on Stony Point Road to a minimum of five feet within the limits of the intersection improvement at Roblar Road unless such widening would disturb ditches.	Same as previous measure	Same as previous measure	Same as previous measure
Mitigation Measure 3.4-3: The Applicant shall widen Roblar Road on the 1.6-mile segment between the Quarry site entrance and Access Road 2 with two 11-foot-wide vehicle travel lanes, and an 11-foot west-bound left turn lane at Access Road 2, two 5-foot-wide shoulders (4-foot-wide paved), and appropriate side slope for the entire road design, as determined by the Department of Transportation & Public Works. The Applicant shall widen Roblar Road with at least the following cross section dimensions: <ul style="list-style-type: none"> • 11-foot-wide vehicle travel lanes and 11-foot-wide left turn lane; • 4-foot-wide paved shoulders; • 1-foot-wide unpaved (rock) shoulders. Final design of the horizontal curves shall meet <i>A Policy on Geometric Design of Highways and Streets</i> , as determined by the Department of Transportation & Public Works, to accommodate all project trucks (including but not limited to trucks hauling gravel) through the curves to prevent offtracking within the pavement in the 1.6 mile segment, while maintaining an acceptable clearance to bicycles and vehicles in the opposing lane. If any component of an adequate design requires additional right of way, and if the applicant is unable to obtain this additional right of way from willing sellers, then any condemnation required must be paid for solely by the applicant.	DTPW staff will review final plans for road improvements and verify that they conform with mitigation requirements. DTPW staff will also confirm conformance of construction of road improvements during and at the conclusion of construction.	DTPW	Road improvements, and monitoring of road improvements for compliance with this mitigation measure, must be completed prior to commencement of mining.
Mitigation Measure 3.4-4: Implement roadway improvements for Roblar Road identified in Mitigation Measure 3.4-3.	Same as previous measure	Same as previous measure	Same as previous measure
Mitigation Measure 3.4-5: Optimize the traffic signal timing at the intersection of Stony Point Road and Roblar Road to reflect projected future turning movement traffic volumes.	DTPW, which has responsibility for operation of traffic signals at the intersection, will implement signal timing and report completion to PRMD staff.	DTPW and PRMD	Upon completion of intersection improvements

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>Mitigation Measure 3.6-2: Archaeological monitoring of ground-disturbing construction activities associated with the relocation of Americano Creek and also those associated with Roblar Road widening/reconstruction near ARS 10-016-01 and ARS 10-016-02.</p> <p>Archaeological monitoring shall be conducted for any ground-disturbing construction activities associated with the relocation of Americano Creek, and also any ground-disturbing construction activities associated with Roblar Road widening/reconstruction activities that are within 200 feet of previously recorded archaeological resources ARS 10-016-01 and ARS 10-016-02. Monitoring shall be required for all surface alteration and subsurface excavation work in these areas, including grubbing, cutting, trenching, grading, use of staging areas and access roads, and driving vehicles and equipment. The archaeological monitoring shall be under direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology (Supervising Archaeologist). An archaeological monitor shall be present during the specified construction ground-disturbing activities according to a schedule agreed upon by the Supervising Archaeologist and County until the Supervising Archaeologist has, in consultation with the County, determined that construction activities could have no impacts on any potentially significant archaeological resources. Archaeological monitors shall record and be authorized to temporary collect soil samples and artifactual/ecofactual material, as warranted, for analysis. All recovered artifacts and samples not associated with human remains will be photographed on-site and removed to a secure location for temporary storage, cleaning and processing. On completion of the project, all retained artifacts and samples with a potential to increase our knowledge of the past will be permanently curated in a facility that meets the standards and guidelines of the Secretary of the Interior, as required by CEQA.</p> <p>Archaeological monitors and the Supervising Archaeologist shall be empowered to temporarily redirect construction crews and heavy equipment until any potential archaeological material, including human remains, is evaluated. If suspected archaeological material, including human remains, is identified during monitoring, the procedures set forth in Mitigation Measure K.1b of the Final EIR shall be implemented. These measures consist of: halting construction activities at the location of the suspected archaeological material; inspection and significance assessment of the find by a qualified archaeologist (i.e., one meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology [Supervising Archaeologist]); and, if the find is determined to be a potentially significant archaeological resource under CEQA, pursuant to CEQA Guidelines Section 15064.5, development of a management plan for the resource, consistent with CEQA and County requirements and policies.</p> <p>The management plan shall be developed and implemented in accordance with PRC Section 21083.2 and CEQA Guidelines Section 15126.4(b)(3), and shall recommend preservation in place or, if preservation in place is not feasible, data recovery through excavation. If preservation in place is feasible, this may be accomplished through one of the following means: (1) modifying the construction plan to avoid the resource; (2) incorporating the resource within open space; (3) capping and covering the resource before building appropriate facilities on the resource site; or (4) deeding resource site into a permanent conservation easement.</p>	<p>Prior to commencement of specified ground-disturbing activities, PRMD staff will confirm that a qualified archeologist has been retained to conduct construction monitoring, and will confirm a proposed monitoring schedule. The archeologist will notify PRMD staff upon discovery of any archeological material, and upon completion of monitoring. PRMD staff will confirm that procedures specified in the mitigation measure are followed in the event of discovery of any archeological materials, and will confirm the Supervising Archeologist's determination that all construction activities with the potential to disturb potentially significant archaeological resources have been completed.</p>	<p>PRMD staff</p>	<p>Prior to, during, and upon completion of specified ground-disturbing activities.</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<p>If the Supervising Archaeologist determines that any archaeological material identified during construction may have association with Native Americans, relevant Native American representatives (already identified by the California Native American Heritage Commission as the Federated Indians of Graton Rancheria) shall inspect the find within 24 hours of discovery and the County shall consult with potentially interested Native American representatives in developing the management plan for the resource and to determine if the resource qualifies as a tribal cultural resource, as defined in PRC Section 21074.</p> <p>If preservation in place is not feasible, the Supervising Archaeologist shall prepare and implement, in coordination with the County and relevant Native American representatives (if applicable), a detailed treatment plan to recover the scientifically consequential information from and about the resource, which shall be reviewed and approved by the County prior to any excavation at the resource's location. Treatment of unique archaeological resources shall follow the applicable requirements of PRC Section 21083.2. Treatment for most resources, though not tribal cultural resources, would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals. Treatment for tribal cultural resources shall be determined through the consultation between the County and relevant Native American representatives (see Impact 3.6-5). After implementation of the management plan and treatment plan (if required), the Supervising Archaeologist shall submit a final report to the County, and relevant Native American representatives (if applicable), detailing their implementation and results.</p> <p>If human remains are encountered, construction ground-disturbing activities within 100 feet of the find shall halt and the protocol set for in PRC Section 5097.98, including notifying the Sonoma County Coroner and, if needed, the California Native American Heritage Commission, shall be followed.</p> <p>Resumption of ground-disturbing activities within 100 feet of any find shall only occur with written permission of the County.</p>			
<p>Mitigation Measure 3.6-4: Implement Mitigation Measure 3.6-2.</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>
<p>Mitigation Measure 3.6-5: Implement Mitigation Measure 3.6-2.</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>	<p>Same as previous measure</p>
<p>Revise Final EIR Mitigation Measure E.8m as follows:</p> <p>Roadway widening <u>and creek relocation</u> construction activities for this project shall be restricted as follows:</p> <ul style="list-style-type: none"> All internal combustion engines used during construction of this project shall be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code. 	<p>PRMD project review will verify that road construction plans include the requirements specified in the mitigation measure. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented. Code Enforcement will respond, should complaints be received for work conducted outside of approved hours.</p>	<p>PRMD and DTPW</p>	<p>During review of plans for roadway widening and creek relocation, and during construction.</p>

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Mitigation Monitoring Measure	Monitoring Responsibility	Monitoring and Reporting Schedule
<ul style="list-style-type: none"> Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Only work that does not require motorized vehicles or power equipment shall be allowed on holidays. If work outside the times specified above becomes necessary, the resident engineer shall notify the PRMD Environmental Review Division as soon as practical. 			

APPENDIX B

Letter from Applicant's Attorney to Sonoma County PRMD and Board of Supervisors

This letter was received by the County after the close of the public comment period for the Draft SEIR. The letter is not considered a comment letter on the Draft SEIR and responses are not provided. It is included here as an informational item.

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**MILLER STARR
REGALIA**

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlgal.com

Arthur F. Coon
Direct Dial: 925 941 3233
arthur.coon@msrlgal.com

January 16, 2019

Via U.S. Mail and Email

Blake Hillegas
Sonoma County Permit Center
2550 Ventura Avenue
Santa Rosa, CA 95403
Email: Blake.Hillegas@sonoma-county.org

Members of Sonoma County
Board of Supervisors
575 Administrative Drive, Room 100A
Santa Rosa, CA 95403
Email: Susan.Gorin@sonoma-county.org;
David.Rabbitt@sonoma-county.org;
Shirlee.Zane@sonoma-county.org;
district4@sonoma-county.org;
Lynda.Hopkins@sonoma-county.org

Re: Applicant Barella's Responses to CARRQ and Caltrans Comments On 2018
Draft Supplemental Environmental Impact Report, Roblar Road Quarry
("2018 DSEIR" or "DSEIR")

Dear Mr. Hillegas and Honorable Supervisors:

This office represents John Barella and Barella Family, LLC ("Applicant" or "Barella") in connection with the Applicant's 2016 application seeking minor modifications to certain Conditions of Approval ("COAs") of Barella's already-approved Use Permit for the Roblar Road Quarry Project. Those modifications are the subject of the above-referenced 2018 DSEIR.

As background, the Quarry Project's Use Permit was approved by the County Board of Supervisors in 2010, after many years of environmental study. When constructed and operating, the Quarry will provide a long-planned local source of high-grade construction aggregate, which will substantially reduce the greenhouse gas (GHG) emissions (and resulting adverse climate change impacts) that result from importing rock to the County from more distant sources. The Final EIR ("FEIR") certified by the Board for its 2010 Quarry Project approval was unanimously upheld as legally sufficient in May 2014 by the California Court of Appeal, First Appellate District, after many years of litigation. (See unpublished 5/13/14 Opn. filed in *Citizens Advocating For Roblar Rural Quality v. County of Sonoma, et al. (John Barella, et al., Real Parties in Interest)*, First App. Dist., Div. 5, Case No. A136877 ("CA Opp.")). That lengthy but unsuccessful litigation challenge, which significantly delayed and increased the cost of implementation of the Quarry project, was initiated by a dedicated opposition group comprised of nearby landowners, which group calls itself

"Citizens Advocating for Roblar Rural Quality," "Citizens Against Roblar Road Quarry," or "CARRQ."

On October 26, 2018, CARRQ (through its attorney and member, Michael Molland) submitted a 14-page letter (the "Molland letter") and attached exhibits, purporting to contain "comments" and "evidence on both the SEIR [sic] and the project[.]"¹ This letter responds on behalf of Barella, for the record, to the comments of the Molland letter and its Exhibits, which are directed to the County's DSEIR. (See fn. 1, *supra*.)² This letter also briefly responds to the comment submitted by Caltrans on the DSEIR in its October 23, 2018 letter.

¹ The Molland letter repeatedly refers to the County's September 2018 "Draft Supplemental Environmental Impact Report, Roblar Road Quarry" as the "Supplemental EIR" or "SEIR" – as if it were a final CEQA document – rather than accurately referring to it as a "Draft SEIR" or "DSEIR," which would properly reflect its actual title and substantive content under the California Environmental Quantity Act ("CEQA"; Pub. Resources Code, § 21000 et seq) and CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.). The Molland letter's error is not merely a matter of semantics. The letter argues on various points that the DSEIR lacks discussion, information or evidence that it allegedly should contain in order to be legally adequate. The Molland letter fails to apprehend that – regardless of the merit (or more accurately, lack thereof) of its specific arguments about what content allegedly must be contained in the "SEIR" – the content of a final EIR under CEQA *always* differs from that of a draft EIR. A final EIR contains a great deal more text, documents, and information than does the draft document. As explained in the CEQA Guidelines, the final EIR consists of: the draft EIR or a revision of the draft; the comments on the draft EIR; a list of persons and entities commenting on the draft EIR; the lead agency's responses to significant environmental comments arising during permit during the review process; and any other information added by the lead agency. (14 Cal. Code Regs., § 15132.) In short, the Molland letter's arguments (i.e., that the "SEIR" does not contain allegedly required content) lack merit as a general matter and focus on the wrong document – a necessarily incomplete *draft* CEQA document, rather than the yet-to-be- completed and certified Final SEIR. Unsurprisingly, the Molland letter ignores relevant evidence and information contained in other documents in the administrative record including, but not limited to, timely comment letters (and their evidentiary exhibits) which will ultimately become part of the Final SEIR.

² While this letter addresses the great majority of the legal and factual flaws in the Molland letter's arguments and its attached "expert" evidence, Barella intends to submit a further response addressing the flaws in the 10/26/18 "economic analysis" letter report submitted by Michael Kavanaugh ("Kavanaugh letter"), and Molland's/CARRQ's misuse of the same.

I. RESPONSE TO CARRQ COMMENTS IN MOLLAND LETTER

A. The Molland Letter Materially Overstates The Number Of Haul Truck Trips That Will Occur Under The Already Approved Quarry Project

The Quarry project has been approved; its haul truck trips will ultimately occur without regard to the minor COA modifications Barella seeks. While the number of already-approved Quarry project haul truck trips is thus irrelevant to those modifications, it nonetheless bears pointing out (for the sake of an accurate factual context and “baseline”) that CARRQ grossly exaggerates that number. The Molland letter claims (at page 2) that it is undisputed that “over nearly [sic] **two million** gravel trucks will clog the County’s [roads] ... during the life of the project[.]” (Emph. in orig.)³ This overstates the total number of one-way haul truck trips during the project’s lifetime by well over 400,000, without even taking into account further truck trip reductions that will occur due to site conditions, and to the fact that there will be many “working” days each year when the Quarry cannot operate at all – and, hence, no truck trips will occur – because of inclement weather conditions.

The Quarry Use Permit limits the extraction of aggregate material from the Quarry to a maximum of 570,000 cubic yards per year for the Quarry’s permitted 20-year period of operation. Quarry Use Permit operational COA No. 150 also provides in relevant part:

Permitted hours of operation are 7:00 a.m. to 5:00 p.m. weekdays and 7:00 a.m. to 4:00 p.m. on Saturdays. There shall be no clearing or mining operations on Sundays or federal holidays.

(12/14/10 Bd. COAs and Mit. Monitoring Program for Roblar Road Quarry, File No. PLP03-0094, p. 39.)

Using the certified 2010 Final EIR’s figure of an average of 27 one-way trips per hour, the Quarry Use Permit’s restrictions would thus allow about 270 gravel truck haul trips per weekday and 243 trips each Saturday – significantly fewer trips than the 302 per work day figure asserted in the Molland letter and DSEIR.⁴ Accordingly,

³ The Molland letter is actually making a claim about the number of one-way truck trips, which is by definition twice the number of round trips, and not the number of actual trucks. This response addresses the substance of the Molland letter’s intended factual claim regarding the number of one-way haul truck trips.

⁴ The DSEIR’s bracketed insertion, at p. 3.4-8, of a daily figure of 480 trips taken from Table IV.E-6 of the 2010 FEIR – which were apparently incorrectly extrapolated from that document’s 43-trip peak hours figure – simply does not make sense for a number of reasons that are explained further below, including the limiting effect of the project Use Permit’s 570,000 cubic yard annual aggregate

the average number of already analyzed and permitted *daily one-way truck trips* on “working days” when the Quarry is actually allowed to operate is only 265.5. Using this number, and employing the Molland letter’s own formula (which assumes 300 working days per year, to account for Sundays and Federal holidays when the Quarry is not permitted to operate), results in the following calculation: 265.5 trips x 300 days x 20 years = 1,593,000 gravel truck haul trips over the entire permitted period of operation.

Another (and more accurate) way to calculate the maximum total number of truck trips is to: (1) divide 570,000 cubic yards (the maximum amount of aggregate permitted to be extracted from the Quarry in any year under the Use Permit) by 15 cubic yards (the individual capacity of a single haul truck); (2) take the resulting figure (38,000 trucks) and multiply it by two for travel each way, which would result in 76,000 annual truck trips; (3) and then multiply that figure by the Quarry project’s 20-year permitted operation. This calculation produces a total of 1,520,000 truck trips.⁵ As noted above, and in any event, by any reasonable and credible calculation, there will be more than 400,000 *fewer* truck trips than the “two million” trips claimed in the Molland letter – revealing an exaggerated total by CARRQ that is approximately 130% of the maximum number of truck trips that would actually occur consistent with permit limitations.

extraction limit, and the fact that the peak-hour number represents the number of trips occurring in the *busiest* hours of the day. An accurate estimate of total trips would (1) multiply the average (not peak) number of hourly trips by total hours of operation, and/or (2) divide the 570,000 cubic yard total annual aggregate limit by the 15 cubic yard individual truck capacity, then multiply by 2 (for travel each way), and then multiply by 20 years (the life of the project). As shown below, either of these calculation methodologies results in a total haul truck trip figure more than 400,000 trips *lower* than the grossly exaggerated number claimed by CARRQ.

⁵ This figure is confirmed by using relevant figures contained in the Kavanaugh letter, which converts cubic yards to tons by use of a 1.3 conversion factor. Mr. Kavanaugh calculates the 570,000 cubic yard maximum annual aggregate extraction limit to be equivalent to 11.4 million cubic yards over 20 years, which (using Kavanaugh’s 1.3 tons per cubic yard conversion factor) is equivalent to 14.82 million tons (which Kavanaugh then improperly rounds up to 15 million tons). An individual haul truck (which has a capacity of 15 cubic yards, or 19.5 tons using Kavanaugh’s 1.3 conversion factor) would need to make 769,231 round trips to haul 15 million tons, or 1,538,462 one-way trips to haul that amount (which is actually more tonnage than Barella is legally allowed to extract, assuming the accuracy of Kavanaugh’s 1.3 conversion factor). Using the correct (unrounded) figure of 14,820,000 tons (14.82 million tons) resulting from Kavanaugh’s calculations and dividing it by 19.5 tons per truck results in 760,000 round trips, or 1,520,000 one-way trips – a figure that is 480,000 less trips than the exaggerated “2 million” figure claimed in the Molland letter.

But exposing the Molland letter's flawed calculation regarding the maximum number of one-way gravel truck haul trips *theoretically* possible (under the annual extraction limit and COA 150) fails to reveal the full extent of that letter's error. That is because the theoretical maximum number does not account for other physical realities and factors that will come into play and affect the number of truck trips. In reality, the actual number of one-way truck trips will be substantially lower than the number theoretically allowed by the Quarry's Use Permit based on the FEIR's (already-conservative) figures. Further trip reductions will result from topographical conditions and related factors (i.e., the significant elevation changes trucks must navigate to get in and out of the Quarry, and the additional time required to do so), as well as weather-related factors that will preclude Quarry operations during severe inclement wet winter weather when trucks are unable to operate there.

Again, while not directly relevant to any substantive issues related to the DSEIR, the Molland letter's errors and gross exaggerations of the project's number of truck trips do raise legitimate issues as to the commenter's *credibility* – which *is* a relevant issue in assessing the commenter's arguments and proffered "evidence." (See, e.g., *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 690-691 [while members of the public may "provide opinion evidence where special expertise is not required [,]" the "[i]nterpretation of technical or scientific information requires an expert evaluation" and public testimony "on such issues does not qualify as substantial evidence"]; *id.* at 691 ["dire predictions by nonexperts regarding the consequences of a project do not constitute substantial evidence"], citing *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417.) The Molland letter's mistakes simply ignore the relevant evidence and are sufficiently egregious for the Board of Supervisors, should it so choose, to explicitly reject CARRQ's contentions based solely or in part on its demonstrated bias and lack of credibility. (*Joshua Tree Downtown Business Alliance, supra*, 1 Cal.App.5th at 692 [holding CEQA requires that "the lead agency [be given] the benefit of the doubt on any legitimate, disputed issues of credibility" and that "at a minimum, these were legitimate issues regarding the credibility of... opinions [offered by plaintiffs]" and "the County could deem them not substantial evidence" sufficient to support a fair argument].)

B. The Molland Letter Misconstrues The DSEIR And Record Evidence In Arguing The Modifications Sought By Barella Will Not Meet Applicable Safety Standards; To The Contrary, Both The DSEIR And Substantial Evidence Elsewhere In The Record Show The DSEIR's Recommended 32-Foot Road Widening Will Satisfy Safety Concerns

The Molland letter next erroneously claims that "there is no question, no debate at all, that if the modifications are allowed Roblar Road will not meet ... safety standards" and "that the SEIR itself finds that significant and unavoidable environmental impacts will occur" if existing COAs governing the Roblar Road widening mitigation measure (COAs 49 and 59) are modified. (Molland letter, p. 2.)

Not so. For the record, Barella *does* “question” and “debate” these alleged conclusions because they are simply not true. In fact, as shown below, neither the DSEIR’s analysis nor the record evidence supports these false assertions. To the extent the DSEIR purported to find any “impact” based on the proposed road widening modifications’ alleged inconsistency with County general plan policies, that “impact” would be a *land use* issue for the Board of Supervisors’ ultimate determination, *not* an *environmental* impact within the purview of CEQA. (*The Highway 68 Coalition v. County of Monterey* (2017) 14 Cal.App.5th 883, 896 [“general plan consistency is not an issue reviewed under CEQA” and “CEQA does not require an analysis of general plan consistency”].)⁶

The Molland letter bases its argument in this regard on DSEIR statements that project-related truck traffic increases on Roblar Road “*could* introduce potential bicycle safety hazards” and “*could* introduce potential traffic safety hazards.” (Molland letter, p. 2, quoting DSEIR text re Impact 3.4-3 and Impact 3.4-4, *emph. added*.)⁷ The DSEIR’s actual analysis of these potential environmental issues shows that the new mitigation measures which it discusses, and to which the

⁶ The DSEIR’s purported findings of a significant “impact” after mitigation conspicuously omit the adjective “environmental,” and are not based on any expert opinion or other evidence that 11-foot travel lanes, 4-foot paved bike lanes, and 1-foot rock shoulder backing on the affected segment of Roblar Road would actually result in an *unsafe physical environment* for bicyclists or motorists. Rather, these findings are based *solely on plan consistency* issues, i.e., “the proposed travel lanes would not meet the *general* AASHTO 12-foot lane recommendation, and the proposed bicycle lanes would not meet the *general* specifications of the Sonoma County Bicycle and Pedestrian Plan, which would provide additional protections that include a 5-foot paved lane (Policy 2.08).” (DSEIR, pp. 3.4-12, 3.4-13, *emph. added*.) But not meeting general specifications that County plans provide for new roads, or not providing “additional protections,” does not mean the DSEIR’s proposed mitigation will result in unsafe conditions or will have adverse environmental impacts. Indeed, the DSEIR clearly concludes based on substantial evidence (as discussed in more detail below) that the proposed mitigation (described above) will *not* result in an unsafe condition. Moreover, as indicated above, general plan consistency is a land use issue entrusted to the County Board’s sound discretion after considering and balancing all relevant policies and considerations, not an “environmental” issue properly analyzed under CEQA. (*The Highway 68 Coalition, supra*, 14 Cal.App.5th at 896.)

⁷ The word “could” is carried over from the CEQA review of the originally proposed Quarry project without *any* road widening mitigation. These *potential* environmental impacts were discussed in the original project FEIR, and were the basis for imposition of the 40-foot road-widening mitigation measure (imposed in COAs 49 and 59) that Barella now seeks to modify. The DSEIR’s use of the word “could” is *not* intended to indicate that Barella’s proposed modifications *as mitigated by the DSEIR’s recommended mitigation* could result in any significant safety impacts.

Applicant has already expressly and unequivocally consented, would mitigate all potential bicycle and traffic safety impacts to an acceptable level. Keeping in mind Barella's application to modify COAs 49 and 59 was submitted over two years ago, in 2016, the DSEIR also analyzes that *initial* proposal by the Applicant to modify the travel lane and shoulder width on the affected segment of Roblar Road from 12-foot travel lanes and 6-foot paved shoulders to 11-foot travel lanes with paved shoulders of only 3 feet. (DSEIR, 3.4-9 – 3.4-10.) The DSEIR notes that *that* proposed modification – i.e., with 11-foot travel lanes and only 3-foot paved shoulders – would not conform to the latest published AASHTO road design guidance (on which the County General Plan bases its road design standards), as did the requirements of COAs 49 and 59. However, the DSEIR also notes that the relevant AASHTO publication expressly provides an *exception* “[o]n roadways to be reconstructed, [under which] an existing 22-foot traveled way may be retained where alignment and safety records are satisfactory.” (*Id.*, p. 3.4-10.) It then cites collision history statistics for Roblar Road (which is currently less than 22 feet in width with no paved shoulders) showing that its 2011-2015 rate of 0.64 collisions per million vehicle miles travelled (MVMT) was substantially less than the comparable collision rates for rural two-lane roads in Sonoma County (1.23 collisions per MVMT), Caltrans District 4 (1.09 collisions per MVMT), and Caltrans Statewide (1.01 collisions per MVMT), thus “indicat[ing] that a 22-foot travelled way could be used on Roblar Road” consistent with AASHTO. (*Ibid.*)

The DSEIR's conclusion confirming the acceptability of 11-foot travel lanes on Roblar Road, consistent with AASHTO and safety concerns, is amply supported by substantial evidence in the record. (See 5/11/16 CHS Consulting Group Technical Memorandum, at p. 3 [reproducing AASHTO Greenbook Table 5-5, which allows 11-foot travel lanes for the design traffic volume if there is no crash pattern data suggesting need for wider lanes]; 8/28/18 County DTPW Traffic Engineer Jeff Clark memo, pp. 1-2 [recommending County require as mitigation two 11-foot travel lanes, two 4-foot bike lanes, and two 1-foot unpaved road backing areas or a 32-foot cross-section, stating this will address potential truck/bicyclist conflicts, and noting that reconstructing Roblar Road to wider dimensions of “24 feet of travelled way with paved shoulders of 4 to 6 feet could result in [undesirable] increased speeds”].)

In further analyzing the issue, the DSEIR addresses bike lane/shoulder requirements and concludes that “the minimum acceptable roadway cross-section for Roblar Road would be two 11-foot travel lanes, two 4-foot bike lanes, and two 1-foot unpaved road backing areas, for a total 32-foot cross-section. This cross-section has been reviewed by the SCBPAC and was found to be the minimum acceptable cross-section for Roblar Road. The DTPW Director and Traffic Engineer have concurred with this recommendation (Clark, 2018).” (DSEIR, p. 3.4-11.) The DSEIR further states with respect to potential impact/mitigation measure 3.4-3: “The DTPW as well as the SCBPAC have reviewed the proposed project and determined that, ***as mitigated, it would be adequate for bicycle and traffic safety. The DTPW determined that 11-foot wide travel lanes would safely handle Quarry trucks because this segment of Roblar Road would be***

improved with paved shoulders at least 4 feet in width. (*Id.* at p. 3.4-12, *emph. added.*) With respect to potential impact/mitigation measure 3.4-4, the DSEIR consistently states it would ensure “4-foot wide bicycle lanes with 1-foot unpaved shoulders along the improved segment, consistent with the SCBPAC recommendation” and that “[t]he DTPW has determined the proposed project ***[as so mitigated]*** would not be unsafe with respect to traffic safety impacts.” (*Id.*, p. 3.4-13, *emph. added.*)

The Molland letter, at page 2, claims “the [D]SEIR concedes that to allow the proposed modifications will create a county road unsafe for motorists, bicyclists and anyone unfortunate enough to be present near its haul route.” It parrots this false contention at various places throughout its text. (See, e.g., Molland letter, p. 4 [summarizing arguments and asserting “the SEIR itself shows the proposed modifications to the existing conditions will make the project unsafe and constitute a significant and unavoidable environmental impact”]; pp. 6-7 [asserting same argument].) But even giving these arguments in the Molland letter (like those in its accompanying Daniel Smith letter, discussed below) the benefit of the doubt as to their credibility, they are plainly mistaken and irrelevant for one basic reason: they all address and attack *no longer proposed* modifications calling for a road with 3-foot paved bicycle lanes. (See, e.g., Molland letter at p. 6 [asserting and assuming “Applicant ... proposes to construct improvements to Roblar Road that would include ... two 3-foot wide paved shoulders, and two 2-foot wide rock shoulders”].) ***Contrary to this incorrect assumption, however, the Applicant has unequivocally accepted the County’s and SCBPAC’s recommended mitigation, developed during the CEQA process, just as it is stated in the DSEIR.*** Accordingly, Barella has been diligently pursuing a 32-foot road section (with 11-foot travel lanes, 4-foot paved bicycle lanes, and 1-foot rock shoulder backing) that is fully compliant with that DSEIR-recommended mitigation. (See, e.g., 10/26/18 Scott Briggs comment letter at p. 3.)

In short, the Molland letter attacks a “straw man” and ignores relevant evidence in the administrative record, including that contained in the Applicant’s above-cited comment letter, which itself will become part of the Final SEIR. This fatal omission completely undermines the substance (and credibility) of all of the Molland letter’s (and its “expert’s”) arguments on the traffic/bicycle safety issues.⁸

C. The Daniel Smith Opinion Letter Is Also Irrelevant Because It Fails To Address The DSEIR’s Mitigation Measure And Does Not

⁸ The Molland letter’s statements plainly do not address the reduced road-widening mitigation actually recommended in the County’s DSEIR and supported by the County’s and Barella’s experts. Even if they did, however, they would still directly conflict with the DSEIR statements quoted above stating that the County-recommended mitigation adequately addresses the Project’s potential bicycle and traffic safety impacts.

**Constitute Substantial Evidence Undermining The DSEIR's
Traffic/Bicycle Safety Conclusions**

**1. Like The Molland Letter, The Smith Letter Addresses The
Wrong Issue And Does Not Constitute Relevant Or
Substantial Evidence**

The Molland letter offers as its "Exhibit 1," and as allegedly relevant to the traffic/bicycle safety issue, a 5-page letter from Daniel T. Smith, Jr., P.E., dated October 26, 2018 (the "Smith letter"). The Smith letter states various opinions of Mr. Smith and the bases therefor. With respect to the traffic/bicycle safety issues addressed in the DSEIR, the Smith letter opines that "the DSEIR's analysis is unreasonable, inadequate and does not support changing the required design of Roblar Road to a substandard one under findings of overriding considerations." (Smith letter, p. 4.)⁹ But the Smith letter's opinions of inadequate separation of bicycles and motor vehicles, and inadequate space for bicyclists to pass one another or avoid "wind buffering effects" or potential hazards, are not based on the road and bicycle lane dimensions called for by the DSEIR's proposed mitigation. Rather, they address the *initially proposed* modification to COAs 49 and 59 – modifications which the record makes clear that the County is not recommending and that the Applicant is no longer proposing or pursuing. (See Smith letter, p. 3 [basing analysis and opinions on "sub-standard design with only 3 feet of paved shoulder" for bicycle lanes].) Like the Molland letter, the Smith letter thus attacks a "straw man." It is fundamentally and fatally flawed as supposed substantial and relevant evidence, since its conclusions are all based on a materially erroneous factual premise.

While this error alone negates the Smith letter and its opinions as supposedly constituting "substantial evidence," the Smith letter also contains other material errors which render it irrelevant (and insubstantial) evidence on the traffic/bicycle safety issue. (See, e.g., Smith letter at p. 2 [calculations fail to consider actual dimensions of trucks and bike lanes and Applicant engineer's (BKF) exhibits

⁹ Because Mr. Smith is an engineer, not an attorney, his speculation regarding "findings of overriding considerations" is unusual and unpersuasive, to say the least. Overriding considerations are *unnecessary* to approve a proposed project where mitigation measures imposed as conditions of approval substantially mitigate or lessen, or reduce its potential environmental effects to a less-than-significant level. (2 Kostka & Zischke, Practice Under the Environmental Quality Act (CEB 2d ed., 2018 Update), § 17.32, pp. 17-33 – 17-34, and cases cited.) While the Board could, perhaps, approve Barella's proposed modifications pursuant to a statement of overriding considerations out of an abundance of caution, there is no substantial evidence that they will result in significant and unmitigated environmental effects which would require such findings. More to the point, there is substantial evidence in the DSEIR and record that, as mitigated, Barella's proposed modifications will *not* result in significant environmental effects.

showing same and clearances]; pp. 2-3 [suggesting roadway should be designed in way that would actually have adverse environmental effects (per engineers Clark and Penry) by inducing higher speeds and that would accommodate *illegal* motor vehicle uses of bicycle lane]; p. 3 [opining as to “windblast effects” without ever analyzing or accounting for actual separation distances with 4-foot bicycle lanes, or for speed limits and likely truck speeds on relevant segment of Roblar Road]; p. 4 [opining recognized AASHTO exception to standard recommended 12-foot lanes, allowing for 11-foot travel lanes based on documented low collision rate history of Roblar Road, should not be applied based on same erroneous and grossly exaggerated project haul truck trip figures stated in Molland letter].) As confirmed in traffic engineer Jeff Clark’s August 28, 2018 memo to the County, the reconstruction and widening of the section of Roblar Road between the Quarry site access and Access Road 2 beyond what is now recommended as mitigation in the DSEIR (and being proposed by Barella) could result in *increased speeds* due to drivers feeling more comfortable on the wider roadway. Increased speeds would result in less, not more, safety on the road.

Another factor that the Smith letter failed to consider, and which further undermines its credibility and status as supposed substantial evidence, is the existence and potential effect of the Three Feet for Safety Act. That law, which was added by Stats. 2013, c. 331 (A.B. 1371), § 3, and became operative on September 16, 2014, is codified at California Vehicle Code Section 21760 and provides in relevant part as follows:

- (b) The driver of a motor vehicle overtaking and passing a bicycle that is proceeding in the same direction on a highway shall pass in compliance with the requirements of this article applicable to overtaking and passing a vehicle, and shall do so at a safe distance that does not interfere with the safe operation of the overtaken bicycle, having due regard for the size and speed of the motor vehicle and the bicycle, traffic conditions, weather, visibility, and the surface and width of the highway.
- (c) A driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at a distance of less than three feet between any part of the motor vehicle and any part of the bicycle or its operator.
- (d) If the driver of a motor vehicle is unable to comply with subdivision (c), due to traffic or roadway conditions, the driver shall slow to a speed that is reasonable and prudent, and may pass only when

doing so would not endanger the safety of the operator of the bicycle, taking into account the size and speed of the motor vehicle and bicycle, traffic conditions, weather, visibility, and surface and width of the highway.

(Vehicle Code, § 21760, subds. (b), (c), (d).)

While substantial evidence in the record (which the Smith letter failed to consider) shows that haul trucks will be able to pass bicycles traveling in the four-foot paved shoulder on the widened section of Roblar Road, while still staying entirely within the 11-foot travel lane, the new law ensures that at least 3 feet (or a safe separation distance) *shall* be maintained – taking into account all relevant conditions, including the “surface and width of the highway” – or a truck cannot pass. For example, even if a bicyclist were unlawfully operating in the travel lane rather than the four-foot paved shoulder on a future, improved stretch of Roblar Road, it would be unlawful for the truck to pass at a distance of less than 3 feet, meaning that if the truck were unable to safely utilize the unoccupied opposite travel lane to pass safely – as motor vehicles commonly do – it would have to slow down and wait until it was safe to do so before overtaking and passing the bicyclist. This *additional* layer of *legal* protection provides additional safety for bicyclists on *all* California roads – whatever their dimensions and whether or not they have demarcated paved bike lanes or shoulders for bicycle travel – and traffic engineer Smith’s letter’s failures to acknowledge, analyze, or take this law into account further undermine its conclusions and evidentiary “substantiality.”¹⁰

¹⁰ A point appropriate to be clarified here, in light of some apparent confusion revealed by discussions at the last public hearing concerning the DSEIR, is that ***the Three Feet For Safety Act does not require any public agency to widen any public street or highway to any degree whatsoever, regardless of its current dimensions.*** Compliance with the law is required of ***motorists*** and regardless of the width of the road, and under the statute’s clear and plain language no road widening of any sort is required by any local agency, city or county to comply with the law. This is confirmed by the Legislature’s cost reimbursement findings in Section 4 of Stats. 2013, c. 331 (A.B. 1371), which state: “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, within the meaning of Section 17556 of the Government Code or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.” In other words, the Three Feet for Safety Act legislation will not result in any other costs than for those reasons specified above, and specifically does not result in any “costs mandated by the State” because it did not mandate any “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California

“Substantial evidence”, for CEQA and land use purposes, of course, is not synonymous with *any* evidence. It includes “facts, reasonable assumptions predicted upon facts, and expert opinions supported by facts” (14 Cal. Code Regs., § 15384(b)); it does *not* include “[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment[.]” (§ 15384(a).) As shown above, the Smith letter fails to address the relevant issue (and relevant factors), and contains material errors and omissions that render it speculative, unsubstantiated, and clearly erroneous and inaccurate.¹¹ In sum, the Smith letter’s opinions are insubstantial, as they are based on inaccurate and unreasonable factual assumptions, argument and speculation. They are not supported by the facts, and are clearly erroneous and inaccurate. Accordingly, they do not qualify as “substantial evidence” for purposes of CEQA analysis in the context presented here.

2. Even If, Solely For The Sake Of Argument, The Smith Letter’s Opinions On Bicycle/Traffic Safety Constituted Substantial Evidence, They Would Not Undermine The DSEIR’s Contrary Conclusions Or The Substantial Evidence Supporting Those Conclusions.

Even if, solely for the sake of argument, the Smith letter were actually relevant and did constitute substantial evidence on the bicycle/traffic safety impacts of the DSEIR’s proposed mitigation (which, as noted, is the same as Barella’s currently proposed modification to the road widening mitigation measure embodied in COAs 49 and 59), it would not undermine the expert evidence and opinion and other substantial evidence supporting the DSEIR’s contrary factual conclusion. Under CEQA’s long-settled and deferential standard of review of project EIRs, their factual conclusions and determinations will be upheld if supported by *any* substantial

Constitution.” (Gov. Code, § 17514.) This would obviously not be true if the new law required local agencies to construct wider roads, streets and highways to achieve compliance.

¹¹ Moreover, and quite unfortunately, the Smith letter’s opinions, while signed by a licensed engineer, in their actual substance more often resemble attorney *arguments* than they do a professional engineer’s objective analysis. (See, e.g., Smith letter, p. 2 [referencing “naïve and superficial perspective of absolute change in lane width”]; p. 4 [opining it would be “unreasonable ... to degrade the mitigation” and predicting “County would incur substantial liability should it do so and a probable unfortunate incident should occur”]; p. 4 [referencing allegedly “massive changes in the character of traffic Roblar Road” from already approved project]; p. 4 [opining without any supporting evidence that requested modification to COA 133 by “inserting the words “as feasible” guts the intended protection of that condition for the convenience of the applicant”].)

evidence, contradicted or uncontradicted, and a disagreement of experts does not invalidate an EIR.

It is well settled that the County's and SEIR's factual findings contrary to those of CARRQ's expert will be judicially reviewed (should they be challenged) under a highly deferential substantial evidence standard (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984), and that courts "must indulge all reasonable inferences from the evidence that would support the agency's determinations and resolve all conflicts in favor of the agency's decision." (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 117.) "Substantial evidence" that is sufficient to support an agency's or its EIR's conclusions does *not* mean *uncontradicted* evidence. Rather, it means enough relevant information and reasonable inferences that a "fair argument" can be made to support the conclusion – even though other conclusions might be reached – and "[a] court may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 393; 14 Cal. Code Regs., §§ 15088.5(a), 15384(a).)

Accordingly, even a legitimate disagreement among credible experts does not make an EIR invalid. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940; see *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 642-643; *California Native Plant Society, supra*, 172 Cal.App.4th at 625-626.) Thus, even if the Smith letter somehow constituted credible "substantial evidence" on the relevant point – which, for all the reasons stated above, it does *not* – it would nonetheless not undermine the DSEIR's contrary factual conclusions. Those conclusions, which are in fact uncontradicted, state that modification of the road-widening COAs (to provide for a 1-4-11 – 11-4-1 road segment configuration) would be acceptable and adequate mitigation that would not produce unsafe physical environmental effects from a traffic/bicycle safety perspective.

D. The Molland Letter Misunderstands And Misstates The Law Regarding When Mitigation Measures May Be Deleted Or Modified, And Fails To Show That No Substantial Evidence In The Record Would Support Barella's Requested Modifications

The Molland letter, at page 4, enumerates and summarizes a total of six "reasons" (i.e., CARRQ's arguments) challenging the legal sufficiency of the DSEIR. The lack of merit of the second of these arguments (pertaining to the traffic/bicycle safety issue) has been fully addressed above. Four of the remaining five arguments are closely related to one another, as they all pertain to the legal standards for modifying CEQA mitigation measures and for showing such measures are "infeasible."

Following the Molland letter's numbering scheme, and summarizing its arguments, the first argument asserts that mitigation measures may only be modified as the result of a "sudden and unforeseen development." The third argument asserts that only a showing of *economic* infeasibility can support the Applicant's requested modifications, and further claims that such a showing must be based on "the expected economic returns of the enterprise." The fourth argument contends the DSEIR must make the allegedly required showing of economic infeasibility and does not. The fifth argument addressing feasibility issues claims the record (but not the DSEIR) contains some evidence of the possibility that the existing COAs Barella seeks to modify are economically feasible to comply with as written, and that the DSEIR should discuss such evidence. Each of these meritless arguments is addressed below.

1. **CEQA Requires Only That A Governing Body State A Legitimate Reason Supported By Substantial Evidence To Delete Or Modify An Earlier Adopted Mitigation Measure; There Is No Requirement That The Reason Must Be Based On A "Sudden And Unforeseen Development."**

In arguing that a "sudden and unforeseen development" is required to modify or delete previously adopted CEQA mitigation measures (Molland letter, pp. 4-6), the only legal authority the Molland letter cites to support this position is CEQA Guidelines § 15163(d). That provision sets forth the standards under which a supplement to an EIR, rather than a subsequent EIR, may be prepared. The Molland letter, at page 6, purports to block-indent quote from this Guideline section. In fact, it paraphrases from the *preceding* Guidelines section 15162(a)(3)(A) – (D), which sets forth standards for when a subsequent EIR may be required based on a lead agency's evidence-supported findings that "[n]ew information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete[.]"

The Molland letter's assertion that the DSEIR does not show or demonstrate such new information does nothing to undermine the legal validity of the DSEIR. More to the point, it does not speak at all to the relevant legal standards for deleting or modifying an original EIR's adopted mitigation measures or show that substantial evidence does not support the Applicant's showing of infeasibility of the measures he seeks to modify here.¹²

¹² The Molland letter engages in a pointless – and in many instances materially inaccurate – "rehash" of the two meritless lawsuits that CARRQ and its members previously filed, litigated for years in the trial court and on appeal (between 2010 and 2015), and ultimately lost. (Molland letter, pp. 5-6.) While the reasons for the Molland letter's irrelevant recounting of the past litigation are not entirely clear, they appear to be intended to support its assertion that "[a]t no time in this litigation, did the Quarry's attorneys challenge the feasibility of the mitigation measures or the conditions of approval[.]" (*Id.*, p. 6.) To which the appropriate response is: so what?

The legal standards for deleting or altering mitigation measures and showing infeasibility were addressed in detail in my October 29, 2018 comment letter submitted on Barella's behalf on that topic. That letter, which is already part of the record of these proceedings, is hereby incorporated by reference, and its analysis need not be repeated herein. In sum, the law requires only a "legitimate reason" supported by substantial evidence, which may be provided by showing a measure is infeasible or impracticable on *any number of grounds* – including, but in no way limited to, a showing of its economic infeasibility. No relevant law has ever stated that infeasibility must result from a "sudden and unforeseen development," as the Molland letter incorrectly argues.

2. **The Molland Letter Mistakenly Assumes That Barella Must Show Economic Infeasibility, Misstates The Legal Standards For Showing Economic Infeasibility, And Fails To Address Substantial Evidence In The Record Showing Infeasibility On Numerous Grounds**

As pointed out in detail in my October 29 comment letter submitted on behalf of the Applicant, mitigation measures may be found infeasible on any or all of numerous grounds – e.g., environmental, legal, social, and technological – and not just based on economic infeasibility (as the Molland letter appears erroneously to assume by focusing on just that single potential ground). But even addressing just the limited area of economic infeasibility to which the Molland letter is directed, that letter materially misstates the applicable legal standards.¹³

Barella's attorneys had no reason or obligation to do so. While it was recognized at the time the Final EIR was certified that the road widening measure *could* be infeasible (thus resulting in significant impacts) *if* eminent domain would be required to provide the necessary right of way, the best available information *from County sources* at the time was that sufficient County prescriptive right of way existed to build improvements of the exact dimensions improvidently required. It was not until much later – after the conclusion of the litigation – that it was learned through subsequent investigation that County's and the original FEIR's assumption in this regard was factually mistaken. Moreover, as noted in Scott Briggs' prior correspondence submitted on behalf of the Applicant, the County's 2010 Quarry project approval findings overrode any unmitigated significant impacts identified in the original FEIR. Similarly, the infeasibility of the other mitigation measures regarding wetland setbacks – due to their inherent conflict (as mistakenly drafted) with the road widening simultaneously required by COAs 49 and 59 – was not discovered until after the litigation concluded in County's and Barella's favor and Barella set out in earnest to satisfy the COAs. The Molland letter cites no contrary evidence and no law requiring Barella to have raised the infeasibility of the COAs he now seeks to modify during CARRQ's litigation.

¹³ While the Molland letter's meritless legal arguments in this regard are refuted below, as noted above Barella intends to submit subsequent correspondence further

Barella agrees with the Molland letter to the extent it asserts that a showing of economic infeasibility generally requires evidence that the additional costs or lost profitability associated with the mitigation measure in question must be great enough to make it impracticable to proceed with the project. Further expanding on this principle, the law provides that the test for economic feasibility of alternatives to a project as proposed "is not whether [the project proponent] can afford the proposed alternative, but whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a *reasonably prudent property owner* would not proceed with the [alternative]." (*The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 622 ("*Flanders*"), *emph. in orig.*, quoting *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 600; *see also*, *SPRAWLDEF v. San Francisco Bay Conservation and Development Commission* (2014) 226 Cal.App.4th 905, 918 ("*SPRAWLDEF*").) But the Molland letter is patently *incorrect* in asserting that the law requires evidence of the very specific types of economic data it argues must be analyzed, and further *incorrect* when it asserts such data and analysis (or any economic data or analysis at all) must be contained in the EIR itself.

The reason for this logically flows from CEQA's "first principles." Because an EIR is an informational *environmental* report, it generally need *not* contain analysis or conclusions as to the *economic* feasibility of the project or alternatives. (*Flanders, supra*, 202 Cal.App.4th at 618-619 [rejecting plaintiff's contrary contention, and holding economic analysis relied on by City as constituting substantial evidence supporting its ultimate findings of infeasibility, did not need to be included in EIR itself so long as it existed somewhere in the administrative record].) Moreover, CEQA case law addressing the issue of economic infeasibility "does not require any particular economic analysis or any particular kind of economic data, but requires generally 'some context' that allows for economic comparison." (*SPRAWLDEF, supra*, 226 Cal.App.4th at 918, citing *Town of Woodside, supra*, 147 Cal.App.4th at 600-601.) The courts have "declined to limit the ways in which economic infeasibility could be shown, noting they could be numerous and vary depending on the circumstances." (*Id.* at 919.) Further, economic information showing the economic infeasibility of the proposed project or alternatives may properly be provided by the real party in interest, and may not be discounted or ignored simply because it comes from that source. (*Id.* at 921.)

SPRAWLDEF is instructive. In that case, following years of environmental review and CEQA litigation, a plaintiff group (*SPRAWLDEF*) filed a writ petition challenging the decision of the San Francisco Bay Conservation and Development Commission (BCDC) rejecting administrative appeals and upholding (as modified) Solano County's landfill expansion permits for the Potrero Hills Landfill in the Suisun Marsh. *SPRAWLDEF* claimed the permits violated regulations prohibiting filling water courses unless no reasonable alternatives were available, and specifically alleged

addressing the flaws in the Kavanaugh letter and Molland's/CARRQ's misuse of that letter.

no substantial evidence supported BCDC's rejection (as economically infeasible) of a reduced-size expansion alternative that would have protected the Spring Branch watercourse from alteration. The Court of Appeal reversed the trial court's judgment which had granted SPRAWLDEF's petition on that sole ground; it analyzed SPRAWLDEF's arguments as to the "no reasonable alternative" ordinance provision by "employing CEQA's definition of 'feasible,' and the CEQA case law concerning economic infeasibility, [concluding this was] an appropriate [analytical] approach since the term embraces the concept of reasonableness." (*Id.* at 917.)

In analyzing the economic feasibility issue, the Court of Appeal noted the "real party [landfill operator]... did not simply baldly assert the [reduced-size] alternative was not economically feasible" but, rather, "provided comparative figures and explained why an expansion that did not have 54 to 59 million cubic yards of capacity was not financially viable" and thus "provided the Commission with 'some context' to permit" its assessment of the alternative's economic feasibility. (*Id.* at 920.) Such evidence included a report contained in the administrative record that real party had prepared for the Army Corps of Engineers, examining in detail alternatives involving lesser changes to the watercourse at issue and comparing them in terms of "the per unit cost, capacity, and life of the landfill, for the proposed expansion and the alternatives. The costs per ton of the alternatives ranged from \$3.04 to \$11.53, compared to \$2.66 for the project as proposed. The capacities ranged from 10.1 million cubic yards to 15 million cubic yards, compared to 61 million cubic yards, for the project as proposed. And the life of the landfill ranged from 5.9 to 8.7 years, compared to 35 years for the project as proposed." (*Id.* at 920.) The Court held: "The disparity in these figures is so great it amply supports the [BCDC's] conclusion a reduced-size alternative of the magnitude necessary to avoid implicating Spring Branch was not economically feasible." (*Id.* at 920.)

Because the record evidence sufficiently allowed for an economic comparison between the project and proposed alternatives, and "a reasonable person could have reached the conclusion the [BCDC] reached[,]" the *SPRAWLDEF* Court found its inquiry was effectively ended, holding that:

There is no basis for the trial court's view that real party in interest had to produce significantly more detailed economic data showing net profit figures. As we have discussed, the courts have eschewed requiring any particular economic showing and have, instead, recognized that what is sufficient will depend on the particular context. In this case, the Commission had an adequate record before it to fairly determine the smaller alternatives were not economically reasonable.

(*Id.* at 921.)

The cases cited in the Molland letter fail to support its contrary claim that detailed and specific cost, income, and profitability data are legally required to demonstrate economic infeasibility. In a two-sentence analysis, *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322 rejected a developer's unsupported claim that a reduced-size alternative recommended by the EIR and planning department for a motel project was economically infeasible, noting: "There is no estimate of income or expenditures, and thus no evidence that reduction of the motel from 80 to 64 units, or relocation of some units, would make the project unprofitable." (*Id.* at 327.)

Citizens of Goleta Valley v. Board of Supervisors (1988) 197 Cal.App.3d 1167 held that the record did not contain substantial evidence supporting the County's finding that a reduced-size alternative for a coastal resort hotel project (with 340 instead of 400 units) was economically infeasible – the County's *sole* basis for finding infeasibility there – where the developer presented "estimates of annual revenues, infrastructure costs and overall project costs" for the proposed project but "[n]one of [its] figures purport[ed] to relate to estimated costs, projected income, or expenses for the 340-unit alternative." (*Id.* at 1180.) The Court unsurprisingly held that the limited scope of the data proffered by the developer "provide[d] no basis for a comparative analysis between the project actually approved and the 340-unit alternative" and that "[i]n the absence of such comparative data and analysis, no meaningful conclusions regarding the feasibility of the alternative could have been reached." (*Id.* at 1180-1181, citing *Burger, supra*, 45 Cal.App.3d at 326-327.) What the Court did *not* hold was that the specific types of economic evidence presented by the developer there were required or were the *only* types of evidence that can acceptably be used under CEQA to show economic infeasibility. The Molland letter's erroneous legal arguments in this regard are directly contradicted by *SPRAWLDEF*'s extensive contrary analysis and holdings that CEQA "does not require any particular economic analysis or any particular kind of economic data, but requires generally 'some context' that allows for economic comparison" and that courts have "declined to limit the ways in which economic infeasibility could be shown, noting they could be numerous and vary depending on the circumstances." (*SPRAWLDEF, supra*, 226 Cal.App.4th at 918-919.)

Economic infeasibility is not a ground that Barella has expressly relied on, and Barella does not need to rely on it to show the conditions he seeks to modify are infeasible. That being said, it seems rather obvious that a reasonably prudent property owner would not choose to incur additional purchase, construction, and mitigation costs, and additional delays from acquisition of additional lands through condemnation litigation proceedings, to build a wider-than-necessary road which will actually cause more adverse environmental impacts as a result of its construction, due to its greater impervious surface area and "footprint," and its

consequently greater impacts on wetlands, CTS habitat, and Williamson Act-protected agricultural lands.¹⁴

Attached hereto as Group Exhibit 1 are three sets of documents obtained, compiled and prepared by project biologist Ted Winfield, Ph.D. The first is a County document consisting of color map titled "Williamson Act – 2019 Calendar Year," which depicts (through a color-coded legend) lands throughout the County that are subject to Williamson Act contracts, and which has been annotated in red on the map to show the Roblar Road Improvement Corridor (i.e., the area of Roblar Road to be widened as a County-required mitigation measure for the Quarry Project). The second set of documents consists of copies of County PRMD Parcel Reports printed out by Dr. Winfield in January 2019, for the 10 relevant parcels abutting Roblar Road in the relevant area; these documents show that all 10 parcels "reside within" Williamson Act contracts, and all but two (APN #s 022-290-005 and -007) also "reside within" designated CTS (California Tiger Salamander) habitat. The third document is a one-page map of the relevant Roblar Road Improvement Corridor Area annotated in red to depict the locations of the relevant parcels (designated by APN) that are the subject of the preceding Parcel Reports. These documents comprising Group Exhibit 1 make it readily apparent that widening Roblar Road to 40 feet, rather than the 32 feet now proposed by Barella and the DSEIR, would require the taking and paving of a substantially greater incremental area of CTS habitat and Williamson Act lands – an environmental, social and economic impact that could be avoided with construction of the 32-foot road. ***In sum, a 40-foot road***

¹⁴ The Quarry Project's engineer and biologist have confirmed the wider 40-foot road's potential to impact sensitive habitat features (e.g., wetlands) and Williamson Act contracted lands to a substantially greater degree than the 32-foot road proposed as mitigation in the DSEIR, as well as its potential adverse impacts on parts of the Wilson property encumbered by an Agricultural and Open Space Conservation Easement. (See, e.g., DEIR Figure IV A. 4 [showing Williamson Act lands], and modified project plans submitted by BKF engineers.) With the 40-foot road design, retaining walls would likely be used to avoid impacting wetlands on adjoining properties, especially those on the Wilson property near where the left turn onto the private roadway would occur. There is a relatively large wetland that is near the road in that area that has the potential to be impacted by the wider road design. This would also add to the cost of the wider roadway. Retaining walls would also be used to keep the impact area from the wider roadway from possibly encroaching onto the Wilson property adjacent to Barella's property and impacting land that is encumbered by an Agricultural and Open Space Conservation Easement. The 40-foot road would also require an 8-foot wide strip of property that is encumbered by a Williamson Act contract to be taken from the Steinbeck Ranch property by eminent domain, while such a taking would be unnecessary for the proposed 32-foot wide road design. These factors and others would also undoubtedly add to the cost of the wider roadway, which as noted is *both unnecessary and more environmentally harmful* than the 32-foot road now recommended in the DSEIR.

would thus violate and adversely impact and impair numerous important County and State policies to a far greater degree than the now-proposed 32-foot road. It is well settled that mitigation measures that are *undesirable* from a *policy* standpoint may be found infeasible for that reason. (See 10/29/18 Coon letter to Hillegas, at p. 6, and cases cited.)

In addition to its legally flawed argument that specific types of economic data are needed to establish economic infeasibility under CEQA, the Molland letter compounds that legal error by erroneously asserting that such specific and detailed economic data are also required to show a measure is *legally* infeasible due to its violation of the constitutional requirement that it be “roughly proportional” to the impact of the project. (Molland letter, p. 9 [claiming quantified cost and income data are required to show such violation].) This unsupported assertion also fails. Economic, legal, social, environmental and technological factors may constitute *separate* and *independent* bases for an agency’s finding that a mitigation measure or alternative is infeasible (Pub. Resources Code, §§ 21061.1, 21081(a)(3)), and a mitigation measure that is not “roughly proportional” to the impacts caused by the project is plainly *unconstitutional* and therefore *legally* infeasible. (14 Cal. Code Regs., § 15126.4(a)(4)(B), citing *Dolan v. City of Tigard* (1994) 512 U.S. 374, 390; *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.)

The “rough proportionality” analysis focuses primarily on causation and precludes a government agency from requiring a project developer, through conditions of approval, to provide public benefits clearly in excess of (and thus “disproportionate” to) the mitigation that would be required simply to mitigate the adverse environmental impacts caused by or attributable to the developer’s project.

This legal infeasibility has amply been shown here with respect to the road widening mitigation measure imposed by COAs 49 and 59. Roblar Road is currently in a substandard condition (with only 8 ½ - 10 foot travel lanes and no shoulders), and the *only* basis to require Barella to widen and improve it at all is to mitigate the potentially significant traffic/bicycle safety impacts that could otherwise be caused by his Quarry’s Project’s operations. As shown above, the DSEIR confirms that widening the impacted road segment to 11-foot travel lanes, with 4-foot paved shoulders for bicyclists, will be adequate to mitigate the Quarry project’s potential bicycle and traffic safety impacts under all the circumstances here to an acceptable level. While requiring more paved surface to satisfy the letter of *aspirational* County plans (which County wholly lacks funding to implement) might produce some additional *desirable public benefits*, it is *not* required to mitigate any environmental impacts caused by Barella’s project. The law does not allow the County to require Barella to build a road or to acquire and dedicate property simply because it would provide some public benefit – and additionally, as noted above, the unnecessary widening would also result in significantly greater environmental impacts. Accordingly, COAs 49 and 59 as written are *legally* infeasible (regardless of whether they are also independently found by the County to be economically infeasible).

The Molland letter also misapprehends the record evidence showing that the road widening called for by COAs 49 and 59 is infeasible because it would require extensive takings by eminent domain of substantial amounts of private property from unwilling sellers needed to obtain the necessary right of way that County currently lacks. This evidence, which is discussed further in this letter's following section, is relevant because case law has recognized as legitimate reasons supporting a finding that transportation improvement mitigation measures are infeasible the facts that the measures in question are not sufficiently funded and that they "would require extensive right-of-way takings from the adjacent properties[.]" (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 363.)

Finally, as noted above and previously, determining the feasibility of mitigation measures for CEQA purposes "involves a balancing of various economic, environmental, social, and technological factors[]" and "[i]n this sense ... encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001, citing and quoting *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041 [same, collecting cases, and also noting that "agency's finding of infeasibility for this purpose is "entitled to great deference" and "presumed correct.""].) A finding of infeasibility may thus be based on an evidence-supported finding that a proposed mitigation measure or alternative "is impractical or undesirable from a policy standpoint." (*Los Angeles Conservancy, supra*, 18 Cal.App.5th at 1041, citation omitted.) Such determinations are particularly appropriate where, as here, an undesirable and infeasible measure (40-foot road), as written, would have more adverse secondary environmental, economic and social impacts than would a proposed feasible alternative measure (32-foot road), and would frustrate or hinder development and accomplishment of an approved project (the Roblar Road Quarry) that itself greatly advances important economic, environmental and social interests (e.g., State policies and need for local aggregate source, reduction of GHG emissions from aggregate imports, etc.). ***There is absolutely no doubt that abundant substantial evidence exists to support a finding that the 40-foot road COAs are undesirable and infeasible from a policy standpoint on a number of grounds, and can thus be modified.***

E. The Molland Letter's Arguments Regarding The Realignment Of A Portion Of Americano Creek Lack Merit

The Molland letter makes three concluding arguments why Barella's proposal to realign and enhance a portion of Americano Creek is either unnecessary or prohibited. (Molland letter, pp. 13-14.) All these arguments lack merit.

First, the Molland letter argues "relocation" of Americano Creek will have "attendant environmental impacts" (which the Molland letter fails to identify) and that it is

“necessary” only if it is infeasible for Barella to acquire lands west of Roblar Road from McKnight or the Schelling Trust. The Molland letter further asserts that the DSEIR and “the record reviewed by CARRQ to date” do not show such land acquisition is infeasible. These assertions are unsupported and mistaken. The potential need to relocate a portion of Americano Creek was anticipated in the original FEIR, as a result of County’s improvident imposition of the original 40-foot road widening safety mitigation measure. It is not a result of Barella’s currently proposed modifications, which would *reduce* the widened road’s impervious footprint, and with it any adverse secondary “attendant environmental impacts,” and also substantially *enhance* the creek’s habitat value and better protect it from future road maintenance operations.

The Molland letter’s unsupported assertion that the relocation could somehow be avoided if Barella’s requested modifications are not approved makes no sense. Interestingly, this assertion is also directly contrary to the “expert opinion evidence” submitted by engineer Daniel Smith. (See Smith letter, p. 4 [asserting Americano Creek relocation issues are irrelevant to roadway design, and that “[t]he Applicant’s proposed sub-standard roadway design necessitates the same creek relocation as would the required roadway design that complies with applicable design standards”].) As deeply flawed as engineer Smith’s letter is in other respects, it is correct on this pertinent point: denying Barella’s reasonable request to modify COAs 49 and 59 so as to require widening Roblar Road to 32 rather than 40 feet will certainly not eliminate the road widening’s encroachment on, and the resulting need to realign, portions of Americano Creek.

The Molland letter also ignores the record evidence showing Barella has made *more* than reasonable and diligent efforts to acquire the McKnight and Schelling Trust properties – at *more* than fair market value – to provide additional County right of way (ROW), and that those owners have either ignored these efforts or expressly refused to sell. (See 10/29/18 Coon letter, and attached 6/23/17 Barella letter to property owners, 6/6/18 Steve Butler letter to property owners [offering to purchase property for ROW at well over high-end fair market value of \$11,200 per acre].) McKnight failed to respond at all to these repeated efforts, and the Schelling Trust responded negatively by June 13, 2018 email to Mr. Barella, expressly declining the offer and stating: “We are not interested in selling any of our portion of the Steinbeck Ranch at this time.” As noted above (see fn. 14), modification of the road widening requirement to 32 feet will avoid the necessity of eminent domain proceedings to take Williamson Act-contracted land from the Steinbeck Ranch’s hostile and unwilling owners.

Regardless of which portions of the record CARRQ has or has not reviewed “to date,” no more evidence is required to demonstrate the infeasibility of voluntary acquisition (without eminent domain litigation) of the ROW lands that would be needed to build the originally required 40-foot road. The Molland letter’s insinuation that Barella should be required to make additional offers even further in excess of

fair market value, based on the Quarry's supposedly "expected profits," in order to demonstrate infeasibility, is absurd.¹⁵

Moreover, as already noted above, economic feasibility is not relied on by Barella and is far from the only basis of infeasibility supported by the facts here, as the Molland letter incorrectly assumes. The need for County to invoke eminent domain to acquire substantial amounts of property from private owners unwilling to sell even for more than fair market value would entail expensive and lengthy litigation, further substantially *delaying* an already approved and beneficial project and consuming further County and developer resources.¹⁶ Unreasonable delays *alone* may also suffice to render a CEQA mitigation condition or alternative infeasible. (See Pub. Resources Code, § 21061.1 [""Feasible" means capable of being accomplished *in a successful manner within a reasonable period of time*, taking into account economic, environmental, social, and technological factors"], *emph. added*; *see also*, *Napa Citizens for Honest Government*, *supra*, 91 Cal.App.4th at 362-363 [County's legitimate reasons for deleting mitigation measure as infeasible included legal "rough proportionality" limits on mitigation measures, and need for extensive right-of-way takings from adjacent properties].) Combined with all of the other factors showing that pursuit of a 40-foot wide road is highly undesirable and thus infeasible from a policy standpoint, and the showing that the 32-foot wide road will adequately satisfy the safety concerns that prompted the original mitigation measure, the question of County's ability to find the measure infeasible and modify it to require that 32-foot wide road now proposed and recommended as mitigation is not even a close one: County clearly can and should do so.

Second, the Molland letter's assertion that the County should defer action on Barella's proposal to modify COAs 49 and 59 until the California Department of Fish and Wildlife ("DFW") acts on a Streambed Alteration Agreement also lacks merit, and betrays a fundamental misunderstanding of how the CEQA process operates. The *County* is the CEQA lead agency for the approved Quarry project (and for the

¹⁵ As shown above, even considering economic infeasibility in isolation (which Barella has *never* suggested should be done), it is not based on whether a particular developer could afford a particular expense, but whether a *reasonably prudent property owner* would incur such an expense. A reasonably prudent developer who has already offered more than the high end of fair market value would not "bid against himself" to offer even higher above-market prices to hold-out owners who are members of a dedicated NIMBY opposition group obviously and adamantly opposed to his project and who are in effect trying to exercise a "pocket veto."

¹⁶ The irony of project opponents insisting a more extensive road widening is necessary for public safety, yet refusing to sell even for above fair market value the lands needed to make that widening possible, should not be lost on the County. Taking positions such as this only adds to Molland's and CARRQ's long and well-documented "track record" of advancing unmeritorious legal and factual arguments and positions, and provides a further basis for finding they simply lack credibility.

proposed modified project) here, and neither CARRQ nor any other person has ever contested its lead agency status. The lead agency conducts CEQA review because it is principally responsible for carrying out or approving the subject development project proposal *as a whole*. (Pub. Resources Code, § 21069; 14 Cal. Code Regs., §§ 15367, 15050(a), 15051.) The DFW, by contrast, is a trustee agency which has jurisdiction over natural resources affected by the project and has permitting authority over a *portion* of the work needed to carry out the project. (Pub. Resources Code, § 21070; 14 Cal. Code Regs., § 15386.) Under CEQA, such a responsible or trustee agency is generally required by law to rely on the lead agency's CEQA review, and does not prepare its own CEQA document. Rather, the procedure is for the responsible or trustee agency to consider a legally adequate CEQA document prepared by the lead agency and to make appropriate findings as to aspects of project approval within its limited scope of jurisdiction prior to acting on or approving the project. (14 Cal. Code Regs., §§ 15050(b), (c), 15052; *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186.) A responsible or trustee agency does not issue any discretionary approval of its own until CEQA review is complete, which necessarily requires that the lead agency has completed CEQA review and acted on the project. A responsible or trustee agency acts only *after* reviewing and considering the lead agency's final CEQA document, and *after* it has participated (through comments and consultation) to the extent it deems necessary in the lead agency's CEQA process.

The Molland letter fundamentally misunderstands these basic CEQA processes and concepts, which further undermines its and the commenter's credibility. Deferring action until DFW acts on a Streambed Alteration Agreement is not a legal option for the County, and the Molland letter's incorrect suggestion that it should do so provides no basis whatsoever for the County to deny Barella's proposed minor COA modifications.

Third, the Molland letter's argument that the relocation of Americano Creek (or any other aspect of the Quarry project or Applicant's requested modifications) would violate the setback or other provisions of County Code Chapter 26A (based on post-Quarry project approval 2012 modifications to the General Open Space Element's critical habitat maps) is also meritless. The DSEIR correctly indicates that the provisions CARRQ seeks to invoke do not apply retroactively and are inapplicable to quarry projects (such as the Roblar Road Quarry Project) which were already approved and permitted by the County following CEQA review prior to those changes in law. Further, the required realignment of Americano Creek is not (as the Molland letter incorrectly argues) "an independent and subsequent development" that should be subject to these changes in law (which were never intended to affect the approved Quarry project); rather, it is a necessary consequence and secondary effect of the approved project due to the road-widening mitigation measure originally imposed by the County when it approved the Quarry Project in 2010, and (as pointed out in my earlier letter) was expressly contemplated and discussed in the original EIR. (AA 2:503 [original DEIR stating "the proposed widening of Roblar and

Pepper Road may directly impact portions of Americano Creek, necessitating the alteration of this creek through realignment and/or culverting”].)¹⁷

Finally, County Code § 26A-09-040(d) directly and definitively refutes the Molland letter’s meritless argument *as a matter of law*. That section clearly, expressly and unambiguously provides: **“Setbacks from designated critical habitat do not apply to sites that were reviewed pursuant to the California Environmental Quality Act and approved prior to the designation of the relevant critical habitat in the general plan.”** (emph. added.) This ordinance provision was adopted by the County Board of Supervisors as a clarification of existing law at a duly noticed public hearing on September 11, 2018. Neither CARRQ nor any other entity or person has ever challenged this ordinance, and any challenge to it is now time barred. (Gov. Code, § 65009(c)(1)(B).) A true and correct copy of the County’s Ordinance enacting this language, and the accompanying staff report and related documents, are attached hereto for the record as Group Exhibit 2. The Molland letter’s arguments are wholly meritless.

F. Conclusion Re: CARRQ/Molland Letter Comments

Neither the Molland letter, nor any of its exhibits, provide any legal or factual bases undermining Barella’s evidence that the mitigation measures he seeks to modify are infeasible. Nor does the letter or its exhibits undermine the DSEIR’s conclusions that the modified measures now recommended and proposed will not have any significant adverse environmental effects, and that the DSEIR’s recommended mitigation will be adequate to mitigate potential traffic and bicycle safety (and other potential environmental) impacts of the Quarry project. The Molland letter truly evinces but one thing: that CARRQ lacks credibility and remains willing to advance any argument – no matter how meritless and unreasonable it may be – in its single-minded and unrelenting efforts to derail construction of a much-needed, long-planned and ultimately environmentally beneficial Quarry project approved by the County over eight years ago. The Molland letter’s and CARRQ’s arguments are not credible, not supported by substantial evidence, and should be rejected. The

¹⁷ As noted above, even the “expert” evidence submitted by CARRQ in support of its position contradicts the Molland letter on this point, stating: “The Applicant’s proposed sub-standard roadway design necessitates the same creek relocation as would the required roadway design that complies with applicable design standards.” (Smith letter, p. 4.) Setting aside Mr. Smith’s substantive errors and unnecessary adjectives, Barella agrees with the essential substance of his assertion here in this regard: when compared to the Applicant’s current proposal for a modified 32-foot road widening measure and associated realignment and enhancement of a portion of Americano Creek, the 40-foot road widening currently called for by COAs 49 and 59 also necessitates – and clearly in no way avoids – relocation of the creek. Accordingly, the need to realign Americano Creek is not an “independent” consequence of Barella’s current COA modification proposal, but clearly is inextricably tied to the original and existing Project approval.

DSEIR and record evidence amply support County's approval of Barella's requested modifications.

II. RESPONSE TO CALTRANS COMMENT

Caltrans' letter raised only one substantive concern, which is that the Stony Point/Roblar Road intersection be designed to allow implementation of the planned Petaluma-Sebastopol Trail. This concern is satisfied because the proposed trail follows the existing railroad right of way and is beyond the limits of work for the relevant intersection improvements. The Proposed Petaluma Sebastopol Trail Study Area Diagram prepared by Sonoma County Regional Parks shows the trail coming from Petaluma and departing from Stony Point Road approximately 1,000 feet south of the subject intersection, then continuing northwesterly until it crosses Roblar Road approximately 3,000 feet west of the intersection, and then continuing northerly towards Sebastopol along Peterson Road across from Dunham Elementary School. In sum, the sole substantive concern expressed by the Caltrans letter will not come to pass and provides no basis for objection to Barella's proposed modifications.

Very truly yours,

MILLER STARR REGALIA



Arthur F. Coon

AFC:klw
w/encls.

cc: Verne Ball, Esq. (via email: verne.ball@sonoma-county.org, w/encls.)
Jennifer Barrett (via email: jennifer.barrett@sonoma-county.org, w/encls.)
Geoff Coleman, BKF Engineers (via email: gcoleman@bkf.com, w/encls.)
Stephen Butler, Esq. (via email: sbutler@cfk.com, w/encls.)
Ted Winfield (via email: tpw_jr@comcast.net, w/encls.)
Scott Briggs, Ph.D. (via email: scottbriggs50@yahoo.com, w/encls.)
John Barella (via email: j2barella@gmail.com, w/encls.)

APPENDIX C

Comment Letter G Exhibits 9 and 10 (Comments G-66 and G-67)

Appendix C-1 Comment Letter G, Exhibit 9 (Comment G-66)

Appendix C-2 Comment Letter G, Exhibit 10 (Comment G-67)

Appendices C-1 and C-2 contain a large number of documents that were appended to Comment Letter G, and labeled as “Exhibit 9” and “Exhibit 10.” These include various documents, already in the administrative record for the 2010 Final EIR from 2010 and earlier, and also documents from the subsequent court case challenging the 2010 Final EIR. Please see the responses to comments G-66 and G-67 in Chapter IV, Comments on the Draft SEIR and Responses.

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Appendix C-1

Comment Letter G, Exhibit 9 (Comment G-66)

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Sonoma County Planning Commission STAFF REPORT

Sonoma County Permit and Resource Management Department
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

FILE: PLP03-0094
DATE: December 17, 2009
TIME: 1:05 p.m.
STAFF: Blake Hillegas/Scott Briggs

SUMMARY

Applicant/Owner: John Barella, North Bay Construction, Inc.

Location: 7601 and 7175 Roblar Road, Sebastopol Supervisorial District No. 2
APN 027-080-009 and -010

Subject: Certification of the Final Environmental Impact Report (FEIR), Rezoning to add the MR (Mineral Resource) combining district, and Use Permit for a mining and reclamation plan for a 70 acre hard rock quarry on a 198 acre site.

PROPOSAL:

- (1) a Zone Change to add the MR (Mineral Resource) combining district to a 198 acre parcel, including a 70 acre quarry designated LEA (Land Extensive Agriculture) B6 - 160 acre density, Z (Second Unit Exclusion), VOH (Valley Oak Habitat);
- (2) a Use Permit for a 70 acre quarry with an annual production of 570,000 cubic yards per year for 20 years;
- (3) Reclamation Plan to reclaim the 70 acre quarry upon completion of mining to agriculture and open space use, including a permanent conservation easement and an irrevocable offer of dedication for public use on the entire 198 acre parcel; and
- (4) a Williamson Act easement exchange rescinding a Type II Williamson Act contract on the 70 acre mining site and simultaneously placing a permanent agricultural conservation easement on a 243 acre agricultural property near Petaluma.

Environmental Determination: Environmental Impact Report

General Plan: LEA (Land Extensive Agriculture) B6 - 160 acre density Z, (Second Dwelling Unit Exclusion), VOH (Valley Oak Habitat).

Specific/Area Plan: Aggregate Resources Management Plan/Petaluma Dairy Belt Area Plan;
Land Use: Agricultural production, processing and services/resource uses

Ord. Reference: Sections 26-72-020(a)(1) and Chapter 26A

Zoning: LEA (Land Extensive Agriculture) B-6 160 acre density, Z (Second Dwelling Unit Exclusion), VOH (Valley Oak Habitat)

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RECOMMENDATION:

Staff recommends that the Planning Commission recommend that the Board of Supervisors:

1. Certify the Final Environmental Impact Report (Final EIR) and adopt a Statement of Overriding Considerations after making findings provided in the draft resolution.
2. Approve a Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel.
3. Approve the Use Permit and Mining and Reclamation Plan for Alternative 2 (Alternative Haul Route/Contracted sales only) with a production limit of 570,000 cubic yards per year, subject to the conditions provided in Exhibit A.
4. Authorize a Williamson Act agricultural preserve easement exchange, rescinding the agricultural preserve easement on the 70-acre mining site, while simultaneously placing a permanent agricultural conservation easement on a 243 acre agricultural property near Petaluma.

ANALYSIS**Site History:**

In 1986, an application was filed by Stony Point Rock Quarry Inc. to establish a quarry with an annual production of 500,000 cubic yards on the subject property. The Draft and Final EIR's for the proposal were circulated, however, never certified by the County, and the project application was withdrawn following objections from the public.

In 1988, a second application was filed by Stony Point Rock Quarry, Inc., which reduced the proposed annual production of 500,000 cubic yards of quarried rock from the previous application to an annual production of 200,000 cubic yards. In 1990, the Planning Commission recommended Certification of the Final EIR and approval of the project. However, the Final EIR was not certified and the project was denied without prejudice. The application was withdrawn and the property was subsequently sold to Northbay Construction.

Background:

The subject application for the proposed Roblar Road Quarry to mine up to 570,000 cubic yards a year was filed in December 2003. On August 4, 2004, the County sent a Notice of Preparation (NOP) to governmental agencies, organizations, and persons interested in the project. The County held a public scoping meeting on September 1, 2004, at Dunham Elementary School to allow the public to comment on the scope of environmental issues to be addressed in the Draft EIR.

The Draft EIR was circulated on May 20, 2008. The Planning Commission held a public hearing on the Draft EIR on June 19, 2008. The 45-day public comment period on the Draft EIR closed on July 5, 2008. A total of 36 letters were received. The Final EIR has been distributed to commenting agencies and public hearing notice was provided on November 11, 2009. The EIR serves as a project-specific EIR as the project specific impacts were not fully covered by the ARM Plan Program EIR.

Project Description:

The proposed project is to establish a new quarry encompassing 70 acres of an 198 acre site. Proposed maximum annual production is 570,000 cubic yards of material per year for 20 years for a maximum production of 11,400,000 cubic yards of material. Five to 10% of the proposed production is anticipated to

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be recycled concrete or asphalt from Northbay Construction jobs. It is estimated that approximately 90% of all material produced would be used in Sonoma County. It is also anticipated that 60-80% of the material produced at the quarry would be used for North Bay construction projects using North Bay construction trucks or haulers under contract with North Bay Construction. The applicant proposes to require haul trucks used for North Bay construction projects to use Roblar Road, west of the Quarry, which would reduce impacts to the Roblar community situated along the Roblar Road, east of the Quarry. Accordingly, the Draft EIR conservatively assumes that 60% of the project truck traffic will use Roblar Road west of the Quarry and up to 40% would use Roblar Road east of the quarry. The quarry would employ 8-10 people during the heavy construction season and 4-6 people during winter. Hours of operation are proposed from 7:00 a.m. to 5:00 p.m. Monday through Friday and 7:00 a.m. to 4:00 p.m. on Saturdays, though the applicant has requested to operate during extended evening hours (until 10:00 p.m.) as needed, consistent with the County Surface Mining and Reclamation Ordinance (SMARO) and the Aggregate Resources Mining (ARM) plan.

Phase 1 improvements would include the construction of a new access road (1,200 feet northeast of the existing site access) and the installation of a truck scale, a job office, equipment storage area, and a small parking lot at 250 feet in elevation. Phase I improvements would also include, the excavation and grading of the proposed initial processing area, installation of a mobile processing plant at an elevation of 370 feet, and the installation of drainage swales and a sediment pond. Processing equipment would consist of a jaw crusher, cone crusher, plate feeders, screens and conveyors. The height of plant components would be approximately 18-28 feet in height.

Redwood trees are proposed to be planted on the project site near Roblar Road, along the proposed access road, and adjacent to the proposed job office, equipment storage area, and parking lot. Domestic and process water would be supplied by an existing on-site well DW-2. Sewage would be disposed of in a new on-site septic tank and leach field.

Initial grading would result in approximately 170,000 cubic yards of surplus material, which would be transferred to a stockpile on the upper portions of future Phase 2 and Phase 3 mining areas and reused as needed for ongoing reclamation. As mining extends easterly, the mobile processing equipment would be moved eastward into the quarry pit, ultimately being located at the bottom-center of the Phase 1 quarry floor (250 in elevation) for the duration of the quarry operation. As the quarry operation extends eastward, the topsoil and overburden stockpiles would be utilized for reclamation planting and/or sold.

Surface drainage outside of the mining area would be captured in surface swales and directed to existing natural drainages. Drainage within the mining area would be directed to a sediment pond, before being tested for potential contamination, treated as necessary, and conveyed to storage tanks for reuse in processing and dust control. All quarry floor drainage would be directed through the sediment pond.

The applicant's proposal includes an easement exchange under the Williamson Act where the current Williamson Act Type II contract restricting the 70-acre quarry portion of the site would be rescinded and immediately replaced with an agricultural conservation easement over a 243-acre agricultural property near Petaluma. Cattle grazing would continue on the remaining 128-acre portion of the project site remaining under Williamson Act contract during all phases of mining.

Site Characteristics:

The 70-acre quarry parcel is located on a 198 acre site situated on Roblar Road, approximately 5 miles southwest of the City of Cotati and 10 miles northwest of Petaluma. The site contains an unoccupied residence and several accessory buildings and is currently utilized for cattle grazing. The 70 acre quarry parcel is currently under a Williamson Act Contract, but was approved for phase out in 2005. The balance of the property (128 acres) will remain under Williamson Act Contract.

The 198 acre site surrounds the closed 50 acre Roblar Road Road land fill. The 70 acre quarry would be situated south of the closed land fill. The natural terrain on the site rises in a south/southeasterly direction from its low point along Roblar Road (110 asl) to a high point of 600 feet asl. Slopes throughout the site range from approximately 10% to 30%. Site features consists primarily of annual grasslands with oak

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woodland on the northeast portion of the site and riparian vegetation along Americano Creek and Ranch Tributary. A stock pond and a couple of wetland swales exist within the proposed mining area and seasonal wetlands exist on the flat adjacent to Americano Creek.

Surrounding Land Use and Zoning:

Existing residences located within proximity to the proposed mining area have been identified through the use of aerial photography and field observation. Approximately 45 single family residences are located within a mile radius of the proposed mining area. The majority of these residences are situated to the northeast and over a hill from the proposed mining area (Exhibit G).

Within a two-thirds mile radius of the proposed mining area, there are approximately 31 existing residences; 25 of which are situated to the northeast and five of which are situated across Roblar Road to the west. There are seven residences within a one-third mile radius of the mining area and three residences within one-quarter mile radius of the mining area.

North and West: The 50 acre closed Roblar Road landfill, designated Land Extensive Agricultural 160-acre density, is situated to the north of the 70 acre mining site and is surrounded by the 198 acre project site. A 384 acre agricultural pasture with a house and a 17 acre poultry ranch with a house are situated across Roblar Road to the northwest and are Zoned Land Extensive Agricultural 160-acre density. The residences are approximately 1700 feet from the Phase 1 mining area.

South: Land Extensive Agricultural 160-acre density zoned land also exists on two southerly 368 and 388 acre agricultural pasture lands.

East: The adjoining lands to the east include two 40-acre parcels and one 11 acre parcel zoned LEA B6 60. The 40 acre parcel closest to the quarry is vacant. A residence exists on the 11 acre parcel, near Roblar Road and three to four residences exist on the 40 acre parcel, situated northeast of the quarry. All of the residences to the east are situated over a hill and screened by dense tree cover. The nearest residence is located approximately 600 feet from the northeast edge of the Phase 3 mining area. Additional residential uses occur further east along Roblar Road and within the Diverse Agriculture 10 zoning designation.

California Environmental Quality Act (CEQA) Process:

The Final EIR was distributed to commenting agencies on October 22, 2009 and a public hearing notice was provided on November 12, 2009. The Final EIR, together with the Draft EIR, are referred to as the EIR. The EIR provides an analysis of the project as proposed, alternatives to the project, mitigation measures, comments on the Draft EIR, and responses to those comments. The purpose of the EIR is to provide the County of Sonoma, public agencies and the general public with detailed information about the potential environmental effects of the project and the project alternatives.

The EIR analyzes the potential impacts of the project and project alternatives and provides mitigation measures which are intended to substantially reduce these impacts. Mitigation measures are intended to be feasible and exhaustive so that if the project is approved, there is a reasonable assurance that the implementation of the mitigation measures will prevent or reduce significant adverse environmental impacts from the project. CEQA stipulates that public agencies should not approve projects unless all feasible means available have been employed to substantially lessen the significant environmental effects of such projects.

Prior to approving the project, the Lead Agency must certify the Final EIR. Certification means that the Final EIR: 1) has been completed in accordance with CEQA; 2) was presented to the decision making body and that this body reviewed and considered the information contained in the Final EIR before approving the project; and 3) reflects the Lead Agency's independent judgement and analysis. The first action to be considered by the Planning Commission is a recommendation to the Board of Supervisors on whether to certify the Final EIR.

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Section 15091 of the CEQA Guidelines states that no project shall be approved for which a certified EIR identifies one or more significant environmental effects unless the Lead Agency makes one or more written findings for each of those significant effects, accompanied by the rationale for each finding. Section 15091 also requires that when mitigation measures are required, the agency shall adopt a program for reporting on or monitoring the measures which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures. Each of the mitigation measures identified in the EIR has been incorporated into the recommended conditions of approval with a monitoring program, as required by CEQA.

Section 15092 requires that whenever unavoidable significant impacts remain, the agency may determine that those effects are acceptable due to overriding considerations. Section 15093 requires the agency to adopt a statement of overriding considerations setting forth the specific reasons that outweigh the unavoidable impacts.

Proposed Project-Significant Unavoidable Impacts: The EIR identifies several significant unavoidable impacts for project with an annual production of 570,000 cubic yards. These impacts are:

- Impact A.1 – Effect of change in land use (introduction of active mining operations) on compatibility with residential land uses in the project vicinity.
- Impact E.8 – Potential secondary impacts from implementation of certain off-site transportation mitigation improvements (reconstruction and widening of the entire length of Roblar Road and Pepper Road between Stony Point Road and Mecham Road.
- Impact F.1 – Project emissions of Nitrogen Oxide (NOx).
- Impact F.7 – Project contribution to cumulative regional criteria pollutants and Toxic Air Contaminants (TAC's).
- Impact I.1 – Substantial alteration in the visual character of the project site and adverse effect on views of the site from both public and private vantage points.

The following adverse impacts would be significant and unavoidable if mitigation measures identified in the Draft EIR were found to be infeasible:

- Impact E.2 – Project contribution to Long-Term Cumulative traffic volume at the following intersections during the weekday a.m. or p.m. peak hour, or Saturday peak hour:
 - Stony Point Road and Roblar Road (south bound right turn lane).
 - Stony Point Road and Railroad Avenue (signalization)
- Impact E.3 – Addition of substantial truck traffic to certain primary haul roads (Roblar Road and Pepper Road, east of Mecham) that are designated proposed bikeways and/or are regularly used by bicyclists or pedestrians, and which do not meet current County roadway design standards.
- Impact E.4 – Addition of substantial truck traffic to certain primary haul roads (Roblar Road and Pepper Road) that do meet current County roadway design standards and/or contain limited sight distance.
- Impact E.5 – Inadequate site access due to right of way constraints.
- Impact E.6 – Project contribution to the degradation of pavement on certain public roads.
- Impact G.2 – Project increase in ambient noise levels at certain sensitive receptors on roadways used to access the quarry (two houses on Roblar Road, west of the quarry).

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- Impact G.4 – Project contribution to increase in cumulative noise levels at certain sensitive receptors on roadways used to access the quarry (two houses on Roblar Road, west of the quarry).

If the County approves the project despite the identified significant and unavoidable impacts, the County must state the reasons for its action in writing. This "Statement of Overriding Considerations" must be included in the record of project approval.

Statement of Overriding Considerations: A Statement of Overriding Considerations must be adopted in order to approve the project or any alternative that does not mitigate impacts to less than significant levels. As required in Section 15093 of the Guidelines, a Statement of Overriding Considerations sets forth the Lead Agency's findings on the ultimate balancing of the merits of a project against its unavoidable environmental risks.

Alternatives: As required by the CEQA Guidelines (Section 15126.6), alternatives to the proposed project were developed and analyzed in the EIR. The Guidelines stipulate that a range of "reasonable" alternatives should be evaluated. The alternatives were selected for their potential to lessen the project's significant effects while providing the applicant with a viable project. The Guidelines specifically state that the alternatives may be a significantly reduced version of the proposal. The three criteria for selection are:

- 1) it meets many of the project objectives;
- 2) it is a feasible alternative; and,
- 3) it avoids or reduces significant environmental impacts of the project.

While this report focuses on the environmental impacts from the proposed project, a summary of the alternatives and a comparison of associated environmental effects are summarized later in this report. It is important to note that Alternative 2 (Alternative Haul Route/Contracted Sales Only) has been determined to be the Environmentally Superior Alternative due to reduced secondary impacts associated with construction of the alternative haul route compared to implementation of project mitigation requiring the widening and reconstruction of the entire length of Roblar Road. For example project mitigation requires shoulder widening and likely road reconstruction of the entire length of Roblar Road and Pepper Road between Stony Point Road and Mechem Road (approximately 9.75 miles) compared to 2 miles of haul route construction under Alternative 2.

Alternatives should be well enough developed to allow for "meaningful evaluation, analysis and comparison." The merits of the alternatives are then compared to the proposed project and each other. This comparison is summarized in the EIR following the description of each alternative. CEQA requires that one of the alternatives be a "No Project" alternative. The analyzed alternatives are:

Alternative 1: -No Project - This alternative includes two versions:

1A: No Project - No Subsequent Development - Under the No Project - No Subsequent Development Alternative, implementation of the proposed project would not occur. All aggregate reserves on site, including the estimated 11.4 million cubic yards (CY) of materials proposed to be mined as a result of the project would instead remain in place, and all site characteristics would remain in their existing condition.

1B: No Project – Reasonably Foreseeable Development Alternative - Under the No Project – Reasonably Foreseeable Development Alternative, implementation of the proposed project would not occur, and all aggregate reserves on-site would remain in-place. Unlike Alternative 1A, under this alternative, it is assumed the project site would be developed with one or more of the land uses permitted under the existing zoning for these areas. Potential uses permitted under the LEA zoning, include rural residential use, raising, feeding, maintaining and breeding of farm animals, commercial agriculture, commercial stable, feed yard, fertilizer plant, or retail nursery. Some of these uses require approval of a Conditional Use Permit.

Alternative 2: Alternative Haul Route/Contracted Sales Only Alternative - Under Alternative 2 the permitted production rate would be identical to that proposed under the project (570,000 CY per year) for 20 years. The mining approach and techniques, and location and design of all quarry related facilities

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(e.g., sedimentation pond and drainage features, stockpiles), processing and mobile equipment, and staffing would be identical to those proposed under the project.

However, under Alternative 2, 100 percent of materials produced at the quarry would be either directly used by the applicant or sold under contract. The applicant would impose an alternative haul route for his truck fleet and stipulate the haul route (Exhibit P) in the contract required for all other customers using the quarry (as opposed to customers being allowed to purchase rock without haul route restrictions). Under this alternative the haul route would avoid the residential communities on Roblar Road, east of the quarry and Pepper Road, east of Mecham Road. As previously noted, Alternative 2 is the Environmentally Superior Alternative.

The alternative haul route would initiate within the southwest portion of the project site, and extend south and off-road from the existing internal access road for approximately 2,100 feet to and through adjacent private property (Wilson property Access Road 1) and connect to Roblar Road. The entrance to Access Road 1 would be gated at Roblar Road. This off-road segment would consist of two paved 14-foot wide travel lanes plus drainage improvements on each side.

The alternative haul route would then extend westward along an improved and widened Roblar Road for a length of approximately one mile. This section of Roblar Road would be improved to meet current County road design standards, including, but not limited to two 12-foot wide vehicle travel lanes, two six-foot wide shoulders (as well as associated striping/signage to meet Class II bike facilities). Moreover, the roadway would be improved as needed to meet pavement structural requirements per Caltrans design standards. The roadway would be realigned at an existing "S-curve" on Roblar Road to reduce the horizontal curvature and improve site distance at this location. Modifications and/or new storm drain facilities would also be required within or adjacent to this section of Roblar Road.

The alternative haul route would then depart from Roblar Road as Access Road 2. Access Road 2 would extend southwest and off-road through private property (Neve property) for approximately 2,100 feet between Roblar Road and Valley Ford Road. As with Access Road 1, Access Road 2 would also consist of two paved 14-foot wide travel lanes plus drainage improvements on each side. From this point, project trucks would travel to/from the east on Valley Ford Road, Pepper Road (west of Mecham Road), Mecham Road, and a combination of Stony Point Road, SR 116, Railroad Avenue and/or Old Redwood Highway to/from U.S. 101.

The potential benefits of Alternative 2 include the economic benefit of mining gravel locally to reduce costs of local construction projects, including costs of local and regional road improvements, planned and funded by tax Measure M over the next 15 years. The majority of Measure M projects are located within central and southern Sonoma County. The addition of a local source of high quality PCC- and AC- grade aggregate would replace the reduction in mining associated with former terrace pit mining, which is being phased out, consistent with the ARM Plan. The proximity of the Roblar Quarry to urban areas, where the majority of rock is often needed would indirectly reduce air quality, noise, and roadway wear impacts from importing and/or hauling rock from more distant locations.

Approval of the Alternative 2 with the requirement to pay a fair share contribution toward future signalization of the intersections of Stony Point Road/Roblar Road and Stony Point Road/Railroad Avenue and signal timing improvements at Stony Point Road/Highway 116 and Highway 116/Old Redwood Highway would improve LOS and safety at those intersections. Without the contribution of this project and other potential projects to the cost of the road improvements, it may not be possible for the state and county to fund necessary roadway improvements. Recent shortfalls in state and county budgets have resulted in extended delays in funding road improvements, resulting in a backlog of projects waiting for funding.

Despite the removal of the 70 acre mining site from a Williamson Act Contract, the applicant would place a permanent agricultural preservation easement on a 243-acre agricultural property near Petaluma. In addition, in exchange for the Open Space District's temporary permission to use approximately 4 acres of land encumbered by an open space easement for quarry access, the applicant proposes to place a permanent conservation easement over the 198 project site and dedicate the land for potential future public use upon completion of mining.

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It is also noted that Alternative 2 would result in substantially fewer potentially significant and unavoidable secondary environmental impacts than the project by reducing road widening and reconstruction from 9.75 miles to 2 miles.

If the Planning Commission determines that these benefits outweigh the significant and unavoidable impacts of Alternative 2, the Planning Commission could forward a recommendation of approval to the Board of Supervisors with a Statement of Overriding Considerations subject to the attached Conditions of Approval in Exhibit A.

Alternative 3: Reduced Production (285,000 CY) / Reduced

Size (Phases 1 and 2 Footprint) Alternative - Under the Reduced Production (285,000 CY) / Reduced Size (Phases 1 and 2 Footprint) Alternative, aggregate production at the quarry would be restricted to a maximum of 285,000 CY per year (half the maximum annual production proposed under the project). Correspondingly, the total volume of aggregate that could be mined at the quarry would be 5,700,000 CY over the 20-year use permit. For purposes of this alternative, it is assumed that only Phases 1 and 2 footprints would be mined over the 20-year use permit (i.e., no mining within the Phase 3 footprint would occur).

Mitigation Monitoring Program: CEQA Section 21081.6 requires that an agency adopt a mitigation monitoring program to ensure an applicant's compliance with mitigation measures identified in the EIR. The EIR recommends mitigations for each impact and monitoring activities for each mitigation which are included in the project Conditions of Approval.

Mining Use Permit/Reclamation Plan Process:

The County Surface Mining and Reclamation Ordinance (SMARO) designates the Planning Commission as the decision making body for surface mining Use Permits, except where a concurrent rezoning is requested to designate the site with the MR overlay zone, in which case the Board of Supervisors is the acting body and the Planning Commission is advisory. The MR overlay zone permits the establishment of hard rock mining with a Use Permit (Section 26-72-020 (a)(1)).

The SMARO includes 22 general standards for mining permits and operations requiring that projects:

- 1) Are consistent with the base zoning district
- 2) Provide adequate off-street parking
- 3) Limit traffic impacts by keeping roads clean, paying traffic mitigation fees, obtaining encroachment permits and providing safety signage
- 4) Control stormwater runoff, flood waters and protect water quality
- 5) Prevent contamination of surface and ground water
- 6) Manage hazardous materials
- 7) Prevent erosion and sedimentation
- 8) Submit annual reports
- 9) Control noise
- 10) Restrict hours of operation to 6 am to 10 pm Monday through Friday and 6 am to 4:30 pm Saturdays
- 11) Ensure security of the site by providing fencing and warning signs and other measures if necessary
- 12) Provide visual screening
- 13) Slopes and benches must comply with grading standards for mines
- 14) Stockpile topsoil when appropriate for reclamation of the site
- 15) Control air emissions and dust
- 16) Avoid damaging cultural resources and train mining personnel on the nature and importance of cultural resources
- 17) Minimize off-site glare from night lighting
- 18) Obtain any permits and approvals required by other agencies having jurisdiction
- 19) Comply with the State Surface Mining and Reclamation Act and the ARM Plan and reimburse the County for the operator's fair share of staff monitoring costs
- 20) Comply with Williamson Act requirements if applicable

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- 21) Comply with building and health codes, and
- 22) Avoid or mitigate impacts to wildlife habitat

The ordinance also includes specific standards for instream, terrace and quarry mining. The eight quarry mining standards require:

- 1) A Use Permit period not to exceed 20 years, and that the mining permit can be extended by the Planning Commission for an additional 20 years upon request if there are no violations or new environmental impacts
- 2) Screening from public roads to the extent feasible
- 3) Maximum allowable working slopes as approved by a certified engineering geologist and in conformance with the state reclamation guidelines
- 4) A setback of 25 feet from the MR zone boundary, 100 feet from stream banks and designated wildlife habitat, and 200 feet from any residential land use designation in the general plan
- 5) A maximum allowable import of 25% of the materials processed or sold per year (for existing quarries only) - recycling is excluded from this restriction
- 6) Provide proof of adequate water supply and monitor ground water use for sites in Water Availability zones III and IV (this site is zone IV)
- 7) Minimize erosion and sedimentation
- 8) Conduct blasting activities under the supervision of a licensed blasting professional to minimize noise and vibration impacts to off-site residential areas

Mitigation measures and Conditions of Approval recommended for the project ensure compliance with the ordinance requirements.

A Reclamation Plan was submitted in conjunction with the Zone Change/Use Permit application in July 2003 as required by the State Surface Mining and Reclamation Act, the County ARM Plan and County Surface Mining and Reclamation Ordinance. The components include:

- 1) reclaiming finished quarry walls by adding soil and replanting with native vegetation at the completion of each phase
- 2) regrading the site after the mined rock is completely removed,
- 3) replanting with approved native species, and
- 4) returning the site to agricultural use and open space.

As mining advances, the finished grading of slopes would be reclaimed so that the total area of exposed soil would be the minimum required for safe operation at any time. As grading is complete, the slopes would be terraced, bench drains would be installed, and surfaces would be covered with topsoil and planted with native vegetation. The project is required to meet Reclamation Plan timing and bonding standards established by PRMD and the State Department of Conservation to ensure that all final reclamation activities take place in a timely manner. See Issues Section below for an analysis of the findings required for reclamation plan approval. Upon completion of reclamation, the applicant intends to make an irrevocable offer of dedication of the entire 198 acre project site to the County.

DISCUSSION OF ISSUES

Issue #1: General Plan Consistency

The project is subject to the 1989 General Plan (updated in 1998) as the application was filed in 2003 and accepted as complete before September 28, 2007.

Land Use and Agricultural resources: The 198 acre project site is designated Land Extensive Agriculture (LEA) 160-acre density in the Land Use Element of the General Plan. This designation is intended to protect lands for agriculture, but also allows surface mining operations, processing facilities related to resource production, as well as incidental equipment and materials storage consistent with the

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Aggregate Resources Mining (ARM) Plan and in compliance with SMARO. The mining site is also designated by the Department of Conservation California Geologic Survey (CGS) as Mineral Resource Zone 2b for PCC-, AC- and Class II-Base-grade aggregate.

The following Land Use and Agricultural Resource policies apply to the site.

GOAL LU-8: *Protect lands currently in agricultural production and lands with soils and other characteristics which make them potentially suitable for agricultural use. Retain large parcel sizes and avoid incompatible non-agricultural uses.*

Objective LU-8.1: *Avoid conversion of lands currently used for agricultural production to non-agricultural use.*

Objective LU-8.4: Discourage uses in agricultural areas that are not compatible with long term agricultural production.

Objective AR-8.1: *Continue participation in the Williamson Act program.*

The project would not result in the loss or conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Significance. However, development of the quarry would result in the permanent loss of approximately 28 acres of the 70-acre quarry site from productive range land. Of this 28 acres, only one acre is considered Farmland of Local importance according to the Department of Conservation Farmland Mapping and Monitoring Program. The FMMP evaluates and classifies the quality of farmlands throughout the state largely based on soil suitability.

The project would conflict with a Type II Williamson Act Conservation Easement on the 70-acre mining site. A notice of non-renewal of the Williamson Act contract on the 70-acre mining site was recorded in 2005 beginning a 9-year phase out of the program. Consistent with the Williamson Act Easement Exchange Program, the project applicant is proposing a land exchange that would immediately rescind the 10-year Williamson Act contract governing the 70-acre quarry portion of the project site, while concurrently placing a permanent agricultural conservation easement on a 243 acre property located south of Petaluma. The 243 acre easement exchange site is classified as Farmland of Local Importance. The remaining 128 acres of the project site would remain under Williamson Act Contract and continue to be used for cattle grazing throughout the 20 year mining period.

Staff has determined that conversion of 70 acres to mining through an easement exchange and reclamation back to grazing land is consistent with the General Plan policies calling for the protection of agricultural lands. See Issues #6 and #7 for further discussion regarding onsite and offsite agricultural and open space conservation easement impacts related to the project and project alternatives.

Resource Conservation: The General Plan Resource Conservation Element contains policies for the conservation of natural resources including mineral resources, soils, water, forests, vegetation and wildlife, fisheries and air. The following is a summary of Resource Conservation policies that are relevant to the project, followed by a brief staff response. These policy areas are discussed in greater detail under individual Issues of this report.

RC-2b: *Include erosion control measures for any discretionary project involving construction or grading near waterways or on lands with slopes over 10 percent.*

RC-2e: *Retain natural vegetation and topography to the extent economically feasible for any discretionary project improvements near waterways or in areas with a high risk of erosion as noted in the Sonoma County Soil Survey.*

RC-8c: *Design public and private projects to minimize damage to the stream environment and to maintain instream flows.*

While a stock pond and three small drainage swales would be removed by the proposed project, the

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riparian vegetation along the more substantial waterways, Americano Creek and Ranch tributary would remain in tact. Mitigation measures B.2b, B.3b and C.2a call for revegetation of the disturbed areas, installation of sediment basins to treat runoff, and development of a Water Quality Protection Program, including best management practices for minimizing erosion.

RC-3a: *Grading, filling and construction should not substantially reduce or divert any stream flow that would affect groundwater recharge.*

Project mitigation measure (C.5a) requires the applicant to continue a base flow monitoring program to establish and maintain base flows in Americano Creek and Ranch Tributary so that the natural conditions of the stream and groundwater recharge is maintained. In addition, drainage patterns and infiltration on the 128 acre portion of the site, not affected by quarry operations, will remain.

RC-3b: *Require groundwater monitoring programs for all large scale commercial and industrial uses using wells.*

A Water Management Plan has been prepared for the project which includes a detailed analysis of the water supply and demand for the project. The plan includes the requirement that a groundwater monitoring and adaptive management program be implemented for the project.

RC-3h: *Require proof of adequate groundwater in Class III and IV water areas. Require test wells or the establishment of community water systems in Class IV water areas. Test wells may be required in Class III areas. Deny discretionary applications unless a geologic report establishes that groundwater supplies are adequate and will not be adversely impacted by the cumulative amount of additional development.*

A Water Management Plan was prepared for the project which includes a ground water monitoring and an adaptive management plan, which provides flexibility in the management of water use/reuse and responds to seasonal changes in water supply and demand. A comprehensive water balance analysis and a groundwater pump test were performed in support of the Water Management Plan. The Water Management Plan considers precipitation, groundwater seepage (constant 20 gpm), and the use of DW-2 (18 gpm) sustained pumping as water sources. The plan relies on the on-site storage of 60,000 gallons of water, and emphasizes the reuse of water captured in the sediment ponds. Given the detailed water balance analysis, it is concluded that well DW-2 should be capable of cyclical and/or sustained pumping rates to meet the water demand of the quarry despite seasonal fluctuations. The monitoring and adaptive management plan would ensure that ground water levels are allowed to recharge so that potential impacts to groundwater resources in the area remain less than significant.

RC-6b: *Protection for rare and endangered species, wetlands, and other biotic resources not indicated on Figure OS-3 on page 185 shall be accomplished through compliance with applicable state and federal law.*

Goal RC-11: *Provide for production of aggregates to meet local needs and contribute the County's share of demand in the North Bay production-consumption region. Manage aggregate resources to avoid needless resource depletion and ensure that extraction results in the fewest environmental impacts.*

Objective RC-11.1: *Use the Aggregate Resources Management Plan to establish priority areas for aggregate production and to establish detailed policies, procedures, and standards for mineral extraction.*

Objective RC-11.2: *Minimize and mitigate the adverse environmental effects of mineral extraction and reclaim mined lands.*

The following policies, in addition to those in the Land Use Element, shall be used to carry out these objectives:

RC-11a: *Consider lands designated in the Aggregate Resources Management Plan (ARM) as priority sites for aggregate production and mineral extraction and review requests for additional designations for conformity with the general plan and the ARM plan.*

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RC-11b: Review projects for environmental impact and land use conflicts and consider the following minimum factors when approving mining permits: topsoil salvage, vegetation, fisheries and wildlife impacts, noise, erosion control, roadway conditions and capacities, reclamation and bonding, air quality, energy consumption, engineering and geological surveys, aggregate supply and replenishment, drainage, and the need for economical aggregate materials.

The site is a priority site for aggregate production as designated in the ARM Plan. Based on drilling and testing conducted by the applicant, a 113 acre area, including the 70 acre mining site has been designated by the Department of Conservation California Geologic Survey (CGS) as Mineral Resource Zone 2b for PCC-, AC- and Class II -Base-grade aggregate. The ARM Plan encourages local production of aggregates to maintain affordable pricing. Based on the County's annual production reports, the reduction in terrace pit mining, City and County growth projections over the next 20 years, and planned infrastructure improvements, there will continue to be a demand for a local source of aggregate. As discussed herein, the project and, in particularly the Environmentally Superior Project Alternative 2, conforms with Resource Conservation policies by permitting mining while reducing environmental impacts.

RC-13a: Require that commercial and industrial development projects be designed to minimize air emissions. Reduce direct emissions by decreasing the need for space heating.

As noted in the Issue of Air Quality below, the project would utilize PG&E electricity to power the mobile processing plant instead of using a diesel generator. Project mitigation requires the applicant to utilize 2007 model engines or newer on site equipment and that all quarry owned haul trucks and haulers under contract with the quarry operator utilize 2003 model or newer trucks.

In addition the project is required to implement a comprehensive wind monitoring and dust control program, which among other things, includes the suspension of dust generating activities in areas where wind speeds exceed 25 mph.

Open Space: The site is not located along a designated scenic corridor or within a scenic landscape unit or scenic corridor. Neither is the site designated on General Plan Open Space or Resource conservation maps as containing a major riparian corridor, or critical habitat or biological resources. The project EIR, however, does identify potential impacts and mitigations for the protection of riparian habitat, wetlands, and habitat for number of sensitive animal species that could inhabit the site. In addition, the EIR requires native tree planting and addresses potential impacts to Open Space District lands by identifying the need for securing permanent agricultural and open space conservation easements over the project site.

Circulation and Transit: The following Circulation and Transit policies are relevant to the project.

CT-1k: Where practical, locate and design improvements and new circulation and transit facilities to minimize disruption of neighborhoods and communities, disturbance of biotic resource areas, destruction of trees, and noise impacts.

Project Mitigation requires the improvement of haul routes to meet current County road design standards, including but not limited to two 12-foot wide vehicle travel lanes, two six-foot wide shoulders, and associated striping/signage to meet Class II bike facilities prior to the initiation of mining. The widening and possible reconstruction of Roblar Road and Pepper Road, east of Mecham Road (approximately 9 miles, would result in potentially significant and unavoidable secondary impacts in the areas of land use and agricultural resources, geology and soils, hydrology and water quality, hazardous materials, biological resources, transportation and circulation, air quality, noise, aesthetics, and cultural resources.

As previously noted, the Environmentally Superior Alternative 2 (Alternative Haul Route/Contracted sales) would substantially reduce the amount of required road widening and possible reconstruction of haul routes from approximately 9 miles to 2 miles, substantially reducing the secondary roadway construction impacts and eliminating haul truck noise and other impacts to the residential communities situated on Roblar Road, east of the quarry and Pepper Road, east of Mecham Road.

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Objective CT-2.1: Reduce congestion on the countywide highway system by maintaining a "C" level of service or better on designated arterial and collector roadways unless a lower level of service is shown on Figures CT-2c and CT-2d on pages 289 - 291, a lower level of service is determined to be acceptable due to environmental or community values existing in some portions of the County, or the project(s) which would cause the lower level of service has an overriding public benefit which outweighs the increased congestion that would result.

CT-2a: *Use the levels of service shown on Figures CT-2c and CT-2d on pages 289 - 291 to determine whether or not congestion is exceeding the desired level of service on the countywide highway system. Use area and/or project traffic analyses to determine whether intersection impacts or other localized congestion may also affect these desired levels of service.*

CT-2b: *Assure that new development occurs only when a funding mechanism is available for improvements needed to achieve these levels of service specified in CT-2a above. If the Board determines that a project will provide significant overriding public benefit, the project may be exempt from this requirement.*

CT-2e: *Primary responsibility for funding intersection, right-of-way, and other needed localized improvements not identified as part of the countywide highway system belongs to individual projects.*

These General Plan policies refer to roadway corridor LOS rather than intersection LOS which is the focus of most of the analysis of traffic impacts in the EIR. All of the roadway segments are expected to meet the General Plan corridor LOS standards, except for Highway 101, which was addressed in General Plan 2020 and overridden.

For the purposes of the Draft EIR analysis, if the LOS at an intersection drops below LOS D it would be considered a significant impact requiring mitigation. Under Near-Term Cumulative Base plus Project conditions, impacts to 13 study intersections evaluated for the project are less than significant, except for the intersection of Stony Point Road and Roblar Road, where impacts can be mitigated to less than significant with the installation of a traffic signal. Draft EIR Mitigation measure E.1 calls for the applicant to pay a fair share payment toward signalization of the intersection by the County. The County has completed the preliminary design and environmental review for the signalization project.

(See Issue #9 Transportation and Traffic for revised timing of signal installation).

Under Long-Term (2027) Cumulative Base plus Project conditions the project would increase delays by more than five seconds at the intersections of Stony Point Road and Roblar Road, Stony Point Road and Railroad Avenue, Stony Point Road at SR 116, and SR 116 at Old Redwood Highway, which would be significant impacts at these four intersections. Mitigation measures include the installation of a southbound right-turn lane at the intersection of Stony Point Road/Roblar Road, a signal at Stony Point Road/Railroad Avenue, and the payment of a fair share contribution toward improved signal timing at Stony Point Road/SR 116 and SR 116 and Old Redwood Highway. Since the installation of a southbound dedicated right turn lane at Stony Point Road/Roblar Road may involve acquisition of right of way and is not currently within the scope of planned and funded improvements, this impact is considered potentially significant and unavoidable until such time as the improvement is in place. In addition, the signalization of Stony Point Road/Railroad Avenue is not currently planned or funded; therefore, the impact would be significant and unavoidable until such time as the improvement is made.

CT-2k: *The County may require correction of potential safety deficiencies (inadequate road width, lack of traffic control devices, intersection alignment) prior to, or as part of, project approval.*

Project mitigation also requires that site access be improved and primary haul routes meet current County road design standards, including a pavement strength index.

Noise: The General Plan establishes noise thresholds to determine land use compatibility. The project was evaluated using the thresholds in Table NE-2 (for noise producing land uses) and policy NE-1b (for

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noise due to traffic on roadways). See Issue #11 below for an analysis of noise impacts.

Issue #2: ARM Plan Consistency

The Aggregate Resources section of the 1994 ARM Plan (Figure 5-25) identifies the project site as a potential quarry (see Exhibit D). Therefore, no amendment to the ARM plan is necessary to add the MR zoning to the site. As previously noted, the 70 acre mining site has been designated by the Department of Conservation California Geologic Survey (CGS) as Mineral Resource Zone 2b for PCC-, AC- and Class II-Base-grade aggregate.

The establishment of a quarry at this location would meet ARM Plan goals of encouraging the local production of aggregate to reduce construction costs while minimizing environmental impacts associated with hauling rock from more distant locations. The primary demand for aggregate in the County has historically come from the more urban areas of central and southern Sonoma County (68% of total demand from 1981 to 1990). This trend has continued over the years and will likely continue over the 20 year life of the quarry based on City and County growth projections and planned roadway infrastructure improvements funded by tax Measure M over the next 15 years. For example the Measure M strategic plan includes major Highway 101 projects extending from Rohnert Park and through Petaluma to Novato. In addition, 9 of the 11 local street priority projects to receive funding from Measure M are located in either central or southern Sonoma County. The project would also meet a major objective of the ARM plan by establishing quarry production to meet a major share of market demand as a replacement to terrace pit mining. In addition, the project would avoid a number of significant impacts identified in the ARM Plan EIR, while incorporating many new project specific mitigation measures to minimize project impacts.

The ARM Plan calls for a road maintenance fee mechanism to be established as mitigation. The nexus between maintenance needs and heavy trucks has been well established in engineering literature and design practice and more recently in a study prepared by Economic and Planning Systems entitled "Aggregate Hauling Impacts on County Roads". When designing roads to accommodate loaded aggregate trucks, it is necessary to provide increased road base depth, lane widths and turning lane radius. Mitigation measures E.6a and E.6b included in the EIR require that the developer conduct core sampling on primary haul routes to test existing roadway structural conditions, reconstruct roads where necessary, and enter into a Roadway Maintenance Agreement with the County. On November 10, 2009, the Board of Supervisors adopted a road maintenance mitigation fee of 10 cents per ton for aggregate operations to offset a portion of the costs for road repairs. Conditions of approval require the applicant to pay this road maintenance mitigation fee on an annual basis.

As discussed under the Alternatives Section below, Alternative 2 (Alternative haul route/contracted sales) would substantially reduce potentially significant and unavoidable environmental impacts associated with the widening and possible reconstruction of the entire length of Roblar Road and Pepper Road, east of Mechem Road from 9.75 miles to 2 miles. Therefore, Alternative 2 achieves greater consistency with the ARM Plan by permitting a local source of aggregate production, while reducing environmental impacts.

Issue #3: Petaluma Dairy Belt Plan Consistency

The Petaluma Dairy Belt Specific Plan anticipates a potential quarry on the project site and stipulates that development of mineral resources within the area will require consistency with the ARM Plan. The project is consistent with the Specific Plan as the site is designated as a potential quarry and the project would comply with ARM Plan standards. The Specific Plan does not contain any relevant project specific policies that would be more detailed than existing ARM Plan or General Plan Policies.

Issue #4: Zoning Consistency

The property is zoned LEA (Land Extensive Agriculture) B6 - 160 acre density Z (Second Dwelling Unit Exclusion), VOH (Valley Oak Habitat). According to the MR Combining District mining may be allowed in the LEA Zoning District where consistent with the ARM Plan and subject to issuance of a mining Use Permit, approval of a reclamation plan, and compliance with the County's Surface Mining Ordinance.

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The County SMARO limits hours of operation to 6 a.m. to 10 p.m. unless otherwise restricted in the Use Permit. Proposed hours of operation are from 7 a.m. to 5 p.m. Monday through Friday and 7 a.m. to 4 p.m. on Saturdays, but the applicant would also like to operate until 10 p.m. as necessary to meet evening/nighttime construction demands. Staff recommends that the permit hours be limited to no later 5 p.m., except under special circumstances as approved by PRMD.

In order to grant a Use Permit, it must be determined that the establishment, maintenance or operation of the use will not under the circumstances of the particular case be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or to the general welfare of the area.

Staff has determined that the Environmentally Superior Alternative 2, (Alternative Haul Route/Contracted Sales), as conditioned complies with SMARO and, would not under the circumstances of the particular case be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or to the general welfare of the area, despite the industrial character of the use. The circumstances in the particular case are: there are few residences located within immediate proximity to the Quarry and the Alternative 2 haul route will avoid the residential communities situated on Roblar Road, east of the quarry and Pepper Road, east of Meham Road; visual screening will be provided; hours of operation are limited to 7:00 a.m. to 5:00 p.m. Monday - Friday and 7:00 a.m. to 4:00 p.m. on Saturdays unless otherwise approved by PRMD; noise monitoring will occur and mitigation provided; advance notice of blasting activities is required and blasting may only be done under the supervision of a licensed blasting professional to minimize noise and vibration impacts; haul routes are required to meet County road design standards; fair share traffic mitigation fees are required; a wind monitoring and dust control program is required; compliance with all feasible Air Quality Control Board regulations is required; and a water management plan, detailing project mitigation related to water quality and groundwater supply has been provided.

There is no apparent reason that the entire 198.76 acre site needs to include the MR zoning overlay. Staff recommends that the MR zoning only apply to the 70 acre quarry site and a 25 foot wide buffer around the quarry (APN 027-080-009) to meet the mining setback requirements from the MR boundary.

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Issue #5: Findings required for Reclamation Plan Approval

The SMARO requires the following findings for approval of a mining reclamation plan:

1. *The Reclamation Plan complies with the Surface Mining and Reclamation Act (SMARA) Sections 2772 (requirements to submit and contents for mining and reclamation plan) and 2773 (financial assurances), and any other applicable provisions.*

Comment: Several Conditions of Approval require modification to the Reclamation Plan to bring it into conformance with the project's Water Management Plan and to include the submittal of cost estimates and financial assurances for reclamation. The permit will not be vested until the Reclamation Plan is revised to address these items.

2. *The Reclamation Plan complies with applicable requirements of state regulations (CCR 3500-3505, and Section 3700-3713 (state regulations, policies and standards for mining and reclamation plan).*

Comment: County requirements for reclamation plans are generally more stringent and address the same considerations as state regulations. Topics covered in state regulations include erosion, water quality, revegetation and financial assurances. The project reclamation plan, by complying with the County SMARO, will also comply with state regulations.

3. *The reclamation plan will restore mined lands consistent with the Sonoma County General Plan, ARM Plan, and any other applicable specific plans or resource plans.*

Comment: The Reclamation Plan proposes to reclaim the site to agriculture and open space, which is

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consistent with the General Plan Land Extensive Agriculture land use designation, ARM plan, and Petaluma Dairy Belt Plan.

4. *The reclamation plan has been reviewed pursuant to CEQA and the County environmental review guidelines and all significant adverse impacts from the mining operation and the reclamation activities are mitigated to the maximum extent feasible.*

Comment: The project would result in several potentially significant impacts as noted below, and would contribute to significant unavoidable cumulative impacts. Conditions are proposed to minimize impacts to the maximum extent feasible. Recommended Alternative 2 would substantially reduce the secondary impacts related to the widening and potential reconstruction of the entire length of Roblar Road and Pepper Road, east of Mecham.

5. *The land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or suitable off-site development will compensate for related disturbance to resource values.*

Comment: Any remaining overburden or stock piles will be removed and/or regraded to mimic natural site conditions. Top soil will be utilized on quarry slopes for revegetation. The sediment basins will be reclaimed as stock ponds and drainage patterns will be adjusted to mimic natural conditions. Ultimately the site will be restored to agriculture and open space. In addition, the temporary loss of grazing on the 70 acre quarry site will be mitigated by creating a permanent agricultural conservation easement on the 243 acre agricultural easement exchange site.

6. *Where the decision of the Sonoma County decision-making body is at variance with the recommendations and objections raised by the State Department of Conservation, findings have been adopted to explain the reasons why specific comments and suggestions were not accepted.*

Comment: The Department of Conservation did not have any comments on the Draft EIR, but has asked that the mining reclamation plan be submitted for their review in accordance with the Surface Mining and Reclamation Act. A revised reclamation plan will be submitted to the Department of Conservation and their comments will be responded to by PRMD prior to final approval.

As conditioned, the Reclamation Plan will comply with the above requirements. Staff recommends that the Planning Commission recommend that the Board approve the Reclamation Plan and find it to be in conformance with all applicable laws and regulations as modified by conditions of approval.

Issue #6: Land Use and Agricultural Resources

The EIR concludes that the project's impacts to agricultural resources would be mitigated to less than significant through a Williamson Act Easement Exchange, but that the change in land use would be significant and unavoidable due land use conflicts with residential land uses in the project vicinity. This determination is based on the proposed establishment of a large scale quarry on a primarily undeveloped rural site currently utilized as grazing and the collective environmental effects of the quarry (e.g., aesthetics, truck traffic, noise, air quality, hydrology and water quality, and geology and soils). The EIR specifies mitigation measures in each of these areas as noted below to reduce impacts where feasible.

Issue #7: Williamson Act Easement Exchange

The project would conflict with an existing Type II Williamson Act contract on the 70-acre mining area. Therefore, the project applicant is proposing a Williamson Act Easement Exchange. The Williamson Act Easement Exchange Program (WAEPP) is a joint agreement that is voluntarily entered into between the property owner and the local government, and subject to approval by the Director of the Department of Conservation and the County. This program is authorized pursuant to Government Code Section 51256, which establishes a number of safeguards to assure the exchange will result in the protection and enhancement of agriculture. Under the program, rescission of the Williamson Act contract is exchanged

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for the owner's creation of a permanent agricultural conservation easement over other land located in Sonoma County, not already under contract, in lieu of actual payment of the cancellation fee.

Consistent with the Williamson Act Easement Exchange Program (WAEEP), the project applicant intends to complete an easement exchange that would immediately rescind the 10-year Williamson Act contract governing the 70 acre quarry portion of the project site, while concurrently placing a permanent agricultural conservation easement on a 243 acre property located south of Petaluma at 7700 and 7750 Lakeville Highway (APNs 068-130-001 and -008). The 243 acre easement exchange site is classified as Farmland of Local importance. In addition to the easement exchange, the remaining 128 acres of the project site would remain under a Type II Williamson Act Contract and the quarry site would be reclaimed to agriculture and open space upon completion of mining. The remaining 128 acres of the project site, proposed to remain under a Type II Williamson Act contract, meets all requirements for the contract, under the [County Rules] and the Williamson Act, including that it meets the minimum 10 acre size and it will continue to be devoted to agriculture.

The easement exchange is a separate, but related application that will be brought to the Board for subsequent action. Prior to future approval of the easement exchange by the Board of Supervisors the Board must make specific findings required under Government Code 51282 (cancellation), Public Resources Code 10200 et seq. (agriculture conservation easement), and Government Code 51256 (easement exchange).

It appears that the Board will be able to make the required findings in that 1) cancellation is for an alternative use which is consistent with the General Plan and notice of nonrenewal has been served; 2) the proposed easement exchange site is expected to continue to be utilized for dryland oat hay production, is large enough to continue in commercial agriculture production, and the applicant has demonstrated an ability to carry out the proposal through the purchase of the easement exchange site; and 3) the easement exchange site is over three times the size of the quarry site and it appears that the value of the proposed conservation easement is equal to or greater than 12.5% of the cancellation valuation of the land subject to the contract to be rescinded.

Issue #8: Haul route conflicts with Williamson Act contracted lands

Project mitigation requiring the widening of Roblar Road would affect off-site lands under Williamson Act Contracts on all lands abutting Roblar Road from the project site to Valley Ford Road and on one parcel abutting Roblar Road, east of the proposed quarry. Similarly, the Alternative 2 Haul Route would also affect off-site lands under Williamson Act contract from the project site to Valley Ford Road. The amount of land affected by the Project haul route and Alternative 2 (Alternative Haul Route) is approximately the same.

The Environmentally Superior Alternative 2 (Alternative Haul Route), as recommended by staff, would require haul route improvements affecting a narrow strip of land for approximately 2 miles; approximately 8 acres of land under 3 separate Williamson Act contracts (2 acres under a Type I and 6 acres under Type II contracts).

To be allowed, nonagricultural uses on land under a Williamson Act contract must be listed as a "compatible use" in the County's "Rules and Regulations for Administration of Agricultural Preserves" for the type of preserve involved, and must be consistent with the Williamson Act's "principles of compatibility" listed in Government Code §51238.1, subdivision (a). The principles of compatibility are:

- (1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves;
- (2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. . .and

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- (3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use. (Govt. Code §51238.1, subd. (a).)

Staff has determined that the Alternative 2 haul route is consistent with the Williamson Act's principles of compatibility, listed above, in that, the haul route would not significantly compromise the long-term productive agricultural capability of the contracted parcels or other contracted lands; it would not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted parcels or other contracted lands; and it would not result in the significant removal of adjacent contracted land from agricultural or open-space use. Continued grazing on the Wilson Properties (through which Access Road 1 would extend) and (through which Roblar Road would be widened) would not be hindered. The Neve property (through which Access Road 2 would extend) is utilized as a plant nursery. However, the development and operation of Access Road 2 would not disrupt or hinder continued agricultural operation of those facilities.

Staff has determined that the affected lands are currently in compliance with the agricultural production requirements of their respective Williamson Act contracts. The County's Rules for both Type I and Type II preserves, list quarrying operations, not including crushing or other refining of raw materials, as an allowable compatible use on contracted land. Therefore, the temporary access roads and the widening of a 1 mile section of Roblar Road under Alternative 2 can be considered incidental to the agricultural operations and a compatible use. The improvement of Roblar Road and the new access roads would not only provide access to the quarry, but would improve access to agricultural uses in the area. Staff has determined that the proposed Alternative 2 haul route is consistent with the County's Williamson Act Rules and Procedures for Permitting under Williamson Act contracted lands in that the proposed roadways would be compatible and clearly incidental to the primary agricultural and mining uses, the roads would not occupy or isolate more than 5 acres of land on any separate contracted land, and they would not significantly displace land in agricultural production or cause significant loss of prime agricultural soils.

Issue #9: Open Space District Easement - Alternative 2 Haul Route (Access Road 1)

As described in the Alternative 2 haul route description, the land comprising Access Road 1, and a portion of the land adjacent to and/or along the alignment of the proposed improved section of Roblar Road, are currently under an agricultural conservation easement with the County Agricultural and Open Space District (part of the 700-acre Roblar Ranch, pg. IV.A-19 of Draft EIR).

Under this alternative, the applicant proposes to enter into an agreement with the County Agricultural and Open Space District whereby the District would temporarily release its conservation easement on approximately four acres (encompassing the extent of Access Road 1 and adjacent area to the north on the Wilson property that would be cut off and isolated by Access Road 1), in exchange for a permanent open space conservation easement and offer of dedication of the entire project site (198 acres).

As part of the reclamation of the quarry site, the applicant would reclaim the two private off-road haul road segments and restore those areas to their natural condition. Upon restoration of those areas, the applicant would release its easement over the four acres on the Wilson property (Access Road 1) and the property owner would reconvey without compensation a conservation easement over the four acres to the District. Consequently, while there would be a temporary net loss of approximately four acres of land within an Open Space District conservation easement along the alternative haul route (Access Road 1), there would ultimately be a comparatively large net increase (initially 128 acres of the project site and ultimately the 70 acre quarry parcel) in land permanently protected in an agricultural conservation easement.

Issue #10: Geology and Soils

Recent geological/geotechnical evaluations were conducted by John H. Dailey, Consulting Geotechnical Engineer (Dailey 2005). Dailey conducted subsurface exploration, laboratory testing, and engineering analysis on soil and rock samples from the project site (Dailey, 2005), a seismic analysis on the proposed overburden stockpile slopes (Dailey, 2006), and supplemental analysis of rock slope failure mechanics and slope stability at the quarry site (Dailey, 2007). Dailey also completed a preliminary geotechnical evaluation of the site in October 2002 (Dailey, 2002). Miller Pacific Engineering Group (MPEG)

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provided additional subsurface exploration data from a resource investigation completed in 2004 and reviewed work by Dailey for the preparation of this EIR. The combined MPEG and Dailey subsurface exploration includes seven deep borings drilled to approximately ten feet below the proposed quarry floor (a drilled depth of up to about 250 feet), five shallower borings up to 56 feet in depth and 12 test pits excavated up to approximately 17 feet.

The EIR found that the project's geology and soil impacts can be mitigated to less than significant levels. Based on the geologic data reviewed during the preparation of the Draft EIR, the potential geologic hazards are localized slope stability, seismic hazards, and excessive erosion. Other potentially geologically hazardous conditions, namely settlement, subsidence, and expansive soils were found not to present a potential hazard at the project site.

The project components will be designed in conformance with the best standards for earthquake resistance in accordance with the California Uniform Building Code. The implementation of mitigation measures requiring compliance with the County Surface Mining and Reclamation Ordinance (SMARO), engineered cuts and fills, engineered on-site drainage and storm water management facilities, replanting of disturbed areas, and monitoring by the project geotechnical engineer are required to reduce impacts to a less than significant level.

Comments on Draft EIR: Several comments expressed concern regarding conclusions drawn in regard to slope stability, particular in consideration of ground water and seismic conditions of the site, including the presence of the inactive Dunham Fault and the adjacent closed landfill. Other comments raised concern with a presumed presence of naturally occurring asbestos within the subsurface bedrock materials at the site and associated Air Quality impacts. As noted in the Draft EIR, there was extensive evaluation of the geology of the site, including subsurface exploration. It was concluded that the geology of the site does not contain asbestos bearing rock. See Issue #10 Air Quality below regarding Master Response AQ-2, which further addresses public comment regarding the potential for encountering naturally occurring asbestos on the project site.

Response to Comment K.4 explains that Impact B.1 in the Draft EIR discusses the possibility of slope failure during an earthquake and Impact B-2 discusses the factor of safety analysis conducted for the project, which includes reasonable assumptions on groundwater, soil, moisture conditions, and geologic structure. Response to Comment K.5 reiterates that there is no evidence that the landfill or the Dunham fault would influence the flow and/or pressure exerted by groundwater on the walls of the quarry.

Issue #11: Hydrology and Water Quality

The Draft EIR found that the project's hydrology and water quality impacts can be reduced to less than significant levels with required mitigation. In summary, the project Draft EIR identified the following impacts and mitigation measures:

- a. With the removal of topsoil and overburden, there would be an increase in runoff resulting in the potential for increased peakflows into Ranch Tributary and Americano Creek, downstream flooding, and excessive bank erosion. Additionally, groundwater seepage from quarry excavations could increase runoff from the site. To reduce impacts to a less than significant, Mitigation Measure C.1 and C.3 call for the establishment of baseline creek flow data, creek stage monitoring, and a storm water management system to insure discharges (including groundwater seepage) do not exceed pre-project baseline flows (including flood events). Stormwater sediment ponds, which would also serve as retention basins, are included in the project description.
- b. As a result of grading and ongoing quarry operations, there is the potential for polluted runoff from the project site in the form of sediment, that could result in surface water impairment. The project includes the construction of surface drainage swales and a sediment pond to convey and retain stormwater from the site. Draft EIR Mitigation Measure C.2 requires the implementation of a Water Quality Protection Program designed by a Professional Engineer, to include a Storm Water Pollution Prevention Plan. The Stormwater Pollution Prevention Plan is

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required to incorporate best management practices to minimize discharge of pollutants in runoff. The collection and analysis of water samples are to be reported in an annual report of storm water management activities. If storm water monitoring uncovers decreases in water quality, the operator may be required to employ additional measures to reduce pollutants to pre-project levels.

- c. The excavation of the quarry could cause groundwater contamination from the adjacent closed landfill to enter the quarry as seepage and enter Ranch tributary and Americano Creek if not properly contained and treated. In addition, water in the supply wells could become contaminated. Due to the anomalous groundwater chemistry results in monitoring well MW-2, and the potential for cross-contamination that may have occurred during the original installation of the on-site monitoring wells, Mitigation measure C.4a called for the replacement of MW-2, the addition of a new monitoring well MW-4, and redevelopment of the remaining monitoring and production wells (MW-1, MW-3, DW-1 DW-2).

It is noted that the above mitigation measure has been implemented as part of a Comprehensive Water Management Plan developed in the Final EIR Response to Comments and other mitigation measures have been amplified as noted below.

Draft EIR mitigation measure C.4b requires the implementation of a quarterly groundwater sampling and monitoring program. Mitigation Measure C.4c requires ground level monitoring to measure changes in gradient. If contamination is identified in a production well, the well is to be taken offline while a treatment system is designed and installed (Mitigation Measure C.4d) Should water collected in the quarry be contaminated, Mitigation Measure C.4e requires it to be treated prior to use.

- d. Grading and quarry operations would alter approximately 30% of the Ranch Tributary watershed, which could decrease the base flow in Ranch Tributary and affect flows in Americano Creek. The design of the drainage plan to include measures to replace potential base flow loss due to quarry operations would reduce these impacts to less than significant.
- e. The Draft EIR assessed the potential that the use of two existing on-site wells could impact neighboring wells by causing periodic drawdown or lowering of local groundwater levels. The Draft EIR concludes that this would be a less than significant impact in that the area influenced by pumping domestic wells DW-1 and DW-2 would not intersect the area of influence of neighboring domestic wells because the onsite wells are either 1) far enough away and on the opposite side of the groundwater divide from other wells drawing from the Wilson Grove Formation (as in the case of well DW-1 or 2) drawing supply from water held in deeper bedrock fractures exclusively (as in the case of well DW-2). As noted below, Mitigation Measure C.4d was revised in the Final EIR, eliminating the use of domestic well DW-1 given its proximity to the closed Roblar landfill.

Comments on Draft EIR: a number of public comments were raised during the public review period requesting additional detail on a range of project water supply, water use and water management issues. The Final EIR includes three Master Responses regarding Hydrology and Water Quality and provides additional detail on the amount of water that would be required for operation of the proposed project, including that which would be required for dust control, the ability for the applicant's production wells to provide groundwater for operations without adversely affecting nearby domestic wells, and the potential for contaminated groundwater that may enter the quarry as seepage or be drawn by proposed production wells, or potentially contaminated surface water runoff, to reach adjacent creeks, despite the water containment, monitoring and treatment facilities proposed by the applicant and addressed in the Draft EIR.

As described in Response to comment HYD-1, the applicant expanded and refined the proposed management of water resources by preparing a comprehensive Water Management Plan (WMP) which describes the proposed methods and facilities for managing the various sources of water for the project. Major components of the WMP include a water balance analysis and preliminary designs for a Sediment

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Control and Treatment System, and an on-site water storage system. Where applicable, the WMP incorporates or expands upon, and is designed to be consistent with, the mitigation measures identified in the Draft EIR for addressing potential hydrologic and water quality impacts. Some important distinctions between the WMP and the plan originally proposed by the applicant are as follows:

- Only surface water runoff occurring on the project site outside the quarry footprint, or well water and water collected within the quarry footprint that is determined through monitoring to not contain volatile organic compounds (VOCs), would be discharged to Ranch Tributary and/or Americano Creek; any water that must be treated for VOC removal would be limited to re-use onsite for quarry operations (e.g., dust control, processing, irrigation, etc.) (i.e., no discharge of any treated water to creeks).
- Production Well DW-1 would not be used as a water source for any quarry-related operations due to its proximity to the adjacent closed landfill property (groundwater supply would be limited to Well DW-2).
- Additional onsite water storage would be created with three 10,000-gallon tanks for the storage of water from production well DW-2 (30,000 gallons total) and three 10,000-gallon tanks for the temporary storage of treated water (30,000 gallons total), if contamination water is detected.
- Project water demand estimates are conservatively revised to account for higher allowance for water allocated for dust control taking into consideration windy conditions in the area. It is noted that the revised water demand estimate overstates project water use, as it assumes water for dust control at the project site would be applied at the same rate over the course of a day rather than a variable rate depending on wind conditions.
- A step-drawdown test of Well DW-2 was performed to provide additional information regarding the capacity for the on-site production well to supplement water required to meet the project water demand. Results of the testing indicate that Well DW-2 should be capable of sustained pumping rates that range from 15-45 gpm, for periods that range from 10 to 100 days or longer and accommodate the pumping scenario contained in WMP.
- The WMP includes implementing a more detailed groundwater level monitoring and adaptive management program when the project begins to pump groundwater for quarry operations from Well DW-2 to ensure that well pumping would not result in excessive drawdown.

Several comments expressed concern that the closed Roblar Landfill could be the source of contaminants detected in monitoring data presented in the Draft EIR and requested additional information regarding groundwater quality. Master Response to comment HYD-2 describes the on-going groundwater monitoring program being conducted for the project; 2) expands the detail about the analytical results of the monitoring program; 3) presents additional groundwater data that has been gathered since publication of the Draft EIR; and, 4) compares the contaminant levels to pertinent regulatory thresholds established for groundwater quality and discusses the relevance of these comparisons.

To date five monitoring wells have been installed by the applicant (two since publication of Draft EIR pursuant to Mitigation Measure C.4 a) and seven rounds of ground water sampling have occurred (two since the publication of the Draft EIR). Analysis of groundwater from the replacement well MW-2b, installed to replace well MW-2, provides conclusive evidence that VOC contamination formerly found in Well MW-2 is not present in the formation. Redevelopment of Wells MW-1, MW-3, and DW-2 appeared to have effectively reduced the VOCs previously detected in these wells. The EIR concludes that the trace concentrations of VOCs found on the project site are below regulatory drinking water standards and are not indicative of groundwater migration from beneath the landfill.

The response to comments affirms the Draft EIR's conclusion that trace metal concentrations found in the groundwater beneath the project site appear to be naturally-occurring background levels and notes that it is not uncommon for naturally-occurring concentrations of some metals to exceed the established Maximum contaminant level (MCL) when considering the geology of the region.

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Nonetheless, Mitigation Measures C.4d. stipulates that production well DW-1 shall not be utilized as a supply source due to its proximity to the closed landfill site. Mitigation Measure C.4e requires the implementation a more detailed and rigorous sampling, analysis, and treatment program for runoff, sediment, and supply water. For example, the sampling of well DW-2 is required every 24 hours during periods of sustained or cyclical pumping and only well water and stored surface water that tests non-detectable for VOCs would be used, as needed, to maintain base flows in Ranch Tributary (i.e., no water requiring VOC treatment would be discharged to Ranch Tributary).

Master Response HYD-3 was also prepared to respond to comments expressing concern with the viability of using onsite groundwater production wells for supply and concern about the long-term effects of groundwater pumping to nearby private supply wells. Some comments asserted that a pump test should be performed to determine whether the onsite wells proposed for supply were capable of providing the adequate supply without causing excessive drawdown.

These project refinements would not change any of the conclusions previously reached in the Draft EIR with respect to the effect of project groundwater pumping to neighboring wells. As discussed above, a pump test conducted in support of the WMP demonstrates that Well DW-2 is capable of sustained pumping for a range of pumping rates and durations, in conjunction with the proposed water storage. Furthermore, the WMP's groundwater monitoring and adaptive management program would identify long term trends in water level changes in the quarry site wells and adjust pumping practices as necessary.

Issue #12: **Department of Health Services (DHS) and Transportation and Public Works (TPW) Correspondence Regarding Potential Groundwater Contamination.**

The Department of Transportation and Public Works has submitted a letter dated November 16, 2009 expressing concerns with potential liability if the proposed quarry were to draw contaminants from the closed Roblar Landfill. Attached to the letter is an independent professional geologist's analysis of the groundwater monitoring data collected for the project. The independent analysis concludes that the landfill is not the source of trace VOCs detected in groundwater samples collected from the quarry monitoring wells. The DTPW has prepared draft conditions of approval requiring the applicant to indemnify the County from any and all liabilities and losses that relate to migration or threat of migration of contaminants from the Roblar landfill as a result of the Quarry project.

The Department of Health Services Environmental Health Division is the Local Enforcement Agency (LEA) for the County. As such, they have the responsibility for overseeing land fill operations and closures. Due to their concerns with potential impacts to the landfill, they submitted a letter dated November 4, 2009 asking for additional information regarding geologic conditions and the deep components of groundwater flow for the quarry. After further review of the Draft EIR and Response to Comments document, they have written another letter dated December 2, 2009, where they have determined that additional information is no longer needed. However, they have asked that conditions of approval require that the groundwater monitoring data collected according to Mitigation Measure C.4b be forwarded to them for their review. A draft condition has also been included requiring that the LEA be contacted within 24 hours, should leachate be detected in the quarry monitoring wells. In addition, consistent with Mitigation Measure B.2d, a condition has been included requiring that quarry activity cease in areas adjacent to the landfill should destabilization of the landfill occur.

Issue #13: **Biology**

Biology impacts were found to be less than significant with mitigation. A portion of the site contains Americano Creek and Ranch Tributary; however, these waterways would not be disturbed from the project. A stock pond and three drainage swales leading to Ranch Tributary exist within the mining area and would be permanently removed, resulting in the loss of wetlands and wildlife habitat until such time as the property has been fully reclaimed. The Draft EIR identified the following impacts and mitigation measures:

- a. The project could disturb jurisdictional wetland and riparian habitat on and off-site. The

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appropriate delineation, avoidance, preservation, and replacement of wetlands as required by permitting agencies would mitigate impacts to less than significant.

- b. Project construction would impact a cluster of 9 oak trees. Other oak trees could be impacted if not protected during the removal and placement of overburden. Mitigation measures require that a certified arborist inventory existing trees to be saved and removed and provide recommendations for tree preservation, replacement, and monitoring consistent with County ordinance to reduce impacts to less than significant.
- c. The project could remove known habitat for the red-legged frogs and potential habitat for foothill yellow-legged frogs and northwestern pond turtles. The implementation of measures to minimize and avoid the take of special status species through formal consultation with United States Fish and Wildlife Service and issuance of a Biological Opinion will ensure impacts are reduced to less than significant.
- d. Project construction could disturb active nests of raptors or other special-status birds and owl burrows. Preconstruction surveys shall be conducted and no-disturbance buffers shall be established for active raptor nests and other special-status birds if construction occurs during the breeding season (Feb. 1 through August 31). A survey for burrowing owls shall also be conducted before the start of construction on each mining phase, to document and mitigate potential impacts to less than significant.
- e. The project could result in direct impacts to the American badger and the loss of annual grasslands that support this species. Preconstruction surveys, avoidance, and relocation if necessary are required before the start of construction on each mining phase to mitigate potential impacts to less than significant.
- f. Project construction and remodeling or demolition of existing ranch buildings could result in the loss of active roosts for special-status bats. A qualified biologist is required to perform a bat survey and establish a no-disturbance buffer around active roosts during the breeding season as necessary prior to construction activities to reduce impacts to less than significant.
- g. Improper quarry or grading techniques could result in adverse impacts to surface hydrology and water quality of on-site and surrounding drainages, which may impact special-status fish species known to occur downstream of the project site. Mitigation measures discussed above under Hydrology and Water Quality would reduce impacts to less than significant.

Comments on Draft EIR: a couple of comments ask that the possible presence of California Tiger Salamander (CTS) not be dismissed due to breeding sites identified in the area.

As discussed in the Draft EIR, aquatic surveys for CTS were conducted on the project site by the applicant's biologist as part of a Biotic Assessment. The assessment and supplemental report from Dr. Fawcett did not identify the presence of CTS. The Draft EIR acknowledged that in March 2007, as part of a biological review of another project, a CTS breeding site was identified approximately 1.1 mile northeast of the quarry property. Given that finding, USFWS protocol-level aquatic surveys were conducted for CTS on the quarry project site (and adjacent alternative 2 haul route alignment). The 2007 protocol survey resulted in negative findings, supporting the prior findings that CTS are in all likelihood absent from potential breeding habitat on the quarry project site and the Alternative 2 haul route. Furthermore, CTS breeding has not been identified in other nearby potential breeding ponds located just east and west of the quarry site.

Issue #14: Transportation and Traffic

The Draft EIR evaluated traffic impacts along all primary haul routes, which include Roblar Road, Valley Ford Road, Pepper Road, Mecham Road, Stony Point Road and Highway 116. The Draft EIR also

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evaluated impacts at 13 study intersections located along primary haul routes. The traffic volumes were adjusted to reflect a passenger equivalent (PCE) of 3 passenger cars for 1 heavy truck trip. Currently, all of the study intersections are functioning at Level of Service (LOS) D or better, except the intersections of Stony Point Road at Roblar Road (F during the a.m. and p.m. peak) and Stony Point Road at 116 (E in the p.m. peak).

On average, the production of 570,000 cubic yards per year (2,260 cy per day) would result in an average of 151 truck loads, or 302 one-way truck trips per day. However, the maximum daily production rate of 3,600 cy of aggregate was used to determine the project's effects. On a peak production day, the project would generate approximately 240 truck loads per day, or 480 one-way truck trips.

The Draft EIR conservatively assumes that 60% of the project truck traffic will use Roblar Road west of the Quarry and up to 40% would use Roblar Road east of the quarry. The project haul route would also include the use of Pepper Road, east of Mecham Road.

The following summarizes the project impacts and Mitigation Measures identified in the Draft EIR:

- a. Under Near-Term Cumulative Base plus Project conditions, impacts to all 13 study intersections are either less than significant or can be mitigated to less than significant with the installation of a signal at the intersection of Stony Point Road and Roblar Road. Project mitigation measure E.1 includes the project's fair share payment toward the installation of the signal by the County prior to the initiation of mining.

The preliminary design and environmental review is completed for the planned installation of a traffic signal at the intersection of Stony Point Road and Roblar Road. However, installation has been delayed due to Department of Transportation and Public Works funding priorities. Therefore, if the project were to be approved, mitigation measure E.1 would need be modified to require the applicant to fully or partially fund signal installation, in case the DTPW is unable to completely fund and install the signal prior to the commencement of mining. If the applicant were to pay for signal installation, they may be eligible for partial reimbursement through a reimbursement agreement.

It is noted that if the Environmentally Superior Alternative 2 (Alternative Haul Route) is approved, a fair share payment toward the future signalization of Stony Point Road and Roblar Road intersection would be adequate because the near term impacts at this intersection would be less than significant because haul truck traffic would not use Roblar Road at this intersection.

- b. Under Long-Term (2027) Cumulative Base plus Project conditions the project would result in potentially significant impacts at the intersections of Stony Point Road/Roblar Road, Stony Point Road/Railroad Avenue, Stony Point Road/SR 116, and SR 116/Old Redwood Highway due to an increase in delays by more than five seconds. Mitigation measures include the installation of a southbound right-turn lane at the intersection of Stony Point Road/Roblar Road, a signal at Stony Point Road/Railroad Avenue, and the payment of a fair share contribution toward improved signal timing at Stony Point Road/SR 116 and SR 116 and Old Redwood Highway. Since the installation of a southbound dedicated right turn lane at Stony Point Road/Roblar Road may involve acquisition of right of way and is not currently within the scope of planned and funded improvements, this impact is considered potentially significant and unavoidable until such time as the improvement is in place. In addition, the signalization of Stony Point Road/Railroad Avenue is not currently planned or funded; therefore, this impact would be significant and unavoidable until such time as the improvement is made.
- c. The project would cause a substantial increase in truck traffic on certain public roadways (Truck haul routes on Roblar Road and Pepper Road, east of Mecham Road) that are designated as proposed bikeways, and which do not meet current County roadway design standards (including paved shoulders of sufficient width for use by bicycles or pedestrians). To mitigate impacts, the applicant shall improve the entire length of Roblar Road and the segment of Pepper Road, east of Mecham Road (9.75 miles) to meet current County Road design standards. However, since the widening of Roblar Road would involve the acquisition

of land outside of County owned right-of-way, which may not be feasible, this impact would be potentially significant and unavoidable until such time as improvements are made.

As previously noted, Alternative 2 would substantially reduce the amount of required road widening and possible reconstruction of haul routes from approximately 9.75 miles to 2 miles, which would avoid significant and unavoidable impacts related to traffic safety hazards for pedestrians and bicyclists identified for the project. Alternative 2 would also eliminate haul truck noise and construction impacts to the residential communities situated on Roblar Road, east of the quarry, and Pepper Road, east of Mecham Rd.

- d. Truck traffic associated with the project would contribute to degradation of pavement on public roads. To mitigate these impacts, the applicant shall test roadway structural conditions on primary haul routes and improve them as necessary (e.g. overlays and/or reconstruction) per Caltrans Design standards. While this mitigation measure is potentially infeasible as it relates to the 9.75 miles of haul route reconstruction required with the project, it is feasible and required under Alternative 2 (2 miles of haul route construction). The applicant shall also enter into a Roadway Maintenance Agreement with Sonoma County providing the project's proportional fair share of maintenance of the proposed haul routes.

Issue #15: Air Quality

Project-related air quality impacts fall into two categories: fugitive dust impacts due to processing of quarry material and other on-site operations (unpaved roads, handling and storage, blasting, wind erosion), and criteria pollutant impacts due to the increase in heavy equipment and haul truck (on-site and off-site) traffic. Analysis of emissions contained in the Draft EIR represent the worst case daily emissions assuming all quarry operations (including processing, non-road equipment and haul trucks) are simultaneously occurring; thus, the values (and their contribution to the Air Basin and County) represent very conservatively high estimates.

The Draft EIR has evaluated criteria pollutants according to established National Ambient Air Quality Standards (NAAQSs) and California Air Quality Standards (CAAQS). NAAQS have been established for ozone (O₃), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter equal to or less than 10 microns (PM₁₀), particulate matter less than 2.5 microns (PM_{2.5}), and lead (Pb).

The Draft EIR also evaluated the emissions of Toxic Air contaminants (TACs) which are pollutants that are associated with acute, chronic, or carcinogenic effects. TAC impacts are evaluated based on the BAAQMD CEQA thresholds established to address risk to human health. Furthermore, greenhouse gases (GHGs) are evaluated in the Draft EIR according to current legislation, which among other things, sets target dates for reducing GHG emissions and sets policy framework for the California Air Resources Board (CARB) to adopt a statewide GHG emissions limit and a regulatory program.

In summary, the Draft EIR found that:

- a. The proposed project would generate emissions of criteria pollutants (PM₁₀, NO_x, ROG, and CO) on the project site and along haul routes. Project-generated emissions of ROG, and CO would be less than significant. Project concentrations of CO and DPM Diesel Particulate Matter would also be less than significant.

Project emissions of PM₁₀ would be above the applicable significance threshold, but would be mitigated to less than significant by implementing Mitigation Measures F.1a-F.1d. below. Project emissions of Nitric Oxide (NO_x) would be above the applicable significance threshold and result in significant and unavoidable impact for daily emissions of NO_x in 2007 and 2027 and annual NO_x in 2007, despite the following mitigation measures. However, these mitigation measures would reduce the annual emissions of NO_x in 2027 to less than significant.

Mitigation F.1a-F.1d requires the following:

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1. Use of electricity instead of a diesel generator to operate equipment.
2. Use of 2007 model engines or newer for on-site loaders, dozers, rock trucks and water trucks.
3. Require quarry operator/owned off-site haul trucks and to the extent feasible, all off-site haul trucks that would be under contract with the quarry operator to utilize 2003 model or newer trucks.
4. Implementation of a formal comprehensive dust control program.

To reduce gravel processing dust, all processing equipment, including jaw crushers, deck screens, conveyers, cones, and stacker belt ends would be fitted with water lines which produce a mist over the materials. Additional dust control would be provided through use of baghouses on the processing equipment. The applicant proposes to sprinkle internal access roads as needed, install a tire scraper at the quarry exit and truck scale, and install a tire wash area at the exit of the quarry.

- b. Due to fugitive dust impacts and local increases in particulate matter, the dust control program is further refined by Mitigation F.4, which among other things, includes increased watering for dust control when wind speeds exceed 15 miles per hour and suspension of dust generating activities when wind speeds exceed 25 miles per hour.
- c. The project, together with anticipated cumulative development in the County, would contribute to cumulatively significant and unavoidable impacts for certain regional criteria pollutants and toxic air contaminants.

Comments on Draft EIR A number of comments received on the Draft EIR requested additional information and data on wind conditions in the project site vicinity. Other commenters indicated the dust control plan identified in the Draft EIR should be enhanced, including incorporation of wind monitoring. Several comments expressed concern regarding the presumed presence of naturally occurring asbestos within the subsurface bedrock materials at the site.

Master Response AQ-1 Master Response AQ-1 describes general wind patterns and provides available data on wind conditions in the area, and uses this wind data to estimate when wind conditions at the project site would trigger specific thresholds, and provides expanded mitigation measures to further minimize project generated dust, including implementation of a wind screening and a wind monitoring program.

The most comprehensive wind data available for the project area is the wind record collected by the BAAQMD at its Valley Ford meteorological station, located approximately six miles west/southwest of the project site within the Petaluma Gap at 50 feet above sea level (asl). Response to comment AQ-1 includes a new Figure AQ-1.1 which shows five years of wind speed and wind direction data taken from the Valley Ford meteorological station. Response to comment AQ-1 also includes a new Table AQ-1.1 which shows average wind speeds by hour of day and month.

A screening analysis of the wind data from the Valley Ford meteorological station was conducted to establish a general indication of when winds at the project site would be most likely to exceed the lower wind threshold (i.e., 15 mph) established in Mitigation Measure F.4 in the Draft EIR for requiring greater dust control the proposed project. A wind speed of 15 mph (roughly equal to 13 knots) falls into the lower half of the 11 to 17 knot wind speed range (shown in red in Figure AQ-1.1 and Table AQ-1.1). Therefore, the analysis conservatively assumes a roughly 18 percent increase in wind speeds from the Valley Ford meteorological station to the project site. Further, assuming the ratio applies at higher wind speeds, winds of 25 mph at the project site would correspond to a wind speed of more than 18 knots at the Valley Ford meteorological station, a speed recorded approximately 4% of the time per year and the frequency in which Quarry operations would need to be suspended according to Mitigation Measure F.4.

Mitigation Measure F.4 in the Draft EIR has been expanded to incorporate the development of an on-going wind monitoring program to ensure proper actions are implemented during periods of high winds. Specifically, the expanded mitigation measure requires the applicant to retain a qualified meteorological

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consultant to design and implement a wind monitoring and reporting program in accordance with General Meteorological Monitoring Guidelines. In addition, wind measurement techniques have been refined, stockpiles are required to be automatically sprinkled, additional tree planting is required, and a contact number for the wind monitor shall be provided.

Master Response AQ-2 Master Response AQ-2 further addresses comments expressing concern with the presumed presence of naturally occurring asbestos on the site. The Draft EIR (page IV.F-12) described the applicable regulations associated with surface mining operations where naturally occurring asbestos is likely to be found, and discussed that geologic mapping does not indicate the existence of asbestos/serpentine rock within the project site. The Master Response further addresses this issue by providing background information as to the occurrence of asbestos minerals in Sonoma County, presenting the results of asbestos testing that was conducted on the project site, and assessing the potential for asbestos to be encountered on the project site during initial construction and quarrying.

In summary, published geologic mapping by the USGS and the CGS does not identify serpentinite, the rock most likely to contain asbestos, in the Franciscan Complex bedrock underlying the quarry site. Furthermore, on-site core sampling did not reveal asbestos-containing material, the quarry operations would not extend beneath the basal extent of Tolay Volcanics and would not expose Franciscan Complex bedrock with the exception of a localized area that may be exposed during grading operations to construct the access road. This information clarifies, but does not change the information presented in the Draft EIR.

Issue #16: Noise

The Draft EIR quantified the existing noise environment by monitoring noise levels at four locations on or in the immediate vicinity of the quarry property and at three locations along truck haul routes on Roblar Road, Valley Ford Road, and Pepper Road. The noise environment along haul routes is influenced by existing traffic noise, and from various existing agricultural, commercial, and industrial uses.

Several noise sensitive, residential receptors are located within the vicinity of the quarry, the closest of which is a residence situated 600 feet to the east. This residence is located on the other side of a hillside that is situated between the project site and the residential property, and is not in view of the proposed mining area. There are additional residences located farther to the northeast, which are also located on the other side of the hillside. Existing topography provides sound attenuation to these residential uses by shielding them from the quarry. A couple of ranch houses, located approximately 1,800 feet west of the Phase 1 mining area, would have an unimpeded views of the proposed quarry. Numerous residences also exist along the primary haul routes.

In summary, the Draft EIR found that:

- a. Noise impacts should not exceed General Plan Table NE-2 standards due to distance and noise monitoring at other hard rock quarries. However, there is still the potential for significant impacts due to differences in equipment. Mitigation requires a monitoring program be initiated at the start of each mining phase and at regular intervals during mining for areas that are on the direct line between the path from the center of the quarry operations and the nearest offsite sensitive receptor in that direction. Should noise exceed General Plan standards, the applicant would have to modify operations to ensure compliance. The Draft EIR also requires that the start up of loud equipment not occur before 7:00 a.m. to insure compliance with General Plan Table NE-2 standards.
- b. Project noise impacts from haul trucks using Roblar Road, west of the proposed quarry would result in potentially significant impacts to two existing residences. Similarly, the project would contribute to potentially significant cumulative noise impacts to the same two residences. Mitigation requires the applicant to offer to fund residential noise insulation upgrades on the two residences on Roblar Road. If residents refuse to allow the noise insulation, this impact would be significant and unavoidable.

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In its adoption of the 1994 ARM Plan Program EIR, the Board of Supervisors adopted a Statement of Overriding Considerations indicating that the benefits of local aggregate availability to industry outweigh the adverse unavoidable noise impacts associated with haul truck noise.

- c. Occasional blasting produces an air blast and ground vibration that could impact surrounding residences and utilities, wildlife, and other uses. However, the highest intensity blast noise usually occurs at frequencies below that of human hearing (<20Hz). The Draft EIR determined that adoption of a blasting plan and monitoring program for the quarry would reduce any potential adverse impacts related to blasting to less than significant levels.

Issue #17: Hazardous Materials

The Draft EIR found that hazardous material impacts would be mitigated to less than significant. Hazardous materials transported or used onsite during proposed mining and reclamation activities (i.e., petroleum products, blasting materials) could be spilled or otherwise released through improper handling or storage.

Mitigation measures require that any hazardous materials storage or handling be accomplished in accordance with federal, state, and local regulations and that a Spill Prevention, Control and Counter Measure Plan (SPCCMP) be prepared and submitted to the Sonoma County Department of Emergency Services to demonstrate completion of the mitigation.

Issue #18: Aesthetics

The Draft EIR found that aesthetics impacts would be significant and unavoidable, despite the implementation of mitigation measures to reduce visual impacts. The site is not located within or in proximity to any community separator areas or scenic landscape units. However, the site is visible from long range views from three scenic corridors, including Valley Ford Road, located to the southwest of the site and segments of Burnside and Bloomfield Roads, located to the northwest. The site is also partially visible from short term views on Roblar Road and Canfield Roads, though views from Canfield Road would be largely obstructed by the intervening topography of the landfill property and vegetation. Views from Roblar Road, adjacent to the site, would be partially obstructed by existing topography and riparian vegetation along Americano Creek. Computer generated visual simulations were prepared to illustrate the "before" and "after" visual conditions at the site as seen from representative public view points.

As illustrated in the visual simulations, the most prominent permanent alteration to the site would be the change in topography within the proposed 65-acre quarry pit. The quarry pit and processing equipment would constitute a distinctive new visual feature, creating marked contrasts in form, color, and texture compared to existing site features. Seen against the generally rolling terrain and few, scattered farm and residential structures that provide its visual context, the quarry pit and equipment would appear dominant and intrusive in comparison.

The Draft EIR found that aesthetic impacts would be significant and unavoidable despite landscaping measures proposed by the applicant. The applicant proposes to plant coast redwood trees on-site along Roblar Road, the proposed access road and in the vicinity of the proposed job office, equipment storage area, and parking lot to help screen views of the facility. Despite the requirement that the reclamation plan be implemented in compliance with the ARM Plan and SMARO, visual impacts would remain significant and unavoidable. This finding is consistent with the visual resource findings of the ARM Plan EIR, for which a Statement of Overriding Considerations was previously adopted.

Issue # 19: Public Services and Utilities

The Draft EIR determined that the impacts on demand for fire protection and emergency medical services would be potentially significant, but would be mitigated to less than significant with the following mitigation measure:

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As part of the County's Use Permit and Design Review process and prior to project approval, the Goldridge Fire Protection District (GRFPD) shall review the project site plans to ensure proper emergency access and fire prevention features are incorporated into the project.

Issue #20: Cultural and Paleontological Resources

The Draft EIR determined that potential impacts to cultural resources can be mitigated to less than significant provided that all construction employees involved with grading shall undergo cultural resource orientation and training and provided that all work shall halt should cultural resources be discovered during initial grading and ongoing quarry operations. Also, should prehistoric Native American burials be encountered consultation shall occur according to established requirements.

The Draft EIR determined that potential impacts to paleontological resources can be mitigated to less than significant provided that the following mitigation measures be implemented:

1. Prior to the start of construction, all construction employees involved in earth moving activities shall undergo training presented by a qualified paleontologist.
2. Prior to initiation of quarry activities, a preliminary survey and surface salvage shall be conducted by a qualified paleontologist.
3. Prior to the initiation of quarry activities and for all other ground disturbance, the consulting paleontologist shall prepare a monitoring and mitigation program and implement the program during the excavation phase at the quarry site.
4. An ongoing monitoring and salvage program and progress report (at 50% of quarry excavation) shall be implemented.

Issue #21: Secondary Impacts from project road widening and reconstruction (Mitigation Measures E.3a and E.4a).

Impact E.8: Implementation of Mitigation Measures E.3a and E.4a could result in short-term and/or long-term environmental impacts on land use and agricultural resources, geology and soils, hydrology and water quality, hazardous materials, biological resources, transportation and circulation, air quality, noise, aesthetics and cultural resources. This would be a potentially significant impact.

Mitigation Measures E.3a/E.4a identify improving the entire approximate 6.5-mile length of Roblar Road, and approximately 3¼ miles of Pepper Road (between Mechem Road and Stony Point Road) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes, two six-foot wide shoulders, and associated striping/signage to meet Class II bike facilities.

Over the long-term, the identified off-site improvements would serve to mitigate project impacts, and provide a beneficial effect on the movement of large vehicles, cars and bicyclists on haul routes, and decrease the potential for conflicts between these modes of transportation. However, construction and implementation of these off-site transportation improvements would also result in their own potentially significant temporary and long-term environmental impacts. A detailed analysis of the specific off-site impacts cannot be completed until design work is undertaken that would provide information on the specific alignment and structural improvements that may be required along Roblar and Pepper Roads to accommodate the proposed widening. If the proposed roadway improvements were pursued, subsequent detailed environmental analysis and County approval would be required. In the absence of this environmental analysis, this impact is considered significant and unavoidable.

Issue #22: Alternatives

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The No Project – No Subsequent Development Alternative would not meet any of the project sponsor's objectives. Section 15126.6(e)(2) of the CEQA Guidelines states that if the environmentally superior alternative is the no project alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

Among the other alternatives, Alternative 2 - Alternative Haul Route / Contracted Sales Only is determined to be the environmentally superior alternative. This alternative would require substantially less off-site roadway improvements identified as mitigation measures for the proposed project and Alternative 3. Correspondingly, Alternative 2 would have comparatively less significant short- and long-term secondary impacts associated with implementation of those mitigation measures. Furthermore, given the potential infeasibility of some of the off-site transportation mitigation measures for the proposed project, Alternative 2 would avoid certain significant and unavoidable project impacts, including the traffic safety hazard for bicyclists and pedestrians, increase in the potential for traffic accidents, and degradation of pavement on Roblar Road and Pepper Road, east of Mechem Road.

Alternative 3 would result in incrementally less direct on- and off-site impacts due to the reduced production and smaller quarry footprint as compared to the proposed project and Alternative 2, although it would not avoid any direct significant and unavoidable impacts of the proposed project. In addition, since this alternative would require the same off-site transportation mitigation as the proposed project, it would have the same secondary impacts associated with the implementation of off-site transportation improvements as the proposed project. Also, since this alternative would produce half the aggregate materials of the proposed project and Alternative 2, Alternative 3 would create indirect impacts associated with the deficit in materials coming from the other identified in-county and/or out-of county options.

It should be noted that variations of identified alternatives could also be considered by the decisionmakers, including, but not limited to, a hybrid of Alternatives 2 and 3, or some variation in the quarry production and/or footprint of Alternative 3.

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STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend that the Board of Supervisors:

1. Certify the Final Environmental Impact Report (Final EIR) and adopt a Statement of Overriding Considerations after making findings provided in the draft resolution.
2. Approve a Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel.
3. Approve the Use Permit and Mining and Reclamation Plan for Alternative 2 (Alternative Haul Route/Contracted sales only) with a production limit of 570,000 cubic yards per year, subject to the conditions provided in Exhibit A.
4. Authorize a Williamson Act agricultural preserve easement exchange, rescinding the agricultural preserve easement on the 70 acre mining site, while simultaneously placing a Williamson Act agricultural preservation easement on a 244-acre agricultural property near Petaluma.

Based on direction from the Commission, staff will prepare the appropriate resolution and findings for consideration on a subsequent agenda.

ALTERNATIVES

1. If the Planning Commission finds that the project benefits do not support a recommendation to the Board for approval of Alternative 2 at the 570,000 cubic yard annual production level as proposed,

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staff would recommend Alternative 2 with a reduced production rate. Conditions of Approval for a reduced production rate that reduces environmental impacts would be similar to conditions for the proposed project. For example under this alternative, fair share contributions to road improvements would be less.

2. The Planning Commission could find that project benefits are not sufficient for any of the project alternatives and make a recommendation to deny the project.

STATEMENT OF OVERRIDING CONSIDERATIONS

Impacts to land use traffic, air quality, Noise (primarily from truck traffic), and aesthetics were found to be significant and unavoidable despite the implementation to reduce impacts to the extent feasible. A Statement of Overriding Considerations was adopted for noise and aesthetics impacts with the approval of the 1994 Aggregate Resources Management (ARM) Plan.

Impacts to geology and soils, hydrology & water quality, biology, hazardous materials, public services, and cultural resources were found to be potentially significant but can be reduced to less than significant levels with the implementation of mitigation measures.

The decision as to whether project benefits outweigh significant unavoidable impacts involves a careful balancing on the part of decision makers. The Commission may wish to consider the following potential benefits:

1. The local supply of aggregate is considered an asset to the County in order to keep construction costs down and reduce environmental impacts and roadway wear impacts associated with importation and/or hauling rock from more distant locations. The Roblar Quarry would provide a local and accessible source of rock consistent with the General Plan and ARM Plan and would help keep construction costs down and reduce environmental impacts and roadway wear impacts associated with importation and/or hauling rock from more distant sources.
2. The demand for additional local sources of hard rock, especially PC and AC grade material for road construction, has and will continue to increase due to the decreased utilization of gravel produced from terrace mining because terrace mining is being phased out per the ARM Plan. Roblar Quarry would provide a reliable and accessible source of PC and AC grade rock. The location of the Roblar Quarry would provide for efficient delivery of rock to planned local and regional transportation projects funded by tax Measure M over the next 15 years as the majority of these roadway construction projects are in central and southern Sonoma County.
3. Approval of the project with the requirement to pay a fair share contribution toward future signalization of the intersections of Stony Point Road/Roblar Road and Stony Point Road/Railroad Avenue and signal timing improvements at Stony Point Road/Highway 116 and Highway 116/Old Redwood Highway would improve LOS and safety at those intersections. Without the contribution of this project and other potential projects to the cost of the road improvements, it may not be possible for the state and county to fund necessary roadway improvements. Recent shortfalls in state and county budgets have resulted in extended delays in funding road improvements, resulting in a backlog of projects waiting for funding.
4. Despite the removal of the 70 acre mining site from a Williamson Act Contract, the applicant would place a permanent agricultural preservation easement on a 243-acre agricultural property near Petaluma. In addition, in exchange for the Open Space Districts temporary permission to use approximately 4 acres of land encumbered by an open space easement for quarry access, the applicant proposes to place a permanent conservation easement over the 198 project site and dedicate the land for potential future public use upon completion of mining.

If the Planning Commission determines that these benefits outweigh the significant and unavoidable impacts of Alternative 2, the Planning Commission could forward a recommendation of approval to the Board of Supervisors with a Statement of Overriding Considerations subject to the attached Conditions of

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Approval in Exhibit A.

LIST OF ATTACHMENTS

EXHIBIT A: Draft Conditions of Approval/Mitigation Monitoring Program
EXHIBIT B: Vicinity Map
EXHIBIT C: General Plan Lane Use Map
EXHIBIT D: Zoning Map
EXHIBIT E: ARM Plan Map
EXHIBIT F: Regional Map
EXHIBIT G: Topography Map
EXHIBIT H: Aerial Map
EXHIBIT I: Aerial Showing Location of Existing Residences
EXHIBIT J: Phase I Initial Grading and Drainage
EXHIBIT K: Phase I Grading
EXHIBIT L: Phase II Grading
EXHIBIT M: Phase III Grading
EXHIBIT N: Site Sections
EXHIBIT O: Roadway Network and Study Intersections
EXHIBIT P: Alternative 2: Alternative Haul Route/Contracted Sales
EXHIBIT Q: Location of Groundwater wells
EXHIBIT R: Estimated Ground Water Contours
EXHIBIT S: Williamson Act Easement Exchange Site
EXHIBIT T: Quarry Noise Threshold Zone
EXHIBIT U: Visual Simulations
EXHIBIT V: Site Photos
EXHIBIT W: Department of Public Works Correspondence
EXHIBIT X: Department of Health Services Correspondence
EXHIBIT Y: Letter from Sebastopol Water Information Group

Draft Environmental Impact Report Previously Provided to Commissioners

**Draft Conditions of Approval and Mitigation Monitoring Program
for the Roblar Road Quarry**

Date: December 17, 2009 **File No.:** PLP03-0094
Applicant: John Barella **Quarry APNs:** 027-080-009 and -010
Address: 7175 and 7601 Roblar Road, Sebastopol

Project Description: Request for (1) Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel, (2) Use Permit for Alternative 2 (Alternative Haul Route/Contracted Sales Only) to allow a 20-year mining permit with an annual production limit of 570,000 cubic yards per year, (3) Reclamation Plan to return the 70 acre mining area to a natural condition with native soil and vegetation, and (4) a Williamson Act easement exchange, rescinding the Type II Williamson Act contract on the 70 acre mining site, while simultaneously placing a permanent agricultural conservation easement on a 243 acre agricultural property near Petaluma.

The Permit and Resource Management Department (PRMD) is responsible for monitoring the compliance of aggregate operations with all permit conditions and ordinance requirements as part of the ongoing inspection, enforcement, mitigation and monitoring program established by the Aggregate Resources Management (ARM) Plan. In addition, the County conducts periodic inspections of every mining site to fulfill the requirement of the State Surface Mining and Reclamation Act (SMARA). Some of the monitoring for the following conditions of approval will be carried out concurrently through the above activities; in other cases more frequent monitoring or monitoring by a qualified professional or responsible agency has been deemed necessary and added to the on-going monitoring activities.

The monitoring activities planned for each condition of approval along with the responsible person or agency, and the frequency or schedule of monitoring are provided after each applicable condition in the following conditions of approval.

The requirements of this Use Permit run with the real property that is the subject of the project. Successive owners, heirs, and assigns of this real property are bound to comply with all the requirements of these conditions. Prior to any lease, sale, transfer, or conveyance of any portion of the real property that is the subject of the project, the owner shall provide a copy of the adopted conditions to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

Prior to issuance of any permits (grading, septic, building, etc.) or commencement of clearing or mining activity on parcels defined as APNs 027-080-009 and -010, all of the pre-operational conditions must be met and verified by PRMD staff pursuant to this Use Permit. Conditions relating to the Use Permit for mining are denoted with a "U." Conditions related to the Reclamation Plan are denoted with an "R." Operational conditions applicable to both the Use Permit and Reclamation Plan are denoted with "U/R."

BUILDING:

"The conditions below have been satisfied" BY _____ DATE _____

- U 1. The operator shall apply for and obtain building-related permits from PRMD. The necessary applications appear, but may not be limited to site review, grading, and building permits.
- U 2. Prior to initiation of the approved use, the project shall comply with the accessibility requirements set forth in the most recent California Building Code (CBC), as determined by the PRMD Building Division. Such accessibility requirements shall apply to all new construction.

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HEALTH:

"The conditions below have been satisfied" BY _____ DATE _____

Preoperational Health Conditions:

Water:

- U 3. Prior to building permit issuance, project operation and vesting the Use Permit, the applicant shall provide the Project Review Health Specialist with the bacteriological (E. Coli and total coliform) and nitrate analysis results of a sample of the well water tested by a California State-certified lab. If the analysis shows contamination, the applicant will be required to treat the well per County requirements and re-test the well. If the contamination cannot be cleared from the well, destruction under permit of this Department and an alternate on-site (or off-site) easement to a well or spring water source may be required. Copies of all laboratory results must be submitted to the Project Review Health Specialist. (Note: Arsenic analysis are already listed in the EIR, response to comments).
- U 4. Prior to the issuance of building permits, project operation and vesting the Use Permit, the applicant shall provide an engineered design of the water supply system, construct and/or develop the water sources (wells and/or springs), complete the appropriate water quality testing and apply for a water supply permit from the State Department of Public Health, Office of Drinking Water if more than 25 persons per day for 60 days within a year will be served by the water system. A copy of the Use Permit application and conditions must be provided to the State Department of Public Health in order to obtain appropriate raw water source sampling requirements. (This process should begin as soon as possible, as the application, plan check and sampling may take some time.) Prior to the issuance of building permits, copies of the clearance letter must be submitted to the Project Review Health Specialist, or the Office of Drinking Water may E-mail clearance directly to PRMD.
- U 5. If a water supply permit is required, then the water supply well is required to have a 50 foot annular seal prior to project operation and vesting the Use Permit. Annular seals are installed at the time of construction of the water well, and are very difficult (and sometimes impossible) to retro-fit in an economic manner. If documentation of a 50 foot annular seal cannot be obtained, then a new water well may be required.
- U 6. The applicant shall modify the existing supply well under permit for Phases I and II, and abandon the existing well under permit from the Well and Septic Section of PRMD for Phase III.
- U 7. Prior to the issuance of any building permit, project operation and vesting the Use Permit, an easement is required to be recorded for this project to provide Sonoma County personnel access to any on-site water well serving this project and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted Monday through Friday from 8:00 AM to 5:00 PM. All easement language is subject to review and approval by PRMD-Project Review and County Counsel prior to recordation.
- U 8. Prior to the issuance of any building permit, project operation and vesting the Use Permit, any new or existing water well serving this project shall be fitted with a water meter to measure all groundwater extracted for this use.
- U 9. Prior to the issuance of any building permit, project operation and vesting the Use Permit, a separate, dedicated groundwater supply monitoring well is required to be drilled for this project. The monitoring well is required to be drilled under permit of this Department and shall be of a depth, screening and development comparable to the supply well. The monitoring well shall be located as far away from other wells, ponds and wastewater disposal fields as is consistent with being in the same geologic formation as the primary well and being accessible by street vehicle. The monitoring well location shall be approved by PRMD in advance of construction. The monitoring well shall be marked with a water level measuring reference

point, and the GPS coordinates (in NAD83 California State Plane II or WGS 84 lat./long.) of the monitoring well shall be submitted to PRMD.

Alternatively, PRMD will evaluate proposals to use existing nearby standby or auxiliary water wells as a substitute for the required monitoring well. Any proposal to use a substitute well must include at a minimum, a copy of the drillers log for both the production well and the substitute monitoring well, and a site plan with the GPS coordinates of both wells. The proposal must verify that the substitute well does not have a collapsed casing, and is suitable for groundwater level monitoring purposes.

Septic:

- U 10. Prior to building permit issuance, project operation and vesting the Use Permit, the applicant shall obtain a permit for the sewage disposal system. The system may require design by a Registered Civil Engineer or Registered Environmental Health Specialist and both soils analysis, percolation and wet weather testing may be required. Wet weather groundwater testing may also be required. The sewage system shall meet peak flow discharge of the wastewater from all sources granted in the Use Permit and any additional sources from the parcel plumbed to the disposal system, and shall include the required reserve area. If a permit for a standard, innovative or Experimental Sewage Disposal System sized to meet all peak flows cannot be issued, then the applicant shall revise the project (fees apply and a hearing may be required) to amend the Use Permit to a reduced size, not to exceed the on-site disposal capabilities of the project site and attendant easements. The Project Review Health Specialist shall receive a final clearance from the Well and Septic Division that all required septic system testing and design elements have been met.

- U 11. The use of portable toilets shall not substitute for required bathrooms and septic systems, but may be used to supplement the required restrooms and shall meet the following minimum requirements:
 - a. Portable hand washing facilities shall be provided with all portable toilets used for employees, serving visitors or the public.
 - b. Portable toilets shall be serviced as needed, but in no case less than once every seven days.
 - c. The applicant shall provide an accessible portable restroom on the job site where required by Federal, State or local law, including but not limited to, requirements imposed under OSHA, the Americans with Disabilities Act or Fair Employment and Housing Act.
 - d. If complaints are received that PRMD believes are valid complaints, the applicant or current operator of the Use Permit shall increase the number of portable toilets and/or increase the frequency of maintenance of the portable toilets as directed by PRMD. The property owner and his agent(s) are expected to maintain portable toilets and hand washing units so that:
 - i. The holding tank does not leak or overflow.
 - ii. Toilet paper is promptly replaced when the dispenser runs out.
 - iii. Water, paper towels and soap are promptly replaced when the hand washing units run out.
 - iv. The wait to use a portable toilet shall not be so long that people relieve themselves at other impromptu locations.
 - v. Reliance upon portable toilets shall not create a public nuisance.

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- U 12. Toilet facilities shall be provided for patrons and employees prior to project operation and vesting the Use Permit. A copy of the floor plan showing the location of the restrooms shall be submitted to Project Review Health prior to issuance of building permits.

Vector Control:

- U 13. A mosquito and vector control plan acceptable to the Marin-Sonoma Mosquito and Vector Control District (telephone 707-285-2200) shall be submitted prior to the construction of any ponds and prior to vesting the Use Permit. The Project Review Health Specialist shall receive a copy of the vector control plan and an acceptance letter from the Marin-Sonoma Mosquito and Vector Control District.

Hazardous Materials:

- U 14. Prior to initiation of the project, the applicant shall prepare a Spill Prevention, Control and Counter Measure Plan (SPCCMP) in conformance with the requirements of the Code of Federal Regulations 40CFR112. A copy of the SPCCMP shall be submitted to the Sonoma County Department of Emergency Services (DES) to demonstrate completion of the mitigation. *Mitigation Measure H.1a*

Mitigation Monitoring: Prior to grading permit issuance and commencement of mining, PRMD staff will verify that a Spill Prevention, Control and Counter Measure Plan (SPCCMP) has been submitted to the DES for review and approval.

Noise:

- U 15. If approved by the property owners, the applicant shall offer to fund residential noise insulation upgrades on the two residences on Roblar Road between the project entrance and Valley Ford Road (APNs 022-290-001 and 027-080-005, sufficient to maintain existing interior noise levels with the increased truck traffic. The applicant shall contact the property owners in writing with an offer to perform noise insulation upgrades. If approved by the property owners, perform the upgrades prior to the commencement of mining. *Mitigation Measure G.2*

Mitigation Monitoring: PRMD will verify that the applicant has made a written offer to the property owners and installed noise insulation upgrades prior to commencement of mining, if approved by the property owners.

Operational Health Conditions:

Water:

- U 16. A safe, potable water supply shall be provided and maintained.
- U/R 17. Production well DW-1 shall not be used for any quarry-related operations or reclamation. In the event operational constraints prevent production well DW-2 from being used throughout the project duration, well DW-2 shall be abandoned under permit and a new well drilled onsite within, or in proximity to, the quarry footprint (and no closer to the landfill property than existing Well DW-2). *Mitigation Measure C.4d*

Mitigation Monitoring: PRMD ARM staff, quarterly inspections, will verify that well DW-1 is not utilized for quarry operations and that any new well is located no closer to the landfill property than DW-2, should operational constraints be experienced with well DW-2. PRMD ARM staff will also verify that well DW-2 is abandoned under permit.

- U 18. The location of the wells, and groundwater elevations and quantities of groundwater extracted for this use shall be monitored monthly and reported to PRMD and the LEA on a quarterly basis pursuant to section WR-2d of the Sonoma County General Plan and County policies.

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Annual monitoring fees shall be paid at the rate specified in the County Fee Ordinance. If the County determines that groundwater levels are declining in the basin, then the applicant shall submit and implement a water conservation plan, subject to review and approval by PRMD.

- U 19. Required water meters shall be calibrated, and copies of receipts and correction factors shall be submitted to PRMD-Project Review at least once every five years.
- U 20. In accordance with the Water Management Plan required under condition #108, a groundwater level monitoring and adaptive management program shall be implemented when the project begins to pump groundwater for quarry operations from Well DW 2. The applicant shall retain a California certified hydrogeologist to develop the monitoring program, subject to approval by the County. Well DW-2 and the onsite monitoring wells (MW-1, MW-2b, MW 3, MW-4 and DW-1) be monitored on a weekly basis by quarry staff during the period of active pumping from Well DW-2. If pumping at Well DW-2 results in a measurable declining trend of static water levels, PRMD shall require the applicant to employ appropriate adaptive management strategies including short-term (e.g. alteration of pumping schedule, reduced pumping, decreased water use, changes in overall water management strategies or temporary cessation of pumping) or long-term corrective measures (e.g. permanent cessation of pumping at Well DW-2, installation of a higher producing well in an alternate onsite location) until the groundwater levels in onsite wells are shown to recover to pre-project pumping conditions.
- U/R 21. In conjunction with the groundwater sampling program, groundwater levels in the four monitoring wells (MW-1, new MW-2b, and MW-3 and MW-4), two existing onsite production wells (well DW-1 and DW-2), as well as the adjacent landfill property wells (R-1, R-2 and R-3) shall be measured to allow continued monitoring of groundwater levels and potential localized changes in gradient in the site vicinity.

To ensure consistency in measured groundwater level data, prior to mining and as required, all the existing and proposed wells on the quarry and landfill properties to be used for monitoring shall be surveyed by a licensed surveyor for location and elevation, referenced to mean sea level, utilizing the North American Datum of 1988-GEOID 99 (NAVD88).

Mitigation Measure C.4c

Mitigation Monitoring: PRMD staff will verify that groundwater levels are surveyed prior to mining and review groundwater level data quarterly after mining has commenced to verify changes in groundwater levels.

- U 22. Split samples shall be collected under County supervision from the four on-site monitoring wells (MW-1, new MW-2, MW-3 and new MW-4) and two existing onsite production wells (wells DW-1 and DW-2) each quarter to continue to provide water quality data and provide an early warning of potential groundwater contamination, including any potential contamination that could be entering the quarry property from the Roblar Landfill property. The split samples shall go to different State-certified laboratories. Water samples shall be tested for the same suite of analytes used at the adjacent Roblar Landfill during the 2004 through 2008 monitoring events, and at the project site during the 2007/08 monitoring events. The QA/QC protocol for the sampling and analysis program shall be developed in consultation with, and approved by, the County. Quarterly water sample results shall be sent to and reviewed by the Local Enforcement Agency in Environmental Health.
- Mitigation Measure C.4b*

Mitigation Monitoring: The Local Enforcement Agency in Environmental Health will review groundwater sampling results each quarter to verify the results of groundwater monitoring.

- U 23. In the event that leachate and/or landfill materials are detected on site the Local Enforcement Agency in Environmental Health must be contact within 24 hours.

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- U 24. In addition to the procedures outlined in the Water Management Plan provided in the Final EIR, provide quarterly groundwater results to the Local Enforcement Agency in Environmental Health.
- U 25. In the event that destabilization of the Roblar Landfill occurs, operation shall cease in the areas adjacent to the landfill until the issue is adequately addressed/resolved according to CCR Title 27.

Septic:

- U 26. Maintain the annual operating permit for any Alternative (mound or pressure distribution) or Experimental Sewage Disposal System installed per Sonoma County Code 24-32, and all applicable Waste Discharge Requirements set by the Regional Water Quality Control Board.
- U 27. Use of the on-site wastewater disposal system shall be in accordance with the design and approval of the system.
- U 28. All future sewage disposal system repairs shall be completed in the designated reserve areas and shall meet Class I Standards. Alternate reserve areas may be designated if soil evaluation and testing demonstrate that the alternative reserve area meets or exceeds all of the requirements that would have been met by the original reserve area. If wastewater ponds or a package treatment plant are needed, then a modification of the Use Permit is required.

Noise:

- U 29. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

TABLE NE-2: Maximum Allowable Exterior Noise Exposures

Hourly Noise Metric ¹ , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60
¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.		

- U 30. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD's opinion, then the applicant shall hire a qualified acoustical consultant to conduct a noise study to determine if the current operations meet noise standards and identify any additional noise mitigation measures if necessary. A copy of the noise study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received. The owner/operator shall implement any additional mitigation measures needed to meet noise standards.
- U 31. At the initiation of each of the three project phases and at regular intervals within each phase, noise monitoring shall be conducted by a qualified acoustical consultant at fence line locations to the west and the northeast that are on the direct line between the path from the center of quarry operations and the nearest off-site sensitive receptor in that direction. Noise source levels of the specific equipment to be used shall be measured and specific sound levels at the residences predicted. The applicant shall submit the noise monitoring information to PRMD upon the initiation of site development, initiation of each phase of mining, and biannually.

If no exceedances of the Table NE-2 daytime standards are predicted, operations may proceed. Should noise levels exceed the daytime limits in Table NE-2, the quarry operator shall take measures so that quarry operations are within the limits in Table NE-2. Measures could include any combination of the following: (1) additional soundproofing to equipment (2) soundberms or other noise barriers to attenuate equipment noise, (3) sound proofing to affected occupied residences, (4) restriction on duty cycles for noisy equipment, or other recommended measures. If the operator presents evidence to the County that demonstrates that the identified measures will reduce noise levels to meet Table NE-2 standards, then the measures shall be implemented and mining operations may proceed within the area included in the monitoring study. Once work begins, the noise level shall be monitored for a period long enough to validate the predicted levels. Upon request by the County, the applicant shall provide additional monitoring at later times to demonstrate compliance.

Mitigation Measure G.1a

Mitigation Monitoring: PRMD Arm staff will verify that noise monitoring occurs at specified intervals through the submission of monitoring data and that noise reduction measures are implemented as necessary to meet Table NE-2 standards.

- U 32. To comply with the nighttime requirement in Table NE-2, loud operations capable of exceeding the nighttime standards in Table NE-2 shall not occur in the 6:00 to 7:00 a.m. timeframe. Noise monitoring shall include the more sensitive morning period from 6:00 to 7:00 a.m..

Mitigation Measure G.1b

Mitigation Monitoring: PRMD will verify that noise monitoring occurs at specified intervals through the submission of monitoring data and that noise reduction measures are implemented to meet Table NE-2 standards as necessary.

- U 33. Consistent with ARM Plan operating standards, the applicant shall develop and implement a truck driver education program that informs drivers of procedures established to reduce public conflicts. This program shall include instructions to drivers to avoid the use of engine brakes on the quarry access road and local haul routes, as safety allows. The operator shall submit to PRMD a written list of employees and the date of their participation in the required training. New employees shall also be provided with required training.

Mitigation Measure G.1c

Mitigation Monitoring: PRMD will monitor the mitigation by verifying that the operator has a program for truck drivers and submits to PRMD a written list of employees and the date of their participation in the required training.

- U 34. The applicant shall require and verify that all quarry operator owned off-site-haul trucks, and off-site haul trucks that would be under contract with the quarry operator, use a properly functioning exhaust muffler (capable of meeting the federal passby standards) equivalent to the original factory installed muffler. Each quarry owned haul truck shall be re-verified by the applicant annually. Each haul truck that would be under contract with the quarry operator shall be inspected upon signing a hauling contract. The applicant shall submit written confirmation on an annual basis that his truck fleet meets this requirement. The applicant shall also provide evidence that this requirement is in the contract for non quarry owned trucks.

Mitigation Measure G.1d

Mitigation Monitoring: PRMD will verify this measure on an annual basis by verifying that the applicant submits written confirmation that trucks have been inspected for compliance with this requirement. PRMD will verify that this requirement is in the standard hauling contract.

- U 35. A blasting plan shall be provided that ensures that ground motions do not exceed 0.5 inches per second at the nearest residence. To ensure that the intensity of ground motion in this location would not exceed the 0.5 inch per second limit, all blasting in the eastern edge of the proposed quarry shall be designed to assure that charges are sized to maintain a scaled scaled distance (Ds) of 65 or greater (see Appendix F-1 in the EIR) to avoid impacts to

residential uses 600 feet away. With this limitation, maximum cumulative weight of any charges firing within any 8-milliseconds time period shall not exceed 85.2 pounds $[(600/65)^2]$. The applicant shall use delay-decked charges in 5 inch holes or reduced hole-size or the height of benches. For practical blasting purposes, the single charge in a 34-foot hole could be separated into two or three individually delayed charges, separated by stemming, to ensure the maximum charge weight-per-delay in 5-inch holes is appropriate for vibration control.

Mitigation Measure G.3a

Mitigation Monitoring for G.3a - G.3i: PRMD Project Review staff will review the Blasting Plan to insure that the above measures are included. PRMD ARM Staff will periodically monitor compliance with blasting mitigations during ongoing quarterly field inspections. PRMD Code Enforcement will investigate all noise complaints and shall ensure compliance from the permit holder. All inspection reports will be placed in the project file.

The Blasting Plan shall specify the following:

- a. The applicant shall conduct monitoring of ground vibration and air-overpressure at a minimum of two locations to ensure these effects remain under threshold levels. One location should be close to the nearest residential property. The second monitoring point should be the adjacent landfill property. All monitoring equipment and practices shall conform with the standards developed by the Vibration Section of the International Society of Explosive Engineers (see Attachment 1 in Appendix F of this EIR).
Mitigation Measure G.3b
- b. Blasting shall be limited to daytime hours between 10:00 am. and 4:00 p.m.
Mitigation Measure G.3c
- c. A blasting permit shall be obtained from the Sonoma County Sheriff's Department prior to any blasting.
Mitigation Measure G.3d
- d. The blast monitoring program shall be discussed with the residents in the project area. Educate property owners as to what is being done and why. Obtain information on time periods that are sensitive to blast activity. *Mitigation Measure G.3e*
- e. Conduct a pre-blast survey to determine the condition of existing structures, and to alert homeowners that some rattling may be expected but damage is not expected. Contacts should be provided so that damage claims and complaints can be monitored and responded to quickly. *Mitigation Measure G.3f*
- f. Schedule blasts to occur at approximately the same time on each blast day. Include this information in public announcements. *Mitigation Measure G.3g*
- g. Prior to any blast proposed within 1,500 feet of the Roblar landfill cells, the applicant shall test methane using methane detection devices at hole-collars of six holes drilled closest to the Roblar landfill property. Blasting shall only proceed if any detected methane is below the 0.1 percent minimum trace level established by the Bay Area Air Quality Management District. *Mitigation Measure G.3h*
- h. The blasting plan shall include a procedure, acceptable to PRMD, for notifying nearby residents prior to each blasting event. This public notification process shall be fully explained in the blasting education program for area residents (Mitigation Measure G.3e), and shall include the list of residents to be notified, a standard time at which such pre-blast notification shall be made, and a telephone number area residents can call to hear a regularly-updated recording describing the next scheduled blasting activity.
Mitigation Measure G.3i

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Mitigation Monitoring: for G.3a - G.3i: PRMD Project Review staff will review the Blasting Plan to insure that the above measures are included. PRMD ARM Staff will periodically monitor compliance with blasting mitigations during ongoing quarterly field inspections. PRMD Code Enforcement will investigate all noise complaints and shall ensure compliance from the permit holder. All inspection reports will be placed in the project file.

Hazardous Materials Program:

- U 36. Comply with applicable hazardous waste generator, underground storage tank, above ground storage tank and AB2185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Hazardous Materials Division of Sonoma County Department of Emergency Services. The applicant shall submit a copy of a current permit to the Permit and Resource Management Department Health Specialist to verify compliance. *Mitigation Measure H.1b*

Mitigation Monitoring: Prior to grading permit issuance, PRMD Health Specialist will verify that appropriate approval is obtained for the generation or storage of hazardous waste.

- U 37. All hazardous waste materials shall be stored, handled and managed in accordance with the approved site plan and hazardous materials plan so as to reduce the potential for any spillage. *Mitigation Measure H.1c*

Mitigation Monitoring: In conjunction with ongoing inspections, PRMD ARM and DES staff will perform periodic site inspections to verify compliance the hazardous materials management plan.

- U 38. No soil or other material containing hazardous or toxic waste shall be imported to the quarry. *Mitigation Measure H.1d*

Mitigation Monitoring: In conjunction with ongoing inspections, PRMD ARM staff will perform periodic site inspections to verify compliance with this measure.

Solid Waste:

- U 39. All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of to a County Transfer Station or County Landfill before the end of the seventh day. Please note that the Local Enforcement Agency (at Environmental Health) bills at an hourly rate for enforcement of violations of the solid waste requirements.

TRANSPORTATION AND PUBLIC WORKS:

"The conditions below have been satisfied" BY _____ DATE _____

Integrated Waste Division:

- U/R 40. The project applicant shall accept responsibility for loss or damage to any person or entity, including the County and its Board of Supervisors, representatives, agents, employees, and consultants (hereinafter "County") and/or Applicant, that arises out of, pertains to, results from and/or relates to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project. The burden of proof shall be on the Project Applicant to demonstrate that any contaminants found on the Quarry site are not the result of the Quarry Project.
- U/R 41. Prior to initial grading, the project applicant shall the indemnify and hold harmless County, from and against any and all actions, claims, debts, damages, liabilities, obligations, costs,

expenses, penalties, fines, and/or judgements undertaken and/or asserted by any person or entity, including any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project in a form acceptable to the County. This includes all costs and expenses of any kind, including attorneys' fees and expenses, incurred by the County.

- U/R 42. Prior to initial grading, the project applicant shall release the County from any and all losses, costs and/or expenses of any kind Project Applicant incurs or may incur as a result of any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgements undertaken and/or asserted by any person or entity, including the Project Applicant or any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as result of the Quarry Project in a form acceptable to the County. This release shall be binding on all future owners/operators, successors and assigns of the Quarry site.

Roads Division Preoperational Conditions:

- U 43. Prior to issuance of a grading permit, the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of the future signalization of the Stony Point Road/Roblar Road intersection. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and DTPW. The fair share is 2%. The DTPW will provide the cost estimate prior to building permit issuance. The cost estimate shall be based on the County's preliminary design plans, including widening all approaches to the intersection, including shoulders; lengthening the northbound left-turn lane; and adding a southbound left-turn lane (for access to the driveway across Roblar Road).
Mitigation Measure E.1

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to issuance of a building permit.

- U 44. Future signalization of the Stony Point Road and Roblar Road intersection shall also include a dedicated right-turn lane if feasible. The County's preliminary design for this intersection does not include a southbound right-turn lane. In conjunction with final design, the feasibility of a right turn lane shall be considered. Should it prove feasible, the applicant shall be required to pay costs associated with the redesign, potential right-of-way acquisition, and installation of the added improvements.
Mitigation Measure E.2a

Mitigation Monitoring: As the final design of intersection improvements progresses PRMD will consult with DTPW to verify whether a southbound right turn lane is feasible. Should feasibility be confirmed PRMD will verify the applicants contribution as noted above.

- U 45. Prior to issuance of a grading permit, the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of the future signalization of the Stony Point Road/West Railroad Avenue intersection. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and DTPW. The fair share is 5%. The DTPW will provide the cost estimate prior to building permit issuance.
Mitigation Measure E.2b

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to issuance of a building permit.

- U 46. Prior to issuance of a grading permit, the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of the future signal timing optimization of the Stony Point Road/SR 116 intersection. The fair share is 1%. The

cost estimate shall be provided by the applicant according to the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and DTPW.
Mitigation Measure E.2c

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to issuance of a building permit.

- U 47. Prior to issuance of a grading permit the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of future signal timing optimization of the Highway 116/Old Redwood Highway intersection. The fair share is 1 %. The cost estimate shall be provided by the applicant according to the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and DTPW. Caltrans or the City of Cotati shall perform signal optimization once signal warrants are met.
Mitigation Measure E.2d

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to issuance of a building permit.

- U 48. Prior to the commencement of mining, improve Roblar Road (between Access Road 1 and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide shoulders with a traffic index of 10.5, and associated striping/signage to meet Class II bike facilities. These improvements shall be conducted prior to initiation of quarry mining. *Mitigation Measure E.3a*

Mitigation Monitoring: PRMD will verify that roadway improvements are completed prior to the issuance of a building permit and commencement of mining.

- U 49. The applicant shall ensure that all loaded trucks are covered or maintain at least two feet of free board to prevent spillage of materials onto haul routes.
Mitigation Measure E.3b

Mitigation Monitoring: PRMD ARM plan staff will verify compliance with this mitigation measure during quarterly inspections.

- U 50. The applicant shall post warning signs on Roblar Road at key locations where sight distance may continue to be limited after implementation of Mitigation Measure E.3a. *Mitigation Measure E.4a.*

Mitigation Monitoring: PRMD and DTPW staff will review the Roblar Road public improvement plans to insure roadway warning signs are included on the plans as necessary.

- U 51. The applicant shall post warning signs on Roblar Road 250 feet ahead of the access driveway that cautions drivers about truck traffic entering and exiting the roadway, subject to County approval. The warning signs shall follow guidelines set forth in the California Manual on Uniform Traffic Control Devices (Caltrans, 2006c).
Mitigation Measure E.4b

Mitigation Monitoring: PRMD and DTPW staff will review the Roblar Road public improvement plans to insure that these roadway warning signs are included on the plans.

- U 52. Prior to grading permit issuance for quarry development, the applicant shall Improve Roblar Road at the proposed access according to American Association of State Highway and Transportation Officials (AASHTO) design standards.
Mitigation Measure E.5a

Mitigation Monitoring: PRMD and DTPW will review the Roblar Road driveway access plans to insure that these improvements meet AASHTO standards.

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- U 53. Design the roadway cross-section to meet the design standards set forth by the American Association of State Highway and Transportation Officials (AASHTO) in A Policy on Geometric Design of Highways and Streets.
Mitigation Measure E.5b
- Mitigation Monitoring: PRMD and DTPW will review the Roblar Road public improvement plans to insure that the design for Roblar Road meets AASHTO standards.
- U 54. Prior grading permit issuance, the project applicant shall have a qualified consultant conduct core sampling and associated testing on Pepper Road between Mecham Road and Valley Ford Road, and review as-builts if available, in order to determine the roadway thickness, and the condition of the base and subbase of the roadway. If such testing indicates the existing roadways are not designed, for and/or in a condition that would not accommodate, long-term project truck traffic, the roadways shall be improved as needed (e.g., overlays or reconstruction to meet a traffic index of 10.5) per Caltrans Design Manual standards. The project applicant shall pay the full cost of road improvements, including design and construction.
Mitigation Measure E.6a:
- Mitigation Monitoring: The DTPW will verify the core test results and public improvement plans for roadway improvements as needed.
- U 55. Prior to the issuance of a grading permit, the project construction contractor(s) shall develop a construction management plan for review and approval by the Sonoma County Public Works Department. To minimize construction-related traffic congestion, the plan shall provide comprehensive traffic control measures including designated construction access routes and scheduling major deliveries to avoid peak traffic hours. Adjacent property owners and public safety agencies shall be notified prior to such major deliveries.
Mitigation Measure E.7
- Mitigation Monitoring: PRMD not authorize grading until verifying that DTPW has reviewed and approved the construction management plan for conformance with this measure.
- U 56. The applicant shall offer right-of-way to the County of Sonoma, free of encumbrances, and of sufficient width:
- a. To contain the public improvement of Roblar Road described herein. This right-of-way requirement shall be void if the existing right-of-way meets or exceeds the minimum requirements described above.
 - b. To contain all relocated overhead utilities.
- U 57. Right-of-way shall be dedicated as roadway easement. The applicant shall have prepared an easement deed, together with the required descriptions and shall submit them to the County Surveyor for review and approval. A copy of the recorded deed shall be submitted to the Land Development Section of the Permit and Resource Management Department prior to clearance of these conditions.
- U 58. The applicant shall construct or install improvements described as follows:
- a. Widen, reconstruct and/or overlay, as necessary, Roblar Road between the entrances of Private Access Road 1 and Private Access Road 2 in order to create the improved roadway described below. Road width shall be measured from edge of pavement to edge of pavement, a width of 36 feet, and shall include:
 - 1) Two-twelve (12) foot wide paved travel lanes,
 - 2) Two six (6) foot wide paved shoulders,

- 3) Two-foot wide shoulder backing at the edge of pavement,
 - 4) Construct left-turn channelization at the intersection with Access Road 2,
 - 5) The roadway alignment and channelization shall be designed in conformance to Caltrans standards for a design speed of 45 miles per hour.
 - 6) Depending on the existing conditions, the improvements may require overlay, re-stripping, metal beam guardrail, and overhead utilities relocation, as necessary.
 - 7) The Developer shall mill, repair and overlay the existing pavement as necessary to make a smooth transition between the existing pavement and the new pavement.
- U 59. The structural section of all road improvements shall be designed using a soils investigation which provides the basement soil's R-value and Expansion Pressure test results. A copy of the soils report shall be submitted with the first set of improvement plan check prints. The Traffic Index (TI) to be used for the pavement design of Roblar Road is 10.5.
- U 60. Storm drainage facilities shall be designed and constructed in accordance with Sonoma County Water Agency design standards. Drainage improvements shall be reviewed and cleared by the Grading & Storm Water Section of the Permit and Resource Management Department.
- U 61. Private access road intersections with Roblar Road and Valley Ford Road shall be constructed to meet the following criteria:
- a. A minimum throat width of 28 feet,
 - b. To prevent right-turning trucks from crossing centerline, the pavement curve returns shall have sufficient radius to accommodate the inside wheel path of the largest anticipated haul vehicle,
 - c. The driveway shall enter the public road as close to perpendicular as possible, but in no case shall the driveway enter the public road at more than 20 degrees from perpendicular,
 - d. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with AASHTO requirements for the speed traveled on the intersecting public road,
 - e. The entry shall be surfaced with asphalt concrete a minimum distance of 25 feet from the existing edge of pavement.
 - f. Refer to County of Sonoma Department of Transportation and Public Works Construction Standard Drawing 814, latest revision, for private road and driveway intersection details,
 - g. The entrance improvements shall be in place prior to commencement of mining activity.
- U 62. The applicant shall install traffic control devices as required by the Department of Transportation and Public Works, including items such as traffic signs, roadway striping, pavement markers, etc.
- U 63. The applicant shall employ a Registered Civil Engineer, licensed in the State of California, to develop plans for the required improvements. The scale of these improvement plans shall be a minimum 1 inch equals 40 feet, and shall be submitted on 24-inch by 36-inch sheets for

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review. The Plans shall include roadway cross-sections, at a maximum interval between cross-sections of 50 feet.

- U 64. Plan checking fees and Inspection fees, including those involving off-site frontage improvements, shall be paid to the Permit and Resource Management Department, prior to signature of the Improvement Plans by the Director of the Department of Transportation and Public Works.
- U 65. A Traffic Mitigation Fee shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code, prior to expansion of clearing or mining activities. This fee is for indirect cumulative traffic impacts throughout the county. This permit shall not be vested until the traffic mitigation fees are paid in full.
- U 66. The applicant shall submit improvement plans for all required improvements to the Office of the County Surveyor in the Permit and Resource Management Department for review and approval and shall obtain signed approval from the Director of the Department of Transportation and Public Works prior to the issuance of a Grading, Building or Encroachment permit.
- U 67. The applicant shall obtain an Encroachment Permit from the Permit and Resource Management Department prior to constructing any improvements within County Road right-of-way.
- U 68. Prior to commencement of mining, the applicant shall complete construction of all the required public improvements.

Haul Route Secondary Impact Preoperational Conditions:

- U 69. As part of the grading and construction specifications for the roadway widening, implement best management practices (BMPs) to reduce or eliminate soil erosion during construction. The contractor shall implement these BMPs and be responsible for the inspection and maintenance of the BMPs during construction. These measures shall be incorporated into the Storm Water Pollution Prevention Plan (SWPPP) for the proposed roadway widening (see Mitigation Measure E.8c, below).
Mitigation Measure E.8a

Mitigation Monitoring: PRMD staff verify that roadway improvement plans for include appropriate erosion control measure prior to grading permit issuance.

- U 70. Prior to grading permit issuance, a design level geotechnical investigation shall be required to identify site specific geologic conditions and geotechnical constraints and develop adequate engineering design criteria and remedies to reduce the potential for slope instability from cutting and filling of adjacent slopes along the roadway alignments. Methods for reducing potential slope instability effects could include, but are not limited to, slope reconstruction, earth buttress construction, or retaining structures/walls. All recommendations identified by the licensed geotechnical engineer shall be included in the final design and be incorporated into the roadway widening project, subject to review and approval of DTPW.
Mitigation Measure E.8b

Mitigation Monitoring: PRMD will verify that road improvements are in conformance with the geotechnical report recommendations and approved by DTPW.

- U 71. Prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) before commencing with roadway widening construction. As part of this process, a Notice of Intent shall be filed with the State Water Resources Regional Control Board, in compliance with the statewide NPDES General Permit for Discharges of Stormwater Runoff Associated with Construction Activity (General Construction Permit). The SWPPP shall specify Best Management Practices (BMPs) to control contamination of surface flows through measures to prevent the potential discharge of pollutants from the construction area.

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cont.

The BMPs shall be designed to minimize erosion of disturbed soil areas. BMPs could include, without limitation, silt fences, gravel or sand bags, stormdrain inlet protection, soil stockpile protection, preservation of existing vegetation where feasible, use of straw mulch, dust control, and other measures. The SWPPP will also include protection and spill prevention measures for any temporary onsite storage of hazardous materials used during construction. The project applicant shall adhere to the identified BMPs as well as the waste discharge and stormwater requirements outlined in the permit.

Mitigation Measure E.8c

Mitigation Monitoring: PRMD will verify that a Notice of Intent to comply with the NPDES is filed with the RWQCB prior to grading permit issuance.

- U 72. The proposed storm drain system for the roadway widening improvements shall be designed in accordance with all applicable County and Sonoma County Water Agency (SCWA) drainage and flood control design standards. The drainage plan for the roadway widening improvements shall ensure the proposed drainage facilities are properly sized to accommodate projected stormflows and prevent any potential project flooding on-site and in downstream areas.

Mitigation Measure E.8d

Mitigation Monitoring: PRMD will verify that roadway storm drain systems are design to meet PRMD and Water Agency design standards.

- U 73. Prior to issuance of a grading permit for the secondary haulroute, the applicant shall:

- Conduct a formal wetland delineation in accordance with 1987 Corps of Engineers Wetlands Delineation Manual and have it verified by the U.S. Army Corps of Engineers (Corps). If the Corps and/or CDFG determine that the potentially affected water-associated features are jurisdictional, then the project proponent shall obtain appropriate wetland permits and implement all conditions contained in the Section 404 Clean Water Act permit (possibly an Nationwide permit) from the Corps, Section 1603 Streambed Alteration Agreement from CDFG, and/or Section 401 water quality certification from the Regional Water Quality Control Board.
- Compensate for the loss of jurisdictional wetlands at a 2:1 ratio (or as agreed to by the permitting agencies) within the project site boundary, or at a 3:1 ratio (or as agreed to by the permitting agencies) off-site within the local watershed, by creating, restoring or enhancing waters of the U.S., or contributing in-lieu funds to an existing or new restoration project preserved in perpetuity. The restoration effort shall require implementation of a five-year monitoring program with applicable performance standards, including but not limited to establishing: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.

Mitigation Measure E.8e

Mitigation Monitoring: PRMD will verify that wetland delineations, mitigation, and resource agency approval is obtained prior to grading permit issuance for road improvements.

- U/R 74. Avoid all potential jurisdictional wetlands and riparian habitat located along the roadway alignments, as feasible. Prior to construction activities, the project applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:
- Installation of exclusionary construction fencing to protect these features from all project construction and operation activities; and

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- Implementation of measures to control dust in adjacent work areas (please see comprehensive dust control program identified in Mitigation Measure F.4 in Section IV.F, Air Quality).

Mitigation Measure E.8f

Mitigation Monitoring: PRMD will verify that welland delineations, mitigation, and resource agency approval is obtained and verify that protective measures are installed prior to grading permit issuance for road improvements.

- U 75. The contractor shall comply with all laws and regulations (Caltrans Standard Specifications, section 7-1.01). The contractor shall be made aware that, if there is removal of any trees on private property in conjunction with the roadway widening improvements, it must be in accordance with the following: 1) the County Tree Protection and Replacement Ordinance; 2) the Sonoma County Valley Oak Stewardship Guidelines for valley oak trees removed within the Valley Oak Habitat combining district; and 3) the Heritage or Landmark Tree Ordinance. Enforcement of this measure will be through a combination of the DTPW and PRMD staff.

Mitigation Measure E.8g

Mitigation Monitoring: PRMD will verify that tree protection and mitigation measures are provided on road construction plans.

- U 76. The project proponent shall implement measures to minimize and avoid take of California red-legged frog that would additionally benefit pond turtles and Foothill Yellow Legged Frog, if present. The following measures are derived from the Programmatic Biological Opinion (PBO) for impacts to California red-legged frog (United States Fish and Wildlife Service (USFWS, 1999)). Formal consultation with the United States Fish and Wildlife Service and issuance of a Biological Opinion is required for potential impacts to California red-legged frog. In addition, the following actions will minimize impacts to these species.

- A USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training will include a description of the California red-legged frog and their habitat, and the general measures that are being implemented to protect the California red-legged frog as they relate to the roadway widening improvements.
- A USFWS-approved biologist shall be present during initial grading activities to monitor roadway construction activities within 100 feet of creek corridors and aquatic habitat that could support California red-legged frog. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.

Mitigation Measure E.8h

Mitigation Monitoring: PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from the United States Fish and Wildlife Service and contracted with a qualified biologist prior to grading permit issuance.

- U 77. Implement Mitigation Measure D.4a and D.4b (Conditions #131 and #132) to reduce potential impacts to nesting raptors and other special-status birds.
- Mitigation Measure E.8i*
- U 78. Implement Mitigation Measure D.5 (Conditions #133) to reduce potential impacts to badgers.
- Mitigation Measure E.8j*
- U 79. In conjunction with Mitigation Measure E.7 the project construction contractor(s) shall develop a construction management plan for review and approval by the Sonoma County Public Works Department and meet the following requirements:

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- To the extent possible, the contractor shall schedule truck trips outside of peak commute hours.
- Lane closures on Roblar and Pepper Road shall occur only during the hours of 8:30 a.m. and 4:30 p.m. Outside of these hours on Monday through Friday, or on weekends, two lanes of traffic on both roads must be open.
- If lengthy delays are anticipated, signs shall be posted to notify motorists that traffic will be subject to delay.
- Traffic safety guidelines compatible with Section 12 of the Caltrans Standard Specifications, "Construction Area Traffic Control Devices" shall be followed during construction. Project plans and specifications shall also require that adequate signing and other precautions for public safety be provided during project construction.
- For highly sensitive land uses, such as schools, fire and police, the County shall require the construction contractor to develop access plans in consultation with facility owner or administrator. The contractor shall notify the facility owner in advance of the timing, location, and duration of construction activities and the locations of detours and lane closures.
- The contractor shall provide for passage of emergency vehicles through the project site at all times.
- The contractor shall maintain access to all parcels adjacent to the construction zone during construction.

Mitigation Measure E.8k

Mitigation Monitoring: PRMD not release grading permits until verifying that DTPW has reviewed and approved the construction management plan for conformance with this measure.

- U 80. Comply with Mitigation Measure E.8m and the following dust control measures will be included in the project:

- Water or dust palliative shall be sprayed on unpaved construction and staging areas during construction as directed by the County.
- Trucks hauling soil, sand and other loose materials over public roads shall cover the loads, or keep the loads at least two feet below the level of the sides of the container, or shall wet the load sufficiently to prevent dust emissions.
- Paved roads shall be swept as needed to remove soil that has been carried onto them from the project site.
- Water or other dust palliative shall be applied to stockpiles of soil as needed to control dust.

Mitigation Measure E.8l

- U 81. Roadway widening construction activities for this project shall be restricted as follows:

- All internal combustion engines used during construction of this project shall be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code.
- Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Only work that does not require motorized vehicles or power equipment shall be allowed on holidays. If work

outside the times specified above becomes necessary, the resident engineer shall notify PRMD Project Review and Code Enforcement as soon as practical.
Mitigation Measure E.8m:

Mitigation Monitoring: PRMD project review will verify that road construction plans include the above requirements. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented. Code Enforcement will respond, should complaints be received for work conducted outside of approved hours.

- U 82. The applicant shall provide landscape improvements following roadway widening and creation of any cut slopes. Native shrubs and trees shall be planted to create a landscape that recalls the native landscape of the region. Plants shall be selected that require the least maintenance, and create a sustainable landscape.
- If retaining walls are required as part of the roadway widening, the use of natural finishes shall be incorporated.
 - A maintenance program, including weeding and summer watering shall be followed until plants have become established (minimum of three years).

Mitigation Measure E.8n

Mitigation Monitoring: PRMD project review will verify that road construction plans include the above requirements. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented.

- U 83. If archaeological materials are discovered during project construction, construction shall cease in the immediate vicinity of the find until a qualified archaeologist is consulted to determine the significance of the find, and has recommended appropriate measures to protect the resource. Further disturbance of the resource will not be allowed until those recommendations deemed appropriate by the County have been implemented.

Mitigation Measure E.8o

Mitigation Monitoring: PRMD project review will verify that the above requirement is noted on the construction plans and verify that the above procedure is utilized should resources be discovered.

- U 84. If paleontological resources or unique geologic features are discovered during project construction, construction shall cease in the immediate vicinity of the find until a qualified paleontologist or geologist is consulted to determine the significance of the find and has recommended appropriate measures to protect the resource.

Mitigation Measure E.8p

Mitigation Monitoring: PRMD project review will verify that the above requirement is noted on the construction plans and verify that the above procedure is utilized should resources be discovered.

- U 85. Implement adopted mitigation measures contained in the Signalization of Stony Point Road at Roblar Road, Mitigated Negative Declaration and Mitigation Monitoring Program, Sonoma County PRMD, October 2005.

Mitigation Measure E.9

Mitigation Monitoring: DTPW will verify that the mitigation measures included in the Mitigated Negative Declaration approved for the Signalization of Stony Point Road at Roblar Road are implemented at the time of signal construction.

Roads Division Operational Conditions:

- U 86. The applicant shall install and use a tire wash and tire scraper to loosen dirt from the trucks and their tires. The applicant shall weekly sweep the paved shoulders and the traveled way as

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necessary, of Roblar Road and Valley Ford Road, in the vicinity of the private access road intersections. Sweeping shall be performed by mechanized sweeping equipment that can collect the sweepings and are equipped with devices/features to adequately control dust. Sweeping operations shall be performed under the appropriate traffic control contained in the California Manual of Uniform Traffic Control Devices (MUTCD) and for which the applicant will be required to obtain a blanket encroachment permit from the County's Permit and Resource Management Department.

Mitigation Measure E.3c

Mitigation Monitoring: PRMD ARM plan staff shall verify that this condition is being implemented during their quarterly inspections. PRMD Project Review will verify that the tire washer is installed prior to the commencement of mining.

- U 87. The applicant shall report annually to PRMD, all aggregate materials transported from the facility, including recycled aggregate materials. This information shall be deemed proprietary. The applicant shall pay annually the adopted per ton fee on aggregate materials, including recycled aggregate materials, transported from the facility as the applicant's share of the Aggregate Road Mitigation Fee.

Mitigation E.6b

Mitigation Monitoring: PRMD staff will review annual reports submitted by the operator and shall invoice the applicant annually.

Advisory Note to PRMD: The Sonoma County Department of Transportation and Public Works may modify these conditions (other than project mitigation) if the Applicant can demonstrate that the conditions are infeasible due to unforeseen field constraints or lack of property rights, and that the goals of these conditions can be safely achieved in some other manner. However, the threshold for any modification is high, and therefore modification of conditions is not common.

Grading and Stormwater:

"The conditions below have been satisfied" BY _____ DATE _____

- U/R 88. Grading and/or building permits require review and approval by the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance.
- U/R 89. Separate grading permits shall be required for each phase of the proposed project including work for construction of roads/driveways, ponds and stockpiles.
- U/R 90. The applicant shall provide grading plans, prepared by a registered civil engineer, which clearly indicate the nature and extent of the work proposed. The grading plans shall conform to and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
- U/R 91. The applicant shall provide an erosion prevention/sediment control plan, prepared by a registered civil engineer, which clearly shows best management practices to be implemented, limits of disturbed areas, vegetated areas to be preserved, pertinent details, notes, and specifications to prevent damages and minimize adverse impacts to the environment. Tracking of soil or construction debris into the public right-of-way shall be prohibited. Runoff containing concrete waste or by-products shall not be allowed to drain to the storm drain system, waterway(s), or adjacent lands. The erosion prevention/sediment control plan shall conform to and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
- UR 92. A master drainage plan for the proposed project shall be prepared by a registered civil engineer in accordance with the Sonoma County Water Agency Flood Control Design Criteria and be submitted to the Grading & Stormwater Section of the Permit and Resource Management Department for review and approval. The master drainage plan shall include

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analyses and drainage reports for initial, interim and final drainage improvements and shall demonstrate no increase in storm water levels or polluted runoff from the proposed project at each phase of development. The master drainage plan must be approved prior to the issuance of any grading permits for quarry development. The drainage reports shall conform to and contain all applicable items in the Drainage Report Required Contents (DRN-006) handout. Drainage Facilities shall be operated and maintained in accordance with approved plans during operation of the quarry and post-reclamation.

Mitigation C.1c

Mitigation Monitoring: PRMD Grading and Stormwater will review storm drainage plans to verify they are designed by a registered engineer, meet Water Agency Flood Control Criteria, and are maintained through post-reclamation.

- U/R 93. Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.
- U/R 94. Any bridge or stream crossing shall maintain at least one foot of freeboard from the 100-year water surface elevation and the lowest structural component of the crossing. Streams shall be adequately protected from erosion resulting from the installation and function of a stream crossing.
- U/R 95. Polluted runoff from waste receptacles or industrial areas/activities shall not be allowed to drain directly to the storm drain system or waterway(s).
- U/R 96. The project is subject to National Pollutant Discharge Elimination System (NPDES) requirements and must obtain coverage under the State Water Resource Control Board's General Construction Permit (General Permit). Documentation of coverage under the General Permit must be submitted to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 97. The applicant will be responsible to contact the Regional Water Quality Control Board and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 98. The applicant will be responsible to contact the California Department of Fish & Game and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 99. The applicant will be responsible to contact the U.S. Army Corps of Engineers and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 100. A roiling permit from the Permit and Resource Management Department shall be obtained prior to start work within an active waterway.
- U/R 101. At project approval, the applicant shall implement a baseline flow and creek stage monitoring program for the Ranch Tributary and Americano Creek. This program shall continue the flow monitoring program currently underway through the project duration, and as determined by the SCWA and the Sonoma County PRMD, through post-reclamation. The required monitoring program should include two locations of Ranch Tributary (representative of upstream and downstream conditions) and three representative locations on Americano Creek (i.e., upstream location at east property boundary, and locations upstream and downstream of Ranch Tributary). Flow and creek stage monitoring shall be conducted quarterly and following winter storm events.

The applicant shall apply the data to design of stormwater discharge facilities to ensure that stormwater discharges from the site do not exceed pre-project flows in Ranch Tributary and Americano Creek. Flow and creek stage data shall also be used to determine discharge rates and shall be compiled for use in obtaining the necessary NPDES discharge permits. The Applicant shall submit baseline flow monitoring data to the Sonoma County Water Agency and Sonoma County PRMD.
Mitigation Measure C.1a

Mitigation Monitoring: PRMD Grading and Drainage Review staff will review base line flow and creekstage monitoring data to verify that storm drainage facilities are designed to maintain baseline flows and that stormwater discharges from the site do not exceed pre-project flows in Ranch Tributary and Americano Creek.

- U/R 102. The applicant shall prepare, for review and approval by the Sonoma County PRMD, a drainage plan that addresses stormwater runoff from the proposed quarry during active mining and post reclamation. The stormwater drainage plan must ensure that the peak stormwater and seasonal non-stormwater flows are managed to the extent that stormwater flow entering Americano Creek and Ranch Tributary from the project site does not exceed pre-project baseline flows during the 2 , 10 , 25-, 50- and 100-year storm events. The drainage plan shall include specific design criteria that ensure 1) the proposed sediment ponds operate as a stormwater runoff detention feature with the capacity to contain and manage at least a 25-year return storm and 2) alternative on-site stormwater detention strategies are implemented to ensure that stormwater flows are adequately detained so discharges to Americano Creek and Ranch Tributary do not exceed baseline discharge rates. Alternative detention strategies could include alternate detention basins, expanded use of the quarry floor for detention, or expanded use of infiltration areas for percolation and storage. The drainage plan and accompanying design calculations shall demonstrate that on-going and post-reclamation discharges to Americano Creek and Ranch Tributary would not exceed baseline discharge levels.
Mitigation Measure C.1b

Mitigation Monitoring: PRMD Grading and Drainage Review staff will review drainage plans to verify that storm drainage facilities are designed to detain flows so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.

- U/R 103. The applicant shall develop and implement a Water Quality Protection Program (WQPP) to control sediment and pollutant runoff from the quarry during its operational life and beyond through post reclamation. All structural elements and processes shall be designed and approved by a professional civil engineer experienced in stormwater management and sediment control. The design shall meet the standards of the Sonoma County SMARO. All hydrologic and engineering calculations, including sediment trap efficiency, shall be submitted to the County for review and approval prior to commencement of project grading.

The WQPP consists of several elements, as discussed below, to control the source of sediment and the discharge of that sediment into the adjacent receiving waters of Americano Creek and Ranch Tributary.

The applicant shall submit a copy of the SWPPP that adequately addresses control and reduction of stormwater laden with sediment or other pollutants to the County PRMD. The applicant shall comply with requirements set forth by the RWQCB in the SWPPP Program for annual reporting and water quality sampling, which typically includes annual reports and reports of failed best management practices (BMPs). The SWPPP shall be regularly updated as BMPs are updated and new BMPs are constructed and/or the quarry operation changes. The SWPPP shall be implemented during the initial stage of quarry construction and stay in effect through the completion of reclamation.

Aggressive Source Control. The WQPP shall outline and describe source control measures designed to prevent erosion. Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the California Stormwater Quality Association (CASQA). Equivalent measures deemed more effective by the North Coast RWQCB may be substituted.

- Reclamation or stabilization of all quarry slopes and the quarry floor (excluding the working/processing/stockpile/loading/access areas) shall be completed by October 1 of each year. Stabilization measures include hydraulic application of surface stabilizing compounds, hydroseeding, mulching, or other measures to prevent erosion. To insure accurate compliance with this condition, the applicant shall submit to the Sonoma County PRMD, a site plan or aerial photograph clearly depicting the extent of mining and reclamation on the site every five years during mining and reclamation and at the completion of reclamation;
- In areas not being actively mined, bare soil shall be protected from erosion with the application of hydraulic mulch or hydroseeded;
- In areas requiring temporary protection until a permanent vegetative cover can be established, bare soil shall be protected by the application of straw mulch, wood mulch, or mats;
- To the extent practical, benches should be back-sloped or provided with rock or straw bale checks so that sediment is trapped on the benches rather than washed into the sediment ponds; and
- Benches shall drain into adequately sized pipes or rock-lined channels that convey the runoff to the quarry floor. Outlets of pipes shall have appropriate energy dissipaters to prevent erosion at the outfall.

Sediment Retention Measures. The WQPP shall include specific measures to trap eroded sediment on site to prevent a discharge to receiving waters. Specific measures cited below shall be adapted from the most current edition of the CASQA Stormwater BMP handbook for construction. The applicant shall install sediment retention measures prior to winter (on or about October 15) or in areas receiving surface water runoff in the dry season (e.g. the areas receiving seepage from the quarry walls). Sediment retention measures shall be regularly inspected by quarry personnel and corrective action shall be conducted in the event that the measures fail. Inspection and performance of the sediment retention measures shall be included in the SWPPP and included in the required annual report. Equivalent measures deemed more effective by the North Coast RWQCB may be substituted.

- Silt fences, fiber rolls, and straw bale barriers shall be used on bare slopes not being actively mined to intercept and trap sediment carried by sheet flow;
- The program shall include a description of the construction method for the sediment ponds, including the design storm and spillways;
- The applicant shall design the proposed sediment ponds to the maximum size practical for the available space. The sediment pond shall include a forebay to trap coarse soil particles before the runoff enters the main sediment ponds. Recognizing that the sediment ponds may not be large enough to trap very fine particles such as clay, the design shall include supplemental treatment that can be used as needed to meet the water quality discharge criteria for this project. Supplemental treatment may be chemical treatment that promotes fine particle settlement, mechanical filters to remove fine particles, or other measures approved and required by the North Coast RWQCB for this particular project;

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- All runoff from actively mined or reclaimed areas shall be directed through the sediment pond. Stormwater may be released from the ponds between storm events so long as the water to be released meets the discharge requirements established for this project by the RWQCB;

Implement Contaminant-Control BMPs. The applicant shall implement BMPs to reduce the potential for discharge of contaminants to storm water runoff. These BMPs shall be designed by a civil engineer and the design engineer shall oversee BMP installation. To minimize the introduction of contaminants which may degrade the quality of water discharged from the site, the following measures shall be taken:

- Fueling and maintenance of all rubber-tired loading, grading and support equipment shall be prohibited within 100 feet of drainage ways. Fueling and maintenance activities associated with other less mobile equipment shall be conducted with proper safeguards to prevent hazardous material releases. All refueling and maintenance of mobile vehicles and equipment shall take place in a designated area with an impervious surface and berms to contain any potential spills;
- The site shall be controlled by maintaining security fencing and locking gates and posted trespass signs at all vehicular access points to the site to prevent unauthorized entry;
- Runoff from the access roads shall be captured and treated either in the main sediment pond or in a separated sediment retention pond located at the base of the access road. The sediment pond shall be designed and constructed to accommodate runoff from the road during a 25-year design storm and be capable of reducing sediment load to not exceed pre-project baseline at the discharge point; and
- All chemical dust suppressants and slope stabilization chemicals or polymers, and sediment pond enhancement chemicals or polymers shall be EPA approved and shall be used strictly according with the manufacturer's directions. An accurate accounting of the kinds and quantities of these materials used on the site shall be maintained by the operator.

Mitigation Measure C.2a

Mitigation Monitoring: PRMD Grading and Stormwater will review the WQPP to verify that the storm drain and sediment ponds are designed to handle storm events and that best management practices are utilized for sediment, erosion, and contaminant control. The Regional Water Quality Control Board will also insure that the plan meets their requirements for stormwater pollution prevention. PRMD ARM staff will verify through quarterly inspections that reclamation and slope stabilization occurs to avoid excessive erosion.

- U/R 104. Develop and Implement Stormwater Monitoring Program. The applicant shall collect representative samples from all stormwater discharge outfalls (at the location where the discharge leaves the sediment pond or where the discharge leaves the site) while discharges are occurring in compliance with the requirements of General Permit (No. CAS000001) for Discharges of Storm Water Associated with Industrial Activities. Unless specific water quality goals or waste discharge limits are established for the quarry by the RWQCB, discharges shall not exceed water quality objectives outlined in the North Coast RWQCB Basin Plan. Water sampling shall be conducted by a third-party consultant and water samples shall be submitted to a California-certified analytical laboratory for analysis. The Stormwater Monitoring Program required during the project shall be consistent with the pre-project baseline sampling and analysis effort that commenced in 2007. The monitoring program shall include:

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- Collection of samples at upstream and downstream of the quarry outfalls in Ranch Tributary during discharges from the site (at the same frequency as described above);
- All of the semi-annual samples shall be analyzed for pH, TSS, turbidity, specific conductance, and total organic carbon (as required by the General Permit) and total and dissolved iron, manganese and petroleum, and oil and grease by a State-certified analytical laboratory (note that this sampling program shall be designed to coincide and work in concert with the water quality sampling required as part of Mitigation Measure C.4; and
- The surface water quality data shall be analyzed by a qualified professional for indications of exceedance of water quality benchmarks and/or changing conditions in water quality that could indicate a potential impact to water quality conditions in Ranch Tributary.

The applicant shall submit a monitoring report to the RWQCB with a copy submitted to the Sonoma County PRMD. Frequency of reporting shall be determined by the RWQCB but shall not be less frequent than twice each rainy season. The qualified water quality professional conducting the monitoring shall provide an analysis of the data and an evaluation of the overall effectiveness of the sediment control system. If the water quality objectives have been exceeded, the report shall include analysis as to the specific causes of the exceedances and recommended measures to bring the discharges into compliance.

Mitigation Measure C.2b

Mitigation Monitoring: PRMD staff will verify that a water quality monitoring report is submitted to RWQCB and PRMD and verify that discharges are in compliance with permit requirements.

- U/R 105. Implement corrective measures to meet water quality objectives, if necessary. Once mining is underway, if annual surface water monitoring indicates that discharges from the quarry exceeded the water quality objectives, the applicant shall propose changes to the sediment control program that will improve its performance sufficiently to meet the performance criteria. Corrective action may include, but is not limited to, additional source control BMPs, expansion of the existing detention ponds, use of chemical flocculation, installation of mechanical filtration of the discharge, construction of extended wet ponds and/or treatment wetlands. The proposed changes shall be submitted to the RWQCB for comment, revised as needed to address their comments, and then implemented by the applicant. If the performance criteria are not met for two consecutive years, the County will confer with the applicant and the RWQCB and Sonoma County PRMD to determine whether further changes in the sediment control plan are likely to result in compliance. If suitable changes are not identified, then the County shall require the quarry to reduce production as needed to meet the performance criteria.

Mitigation Measure C.2c

Mitigation Monitoring: PRMD in conjunction with the WQCB will verify that corrective measures are taken should water quality objectives not be met.

- U/R 106. Maintain and repair storm damage to conveyance and water quality control systems, as necessary. The applicant shall maintain procedures to ensure prompt identification and repair of damage to the drainage and water quality control systems, especially after large storm events. The applicant shall conduct routine inspection and maintenance of the stormwater and sediment control facilities. Stormwater drainage conveyance and outfalls shall be inspected monthly during the dry season and after each rain storm between October and March. If inspections reveal that stormwater conveyance of water quality control facilities (e.g. sediment ponds, energy dissipation structures) are damaged, corrective actions shall be implemented immediately. The applicant shall immediately report, to the Sonoma County PRMD, any storm-related drainage or

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sediment control system failure that results in discharge of sediment to Ranch Tributary or Americano Creek. The applicant shall submit a written report within 72 hours and describe the occurrence, corrective action, and observed performance of the corrective action.

Mitigation Measure C.2d

Mitigation Monitoring: PRMD ARM staff will inspect the site to verify that water conveyance and control systems are maintained.

- U/R 107. The drainage plan identified in Mitigation Measure C.1 shall account for additional flows created by groundwater seepage expected to occur through the quarry walls. The plan shall consider management of seepage during operation, as well as, in the long term following reclamation and be based on conservative estimates of seepage derived from measured hydraulic conductivities in the weathered and unweathered Wilson Grove Formation and the Tolay Volcanics. The drainage plan shall include measures to ensure that the quarry wall seepage can be managed by stormwater flow conveyance structures and that these structures would not be overwhelmed during the 2-, 10-, 25-, and 100-year storm events large storm events.

Mitigation Measure C.3

Mitigation Monitoring: PRMD Grading and Stormwater will review drainage plans to verify that storm drainage facilities are designed to detain flows, including groundwater seepage, so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.

- U/R 108. The applicant shall fully incorporate and implement all measures specified in the approved Water Management Plan, including that reflected in this mitigation measure as follows:

The applicant shall regularly sample and analyze all water collected within the quarry footprint and in production well DW-2 for the same suite of analytes used at the adjacent Roblar Landfill during the 2004 through 2008 monitoring events, and at the project site during the 2007/08 monitoring events. The QA/QC protocol for the sampling and analysis program shall be completed by an environmental professional knowledgeable of current surface water/groundwater regulations and sampling procedures.

The sediment control basin sampling and analysis schedule shall be developed in conjunction with the basin management operations. Prior to the release of water from any sediment control basin, the quarry shall obtain representative samples of the water held in the basin and submit the samples for analysis of VOCs by a California state certified analytical laboratory. Once samples and final analytical results are received, the quarry shall determine the appropriate routing of the water based on the presence or absence of detectable VOCs. Basin water quality sampling schedules, guidelines, protocols, and procedures required to collect and analyze representative samples from each basin will be provided in a detailed Sediment Control Basin Sampling and Analysis Plan, subject to review and approval by the County of Sonoma PRMD, and as applicable, the North Coast RWQCB, prior to commencement of operation of the treatment system.

Groundwater extracted from Well DW-2 shall be sampled and analyzed once every 24-hours during periods of sustained or cyclic pumping, and at the end of each pumping episode during times of intermittent use of the well (intermittent use means pumping episodes separated by more than 24 hours).

Water that tests non-detectable for VOCs would be used, as needed, to maintain baseline flow conditions in Ranch Tributary and Americano Creek (i.e., no water requiring VOC treatment would be discharged to Ranch Tributary and Americano Creek), and/or routed to either direct onsite re-use to support quarry operations or water storage tanks for temporary storage prior to onsite re-use. In the event that the water

collected within the quarry footprint or production well DW-2 does contain contaminants, such water shall be treated on-site (e.g., use of granular activated carbon vessels) until concentrations of the chemicals are not detected or the concentrations are within the storm water discharge criteria set forth through the NPDES industrial discharge permit, and subsequently be available only for either direct onsite reuse or temporary storage prior to onsite re-use.

In addition, in the event that VOCs are detected in the water in the sediment control basins, the sediment within the respective sediment control basin shall be sampled and analyzed for VOCs prior to removal. In the event that VOCs are detected in this sediment, it shall be removed, transported and disposed of off-site at an appropriate licensed facility in accordance with all applicable state and federal regulations.
 Mitigation Measure C.4e:

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD staff will verify that a detailed Sediment Control Basin Sampling and Analysis Plan is submitted in conformance with the above requirements for review and approval by PRMD and RWQCB, as applicable.

- U/R 109. The applicant shall incorporate into the final project drainage plan a hydrologic strategy that replaces potential baseflow lost due to the quarry operation. This mitigation measures requires a) continuation of the baseflow monitoring program that commenced in Spring 2007, and b) determining from that data whether substantial changes in baseflow is occurring during the operation of the quarry. If a reduction in baseflow due to project activities becomes evident through long term monitoring, the applicant shall design and install a system that passively diverts stored surface water to the Ranch Tributary to replicate pre-project base flows. Consistent with Mitigation Measure C.4, only stored surface water that tests non-detectable for VOCs would be used, as needed, to maintain base flows in Ranch Tributary (i.e., no water requiring VOC treatment would be discharged to Ranch Tributary). The applicant shall continue to monitor the passive delivery system to ensure consistent replacement of baseflow. The applicant shall submit quarterly reports to the Sonoma County PRMD that details system monitoring and performance.
 Mitigation Measure C.5a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review and Drainage Review staff will review the Grading and Drainage plans to verify that they address the retention of base flow conditions in Americano Creek and Ranch Tributary. PRMD Grading and Stormwater will review the quarterly monitoring reports to verify the performance. Should monitoring determine that base flows are not being met, PRMD will verify that a passive diversion system is implemented to maintain base flows.

- U/R 110. If the passive water diversion system described in Mitigation Measure C.5a (Condition #110) is required to replicate pre-project base flows in Ranch Tributary, the applicant shall incorporate surface water temperature monitoring in Ranch Tributary and Americano Creek into the base flow monitoring program. Water discharged for base flow maintenance shall comply with the North Coast Water Quality Control Plan Water Quality Objective for temperature, which states that water temperatures in water bodies designated for Cold Freshwater Habitat (COLD) beneficial use shall not be increased by more than 5°F above the natural receiving water temperature. If necessary, the applicant shall install a system that discharges on-site well water instead of, or in combination with, stored water to meet the temperature objective. Consistent with Mitigation Measure C.4, only well water that tests non-detectable for VOCs would be used, as needed, to maintain base flows in Ranch Tributary (i.e., no water requiring VOC treatment would be discharged to Ranch Tributary).
 Mitigation Measure C.5b

Mitigation Monitoring: PRMD, in conjunction with the WQCB will verify that the applicant's design of a passive water diversion system, if required, complies with WQCB water temperature requirements as described above.

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PLANNING:

"The conditions below have been satisfied" BY _____ DATE _____

Pre-operational Conditions:

- U/R 111. Prior to grading permit issuance for development of the haul road or commencement of initial grading on the mining site, a comprehensive mining Operation and Management Plan shall be prepared to address all operational conditions, including but not limited to erosion and sediment control, stormwater management, water quality and groundwater monitoring, wind monitoring and dust control, noise monitoring, blasting, hazardous materials management, sediment pond operation and maintenance, and slope stability and vegetation management, as detailed in these conditions.
- Mitigation Monitoring: PRMD Project Review, Grading and Stormwater, and ARM staff will verify that the Operation and Management Plan is developed consistent with conditions of approval. PRMD ARM staff will review all reclamation work through field inspections.
- U 112. The applicant shall submit an application for the easement exchange. Grading of the mining site shall not commence until the Williamson Act contract # 2-387-72 covering the 70-acre portion of the project site is rescinded in accordance with Government Code Sections 51256, 51256.1 and 512892, and transfer of a permanent conservation easement on the 243-acre exchange site for future stewardship to an appropriate private land trust or government conservation agency is simultaneously completed.
- Mitigation A.4
- Mitigation Monitoring: PRMD Project Review will authorize grading to begin on the mining site until the above measure is implemented.
- U 113. Prior to issuance of a grading permit for the haul road, the applicant shall obtain approval from Agricultural and Open Space District through an agreement where by the District would temporarily release its conservation easement on approximately four acres (encompassing the extent of Access Road 1 and adjacent area to the north on the Wilson property that would be cut off and isolated by Access Road 1), in exchange for a permanent open space conservation easement and offer of dedication of the entire project site (198 acres).
- U/R 114. The applicant shall submit a revised Reclamation Plan for review and approval by PRMD. The final Reclamation Plan shall meet all County and State requirements. This permit shall not be vested or effective until the revised Reclamation Plan has been approved by PRMD.
- U/R 115. The Reclamation Plan shall be updated annually to incorporate a detailed cost estimate for reclamation and incorporate provisions for reclamation plan monitoring and maintenance. All descriptions, terminology, and procedures shall be consistent with the EIR, including the Water Management Plan. In addition the Reclamation Plan shall include the following:
- Property owner signature acknowledging responsibility for reclamation.
 - Reclamation planting plan indicating the size and locations of planting areas on cut slopes, benches, berms, and the quarry floor.
 - Sediment ponds to be converted to permanent ponds and riparian habitat.
 - Reclamation of Access Roads 1 and 2 upon completion of mining.

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- e) To ensure accurate compliance with this condition the operator shall submit a site plan or aerial photograph clearly depicting the extent of mining and reclamation on the site every year during mining and reclamation and at the completion of reclamation. The operator must provide annual documentation to PRMD that they are up to date with all required reporting forms and fees, and have no outstanding water quality-related violations anywhere in the quarry.
- U 116. Prior to grading permit issuance for the haul road or commencement of initial grading on the mining site, a site landscape/irrigation plan shall be submitted consistent with the project description. Landscaping shall consist of a mixture native trees, shrubs, and groundcover. Trees shall be planted in natural groupings along Roblar Road, along the access road, and around the parking lot and quarry office. All landscaping shall be automatically irrigated.
- U 117. A Water Conservation Plan shall be submitted for all buildings prior to building permit issuance. The Water Conservation Plan shall include, at a minimum, proposals for low-flow fixtures.
- U/R 118. A Water Conservation Plan shall be submitted for all landscaping prior to building permit issuance, subject to PRMD review and approval. The Water Conservation Plan shall comply with all provisions of the County Landscape Water Efficiency Ordinance as applicable. Verification, from a qualified irrigation specialist, that landscaping complies with the County Landscape Water Efficiency Ordinance shall be provided prior to building permit issuance. The measures in the plan shall be implemented and verified by PRMD staff prior to Certificate of Occupancy.
- U/R 119. Prior to issuance of building permits, an exterior lighting plan shall be submitted for administrative design review. Exterior lighting shall be low mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. All parking lot shall be full cut-off fixtures. Lighting shall shut off automatically after closing and security lighting shall be motion-sensor activated.
- U/R 120. The operator shall submit to the Sonoma County Permit and Resource Management Department financial assurance(s) payable to the County of Sonoma and, in the alternative, the State Department of Conservation, in an amount and format to be reviewed and approved by PRMD and State Department of Conservation - Mines and Geology Division, to assure compliance with the approved Reclamation Plan and conditions thereof for the entire area of the quarry. A valid financial assurance shall be maintained on file until PRMD determines that all reclamation has been successfully carried out in compliance with the reclamation and final conditions. Financial assurance shall renew automatically and shall not expire without 90-days advance written notice being provided to PRMD. A Continuation Certificate or other proof of extended coverage shall be forwarded to PRMD no less than 30 days prior to the expiration date of the financial assurance. PRMD may adjust the amount of the security on an annual basis to account for additional lands disturbed or reclaimed, inflation, or revised cost estimates. The financial assurance shall reference the name of the mining site, the resolution number of the County approval, and PRMD file number.

 The County may pursue redemption of the securities if: 1) the final reclamation does not meet the performance standards, 2) satisfactory progress is not made towards completing the reclamation in a timely manner, or 3) The operator is financially incapable of carrying out the reclamation.
- U 121. The operator shall pay all applicable development and processing fees prior initial grading.
- U/R 122. Within 30 days of approval of the project, the applicant shall submit to PRMD a Condition Compliance Review Fee deposit (amount to be determined consistent with the ordinance

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in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based on hours of staff time worked).

- U/R 123. This "At Cost" entitlement is not vested until all permit processing costs are paid in full. No clearing or mining activities in the expansion area shall be authorized until all permit processing costs are paid in full.
- U/R 124. Mining, and reclamation is subject to Sonoma County Fire Safe Standards and the mining plan shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: 1) emergency vehicle access and turn-around at the site(s), 2) addressing, and 3) water storage for fire fighting and fire break maintenance around all structures. Prior to the commencement of mining, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
- U/R 125. Within five working days after project approval, the applicant shall pay a mandatory Notice of Determination filing fee of \$50.00 (or latest fee in effect at time of payment) for County Clerk processing, and \$1,993.00 (or latest fee in effect at time of payment) because a Negative Declaration was prepared, for a total of \$2,043.00 made payable to Sonoma County Clerk and submitted to PRMD. If the required filing fee is not paid for a project, the project will not be operative, vested, or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code.) NOTE: If the fee is not paid within five days after approval of the project, it will extend time frames for CEQA legal challenges.
- U/R 126. To mitigate the filling or excavating of potentially jurisdictional wetlands within the proposed project area, the project proponent shall:
- Conduct a formal wetland delineation in accordance with 1987 Corps of Engineers Wetlands Delineation Manual and have it verified by the U.S. Army Corps of Engineers (Corps). If the Corps and/or CDFG determine that the potentially affected water-associated features are jurisdictional, then the project proponent shall obtain appropriate wetland permits and implement all conditions contained in the Section 404 Clean Water Act permit (possibly an Nationwide permit) from the Corps, Section 1603 Streambed Alteration Agreement from CDFG, and/or Section 401 water quality certification from the Regional Water Quality Control Board.
 - Compensate for the loss of jurisdictional wetlands at a 2:1 ratio (or as agreed to by the permitting agencies) within the project site boundary, or at a 3:1 ratio (or as agreed to by the permitting agencies) off-site within the local watershed, by creating, restoring or enhancing waters of the U.S., or contributing in-lieu funds to an existing or new restoration project preserved in perpetuity. The restoration effort shall require implementation of a five-year monitoring program with applicable performance standards, including but not limited to establishing: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.
- Mitigation Measure D.1a*
- Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that wetlands have been formally delineated and wetlands are created and/or mitigation fees paid in accordance with resource agency approvals.
- U/R 127. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property. Prior to construction activities, the project applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:

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- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on Figure IV.D-1 to protect these features from all project construction and operation activities;
- Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Mitigation Measure F.4 in Section IV.F, Air Quality);
- Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property (see Mitigation Measure C.5); and
- The project applicant shall maintain the minimum allowed 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code).

Mitigation Measure D.1b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that plans provide the above protection measures.

- U 128. In accordance with Sonoma County Ordinance No. 4014, prior to the start of any clearing, stockpiling, excavation, grading, compaction, paving, change in ground elevation, or construction, the project applicant shall obtain a certified arborist to identify trees proposed for preservation (saved) and trees proposed for removal at the project site on a map. The map shall indicate the size and species of trees proposed for removal and preservation. The project applicant shall save trees identified for preservation on the project site and clearly delineate such trees by constructing short post and plank walls, or other protective fencing material, at the dripline of each tree to hold back fill. The delineation markers shall remain in place for the duration of the work. The placement of the fencing material at the dripline shall be coordinated with a certified arborist.
- Mitigation Measure D.2a*

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that an arborist report is provided showing trees to be removed and preserved and that plans include tree protection fencing at the dripline of trees to be saved that could be impacted by construction.

- U 129. Where proposed development or other site work must encroach upon the dripline of a tree identified to be saved (see Mitigation Measure D.2a, above), special construction techniques will be required to allow the roots of remaining trees within the project site to breathe and obtain water (examples include, but are not limited to, use of hand equipment for tunnels and trenching, installation of protective fencing, allowance of only one pass through a tree's dripline). Tree wells or other techniques may be used where advisable. Permission from, and inspection by, the PRMD will be required prior to backfilling, if applicable. No burning or use of equipment with an open flame shall occur near or within the dripline (except for authorized controlled burns) of a tree identified for preservation. No parking; storage of vehicles, equipment, machinery, stockpiles of excavated soils, or construction materials; or dumping of oils or chemicals shall be allowed within the dripline of preserved trees.
- Mitigation Measure D.2b*

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will review arborist report and tree protection measures to ensure compliance with this condition.

- U 130. In coordination with a landscape architect, certified arborist or qualified biologist, the project proponent shall replace all removed protected trees in accordance with the Sonoma County Tree Protection and Replacement Ordinance No. 4014 and incorporate these trees into the tree replacement, reclamation and erosion control plans. Arboreal

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Value Chart #1 shall be used to determine the number of replaced trees or amount of in-lieu fees.

Mitigation Measure D.2c

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will review arborist report, tree protection measures, and tree replacement/replanting plan to ensure compliance with this condition.

- U/R 131. In coordination with a landscape architect, certified arborist or qualified biologist, the project applicant shall develop and implement a five-year tree monitoring program for all replaced trees. Appropriate performance standards may include, but are not limited to establishing: a 80 percent survival rate of tree plantings and the ability to be self-sustaining at the end of five years. Additional monitoring periods may be required until the trees successfully establish.

Mitigation Measure D.2e

- U 130. The project applicant shall implement measures to minimize and avoid take of California Red-legged Frog (CRLF) that would additionally benefit pond turtles and foothill yellow-legged frog, if present. The following measures are derived from the Programmatic Biological Opinion (PBO) for impacts to California red-legged frog (United States Fish and Wildlife Service (USFWS, 1999)). The applicant shall obtain formal consultation with the USFWS and issuance of a project specific Biological Opinion. The following actions will minimize impacts to these species.

Construction-Related Measures

- "A USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training will include a description of the CRLF and their habitat, and the general measures that are being implemented to protect the CRLF as they relate to the project.
- The mitigation pond shall be created and suitable for receiving relocated CRLF prior to the removal of Center Pond and surrounding upland habitat.
- Following construction of the mitigation pond and no more than 14 days prior to the initiation of grading activities near Center Pond, a USFWS-approved wildlife biologist shall capture all CRLF and other special-status aquatic species and relocate them to the mitigation pond.
- A USFWS-approved biologist shall be present during initial grading activities in and surrounding Center Pond until CRLF have been removed. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.
- During all phases of project operations, all trash that may attract CRLF predators shall be properly contained and removed from the site.
- The fueling and maintenance of vehicles and other equipment shall occur at least 20 meters from any riparian habitat or water body.

Pond Design, Management, and Monitoring

- The project proponent shall coordinate with the USFWS to select a suitable site for a new mitigation stockpond of equal or greater size to Center Pond within the property boundaries. The location and design of the new pond shall conform to guidelines of the USFWS Recovery Plan for CRLF (USFWS, 2002) and shall also include a permanent upland habitat buffer of no less than 250 feet around the pond. The final pond design shall be approved by the USFWS as a requirement of the project

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Biological Opinion. The mitigation pond should be created and functioning prior to the initiation of ground disturbing activities within 250 feet of Center Pond.

- The mitigation pond shall be designed to provide CRLF breeding habitat and shall include areas with deep-water cover for adult, juvenile and metamorphic red-legged frogs and shallow areas to provide for tadpole and juvenile rearing. The pond shall be designed to pool to a depth of between 3 to 4 feet and to maintain at least 1.0 foot of standing water through September 15 during years with average rainfall. To ensure sufficient water is available to support CRLF breeding, a qualified hydrologist shall be consulted to assess the amount of water that will be available at the selected site during dry, average, and wet years. A design plan shall be prepared to include a grading plan and cross-section plan indicating pond depth and dimensions. The basin shall be contoured based on the above design, and lined with clay or a similar impervious substrate to ensure water holding capacity that meets minimum performance standards and specifications.
- The mitigation pond shall be vegetated in accordance with the guidelines set forth in the Red-legged Frog Recovery Plan. Relocated vegetation shall salvage and utilize native emergent and aquatic vegetation from Center Pond whenever possible. Upland habitat surrounding the pond should be seeded with native grassland cover species.
- An adaptive management plan shall be developed for the mitigation pond consistent with the USFWS Recovery Plan for CRLF (USFWS, 2002) and project Biological Opinion. The plan shall include a program to monitor pond performance over time and discourage the presence of non-native vegetation and bullfrogs. During the initial five year monitoring period, annual hydrologic, vegetation and wildlife surveys shall be performed to document ponding conditions, the establishment of aquatic vegetation and to monitor California red-legged frog use of the pond.
- The adaptive management plan shall provide provisions to quantify site conditions relative to performance standards for a period of five years, to include:
 1. Ability to maintain standing water at a depth of at least 1.0 foot within at least 50 percent of the pond area through September 15 during a year with average rainfall.
 2. Presence of CRLF in any life history stage, to be determined by egg mass surveys and focused nighttime surveys for adults and juveniles.
 3. The presence of native emergent or aquatic vegetation covering at least 10 percent of the pond edge.
 4. Absence of persistent, self-sustaining populations of non-native CRLF predators, particularly bullfrogs.

The adaptive management plan shall include contingency measures to respond to inadequate hydrologic conditions (if later identified) and provide for control of non-native vegetation and CRLF predators, if identified in the mitigation pond. If bullfrogs are identified, the preferred management method shall be manual (hand) removal using a gig or other means. This method maintains the availability of aquatic habitat for red-legged frogs and sustains aquatic vegetation. If hand removal of bullfrogs proves ineffective, the pond shall be drained and dried between October 1 and November 15 (following metamorphosis of red-legged frog tadpoles) to break the bullfrog life cycle.

An invasive plant species management plan shall be incorporated into the adaptive management plan to provide for the management and removal of invasive aquatic vegetation, if present. The preferred management method shall be for manual (i.e., non-chemical) removal of invasive species, whenever possible.

Pond management shall continue for the duration of the proposed project, or as required by the Biological Opinion.

Mitigation Measure D.3

Mitigation Monitoring: PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from USFWS for establishment of the mitigation pond, relocation of any red-legged frogs, and an adaptive management plan.

- U 131. Avoid disturbing active nests of raptors and other special-status birds through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase. If site preparation activities (i.e., ground clearing and grading, including removal of trees or shrubs) are scheduled to occur during the non-breeding season (September 1 through January 31), no mitigation is required.

If site preparation activities are scheduled to occur during the breeding season (February 1 through August 31), the following measures shall be implemented to avoid potential adverse effects to nesting raptors and other special-status birds:

- A qualified wildlife biologist shall conduct preconstruction surveys of all potential nesting habitat within 500 feet of construction activities where access is available.
- If active nests are found during preconstruction surveys, a no-disturbance buffer acceptable in size to CDFG shall be created around active raptor nests and nests of other special-status birds during the breeding season or until it is determined that all young have fledged. Typical buffers include 500 feet for raptors and 250 feet for other nesting special-status birds. The size of these buffer zones and types of construction activities restricted in these areas may be further modified through coordination with CDFG and will be based on existing noise and human disturbance levels at each project site. Nests initiated during construction are presumed to be unaffected and no buffer is necessary. The "take" of any individuals is prohibited.
- If preconstruction surveys indicate that nests are inactive or potential habitat is unoccupied during the construction period, no further mitigation is required. Trees and shrubs within the project footprint that have been determined to be unoccupied by special-status birds or that are located outside the no-disturbance buffer for active nests may be removed.

Mitigation D. 4a

Mitigation Monitoring: If site preparation activities are scheduled to occur during the breeding season (February 1 through August 31), PRMD will verify that preconstruction surveys are completed and buffer areas established, as necessary.

- U/R 132. The applicant shall avoid disturbing potential burrowing owl burrows through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase.
- No more than 2 weeks before grading and ground-clearing activities begin prior to each of the three mining phases, a survey for burrowing owls shall be conducted by a qualified biologist within 500 feet of the earthmoving activities. The survey shall conform to the most current protocol described by the California Burrowing Owl Consortium (presently the 1993 protocol). If burrowing owl habitat is identified during the initial survey, a complete owl survey consisting of four site visits shall be performed as detailed in the Consortium guidelines.
 - If occupied owl burrows are found during the surveys, a determination shall be made by a qualified burrowing owl biologist as to whether or not proposed project activities would affect the occupied burrows or disrupt reproductive behavior. If it is determined that the project would not adversely affect occupied burrows or disrupt breeding behavior, project implementation may proceed without any restriction or mitigation measures. If it is determined that the project could adversely affect occupied burrows during the August 31 through February 1 non-breeding season, the subject owls may be passively relocated from the occupied burrow(s) using one-way doors. There shall be at least two unoccupied burrows suitable for

burrowing owls within 300 feet of the occupied burrow before one-way doors are installed. The unoccupied burrows shall be located 160 feet from construction activities and can be natural burrows or artificial burrows constructed according to current design specifications. Artificial burrows shall be in place at least one-week before one-way doors are installed on occupied burrows. One-way doors would be in place for a minimum of 48 hours before burrows are excavated.

- If it is determined that the project would physically affect occupied burrows or disrupt reproductive behavior during the nesting season (February 1 through August 31) then avoidance is the only mitigation available (California Burrowing Owl Consortium 1993; CDFG 1995). Implementation of ground-clearing and grading activities shall be delayed within 250 feet of occupied burrows until it is determined that the subject owls are not nesting or until a qualified biologist determines that juvenile owls are self-sufficient or are no longer using the natal burrow as their primary source of shelter.

Mitigation Measure D.4b

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed for burrowing owl and buffer areas established, as necessary for initial grading and each phase of mining.

- U 133. Avoid and minimize impacts to badgers through preconstruction surveys prior to ground clearing and grading in annual grasslands habitat or areas that are known or suspected to support badger.

Within 30-days prior to initiation of each mining phase, a qualified biologist shall survey for badgers within 100-feet of project activities. If no evidence of badger presence is detected, no further mitigation is required. If evidence of badgers is identified, the following measures are required to avoid potential impacts to this species:

- Use exclusion techniques to passively relocate any badgers that are present in project areas or within 50 feet of project activities. When outside the project area, but within 50 feet of activities, vacated dens shall be temporarily covered using plywood sheets or similar materials.
- To reduce the risk of badger mortality from vehicles, the use of private (non-county operated) haul roads shall be limited to daylight hours during the March to June badger pupping season with gated access.
- A 25 mile-per-hour speed limit shall be posted for roads on the site.

Mitigation Measure D.5

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed for badgers and relocation accomplished, as necessary, for initial grading and each phase of mining.

- U 134. Avoid disturbing active roosts of special-status bats through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase, as well as during project activities related to remodeling and/or renewed use of the existing buildings.

Prior to construction activities (i.e., ground-clearing and grading, including removal of trees or shrubs, building remodeling, renewed building use) within 200 feet of trees or buildings potentially supporting special-status bats, a qualified bat biologist will survey for special-status bats. If no evidence of bats (i.e., direct observation, guano, staining, strong odors) is present, no further mitigation is required.

If evidence of bats in trees on the property is observed, the following measures are required to avoid potential adverse effects special-status bats:

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- A no-disturbance buffer of 100-feet, or other suitable distance determined in coordination with CDFG, will be created around active bat roosts during the breeding season (April 15 through August 15). Bat roosts initiated during construction are presumed to be unaffected, and no buffer is necessary. However, the "take" of individuals is prohibited.
- Removal of trees showing evidence of bat activity will occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 if winter hibernacula are observed or between August 15 and April 15 if maternity roosts are present). If known bat roosting habitat is destroyed during tree removal activities, artificial bat roosts shall be constructed in an undisturbed area of the property, at least 200 feet from any project activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

If evidence of bats in existing buildings on the property is observed, the following measures are required to avoid potential adverse effects special-status bats:

- Prior to any remodeling activities and/or renewed use of existing buildings with observed bat activity, a qualified bat biologist shall review design drawings and use plans for the building(s). The biologist shall then make a determination, in coordination with CDFG, whether the bats would need to be evicted in order to implement the remodeling/new use of the structures, or if the bats would not be affected and should remain in the structure. If eviction is deemed necessary, the bats shall be transferred to an artificial roosting site. The artificial roost shall be constructed in an undisturbed area of the property, at least 200 feet from any project activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

Mitigation Measure D.6

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed, buffer areas established, and relocation of bats occurs, as necessary, prior to tree removal, building modification, initial grading, and each phase of mining.

- U 135. All employees on site shall undergo a cultural resources orientation and awareness training prior to commencing work activities on site. Such training shall include familiarization with the stop work restrictions if buried archaeological remains or artifacts are uncovered. The operator shall provide Permit and Resource Management Department with a verification list of the employees completing the orientation. The training and list shall be updated by the operator as new employees are added.
Mitigation Measure K.1a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD will verify that employee orientation has been provided.

- U/R 136. Prior to the initiation of quarry activities, a qualified paleontologist shall be retained to conduct a preliminary survey and surface salvage in an effort to recover, as is feasible, surface deposits (if present) in their original context. The preliminary survey shall identify and map areas of high-potential rock units, as well as low and undetermined-potential rock-units within the quarry site area-if such distinctions can be established on a micro-topographic scale versus existing geologic surveys of the area. The paleontologist shall focus the field survey in exposures of sensitive stratigraphic units within the quarry site that would be disturbed.
Mitigation Measure K.2b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD will verify that the survey has been conducted in accordance with the above criteria.

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U/R 137. Prior to the initiation of quarry activities, the consulting paleontologist shall both prepare a monitoring and mitigation program and implement the program during the excavation phase at the quarry site and for all other project-related ground disturbance. The paleontologic resource monitoring and mitigation program shall include, but not limited to, as outlined by the Society of Vertebrate Paleontology (1995):

- preconstruction coordination;
- guidelines for excavation monitoring;
- emergency discovery procedures;
- procedures to permit the stabilization of large remains to allow for identification and permanent preservation. This includes stabilization of large remains and screen washing of fossiliferous sediments to recover significant microfossil remains;
- discusses how recovered fossils would be analyzed, including (but not limited to): identification to genus/species, element, etc.; interpretation of species abundance and diversity; determination of sex ratios and the relative abundance of ontogenetic age groups; dating of remains as appropriate; evaluation of potential taphonomic factors; and comparison with other vertebrate faunas from the Sonoma County region.
- Discusses how recovered significant fossils would be preserved and curated, including all associated contextual data, at a Federally recognized, accredited repository with long-term retrievable storage.
- Defines a framework for regularly scheduled reporting on the project.

Mitigation Measure K.2c

Mitigation Monitoring: Prior to grading permit issuance, PRMD will verify that a monitoring and mitigation program is prepared by a paleontologist.

Operational Conditions:

U 138. If any protected tree (as defined in County of Sonoma Ordinance No. 4014) proposed for preservation is damaged or stressed and results in mortality due to mining operations (including changes to shallow groundwater flows), then the project proponent shall replace the protected tree in accordance with the Arboreal Value Chart. If on-site replacement is not feasible, the proponent shall pay in-lieu fees into the County of Sonoma tree replacement fund. Should pruning be required, this will be performed by a certified arborist. No more than 25 percent of a tree's canopy will be removed during the pruning of preserved trees.

Mitigation Measure D.2d

Mitigation Monitoring: PRMD ARM staff will periodically monitor the health of trees affected by quarry development and require replacement as necessary.

U/R 139. The applicant shall utilize PG&E electricity to power the mobile processing plant instead of using diesel-powered generator.

The specific electrical loading and requirements of the proposed project shall be determined by PG&E after the project applicant submits a formal application for electrical service. At that time, PG&E would review the proposed project and identify what additional on- and/or off-site electrical requirements would be needed to deliver electrical service to the site.

Mitigation Measure F.1a

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Mitigation Monitoring: PRMD will verify that electrical service is provided prior to issuance of a building permit for the quarry office.

- U/R 140. The project applicant shall utilize 2007 model engines or newer on-site loaders, dozers, rock trucks, and water truck. The applicant shall provide on annual basis, a written inventory of the model year of on site mobile equipment.

Mitigation Measure F. 1b

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through quarterly inspections and through written documentation provided by the applicant.

- U/R 141. The project applicant shall require that all quarry operator owned off-site-haul trucks and, to the degree feasible, all off-site haul trucks that would be under contract with the quarry operator use 2003 model or newer trucks. The applicant shall provide on annual basis, a written inventory of the model year of haul trucks, including hauliers under contract.

Mitigation Measure F. 1c

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through on site inspections and through written documentation provided by the applicant.

- U/R 142. Implement the following combustion equipment emissions measures:

- Use alternative powered equipment (i.e., hybrid, CNG, biodiesel, electric), where feasible. Feasibility shall be determined by market availability and cost considerations. The applicant shall provide an annual report to PRMD explaining what alternative powered equipment has been brought online and what efforts were made in the previous 12 months to modify the composition of applicant's equipment. Such report shall include information on market availability and cost in sufficient detail for PRMD to determine whether additional equipment can feasibly be brought online;
- Use equipment which uses add-on control devices, such as diesel oxidation catalysts, as required by CARB's In-Use Off-Road Diesel Vehicle Regulation and On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation;
- Limit the hours of operation of heavy duty equipment where feasible;
- The project applicant shall keep all equipment well-tuned and regularly serviced to minimize exhaust emissions, and shall establish a regular and frequent check-up and service/maintenance program for all operating equipment at the quarry; and
- Minimize idling time of diesel powered equipment to five minutes, as required by regulation, or less where feasible.

Mitigation Measure F. 1e

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through on site inspections and through written documentation provided by the applicant.

- U/R 143. The applicant shall use commercially feasible efforts to pursue an offsite mitigation program to achieve contemporaneous emission reductions from sources off-site. Such efforts shall include pursuit of State, Bay Area, and grant funds (e.g., the Carl Moyer Fund, Transportation Fund for Clean Air, etc.) for improved trucks and retrofits such as diesel particulate filters for use in reducing emission sources within the vicinity of the project, such as school bus conversion. Such efforts shall also include incentives to vendees to induce them to achieve greater air quality efficiencies. Applicant shall submit an annual report to PRMD detailing the efforts made during the previous 12 months to achieve off-site mitigation.

Mitigation Measure F. 1f

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Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through an annual report provided by the applicant.

- U/R 144. A comprehensive dust control program shall be implemented by project applicant that would include the quarry's proposed dust control measures to maintain minimal fugitive dust impacts from the project.

Elements of the dust control program (especially during the dry season) for project components include, but are not necessarily limited to, the following:

- Water all active unpaved vehicle circulation areas daily, using reclaimed water whenever possible. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency whenever wind speeds exceed 15 miles per hour during dry conditions.
- Suspend excavation activity when winds (instantaneous gusts) exceed 25 miles per hour during dry conditions.
- Cover all quarry-operated trucks hauling soil, sand, and other loose materials, or require all quarry-operated trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer) or CHP standards.
- Sweep paved roadways (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- Hydroseed or apply soil stabilizers to inactive exposed soil areas (as presented in the quarry's reclamation and water quality control plan).
- Exposed soil stockpiles shall be enclosed, covered, watered daily or treated with a (non-toxic) soil stabilizer.
- Limit traffic speeds on unpaved roads and circulation areas to 15 miles per hour.
- Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. The operator shall have at least one employee who is a certified visual emissions evaluator.
- Install wheel washers or other washing method (e.g., water sprayers or use of a water depression crossing) so that that tires or tracks of all exiting trucks leaving the site are cleaned of dirt and gravel to minimize tracking these materials onto public roads.
- Conduct blasting activities by using water injection when drilling to control drilling dust, using sequential delay timing schemes to generate effective rock fragmentation and vibration control to minimize blasting dust, remove loose overburden to prevent dilution of mined rock, which lessens the amount of fine material that can become airborne by blasting, and as needed, during dry summer periods, water onto blast areas to further mitigate dust.
- Ensure covers over the quarry's crushers (e.g., baghouses or sheds) are in place to minimize fugitive dust during crushing operations. With certain equipment, the use of water or foam spray may be the most effective method to be used, as determined in consultation with the Air District.
- The applicant shall retain a qualified meteorological consultant to design and implement a wind monitoring program at the quarry site during project construction and operations. The monitoring program shall be limited to providing wind speed and direction information sufficient to implement these specific dust mitigation measures. The meteorological consultant shall conduct an initial field

meteorological study to select the equipment and establish onsite locations for wind speed monitoring; the meteorological consultant shall use that information to develop an operating plan for the on-going meteorological monitoring program. The meteorological consultant shall prepare a design and operating plan for the meteorological monitoring (subject to the approval of the County). The meteorological consultant shall supervise the long-term operation of the meteorological monitoring program, regularly preparing and submitting to the County a report summarizing the results of the wind monitoring program. (For the first year, quarterly reports shall be required; yearly meteorological monitoring reports may be more appropriate after the first year's experience.) The long-term meteorological monitoring program shall be reviewed periodically by the meteorological consultant and, subject to the approval of the County, adjustments made to reflect the experience and understanding of wind conditions and the related experience with dust generation and control at the quarry.

The meteorological monitoring plan shall include the basic elements in Attachment AQ-1, General Meteorological Monitoring Guidelines for Roblar Road Quarry, which generally discusses aspects of a well-designed and -operated meteorological monitoring system. These elements include use of suitable equipment, proper instrument siting and maintenance practices, electronic data recording and preservation, periodic quality control audits of the station equipment and operating practices, and frequent review of the resulting data. The meteorological consultant shall consider each element in developing a plan that addresses plan objectives.

On-going wind monitoring shall be conducted at the project site during the quarry construction and long-term operation, especially during any dry periods of the year when winds are anticipated to exceed 15 mph at the quarry. As part of the wind monitoring program, suitable anemometry shall be employed to regularly monitor winds at locations within the project site subject to fugitive dust, including quarry slopes being actively mined, stockpiles, unpaved travel paths being used for mobile equipment, and where processing operations are occurring. The wind monitoring shall measure and report, at a minimum, average wind speeds and wind gust speeds during the operating hours of the quarry. The measurement intervals for average wind speed (initially anticipated to be one- or two-minute measurements that are made up of 60 consecutive 1- or 2-second samples, taken once every 15-minutes) and wind gust duration (initially anticipated to be a five- to ten-second gust, extracted as the highest 5 consecutive samples among the 60 samples that make up an average wind speed reading) shall be reviewed and modified, as appropriate, by the meteorological consultant as a part of the development of an operating plan for the on-going meteorological monitoring.

All applicable electronic and manually measured wind data shall be time-stamped and recorded, so that it can be cross-referenced or linked to time-stamped entries in a (manual or electronic) log book that describe the specific dust control measures or changes in operations made in response to attaining the identified wind speed criteria.

- If, based on the wind monitoring, wind speeds at an active quarry area are found to exceed 15 miles per hour, watering frequency shall be increased and/or other appropriate dust control methods of equal or better effectiveness shall be implemented within the area of effect. Quarry personnel shall put into action and shall document the specific dust control measures or changes in operations that were implemented when the identified 15 miles per hour wind speed was exceeded. These measures shall continue until wind speeds decrease to less than 15 miles per hour, as recorded on two successive regular measurements.
- If wind gusts during quarry operations are determined to exceed 25 miles per hour at any active quarry area of the quarry and those quarry operations generate any visible dust, that dust-generating activity in the area of effect shall be suspended until such time wind gust speeds in that area clearly subside. Quarry

personnel shall put into action and document the change in operations that were implemented when the identified 25 miles per hour wind speed was exceeded. These measures shall continue until wind gust speeds decrease to less than 25 miles per hour, as recorded on two successive regular measurements.

- Automated dust control systems shall be used (e.g. automated sprinkler systems) to maintain proper surface moisture in the stockpiles before sufficient vegetative cover in the stockpiles has been established.
 - If determined to be needed by the meteorological consultant, the applicant shall plant native evergreen trees along the perimeter of the quarry footprint to further minimize wind from entering the active quarry area. (This would be in addition to the trees already proposed to be planted in the vicinity of the proposed office, equipment storage area and parking lot, and along the proposed access road.) The specific tree type, location, and number of rows and spacing of trees shall be determined by the meteorological consultant.
 - The quarry's dust control monitor shall provide nearby landowners (within a radius of potential effect as determined by the meteorological consultant) with a contact phone number for the quarry's dust control monitor for off-site dust complaints that may arise associated with the quarry. The dust control monitor shall determine the cause of the complaint and ensure that measures are implemented to correct the problem.
- Mitigation Measure F.4:

Mitigation Monitoring: PRMD will review the applicant's comprehensive dust control and meteorological monitoring program to insure it includes the above measures. PRMD will review the applicant wind monitoring data documenting the changes in dust control measures that were implemented when winds exceeded 15 mph and changes in operations that were implemented when winds exceeded 25 mph.

- U 145. Prior to the issuance of a building permit for the quarry office the plans shall be reviewed by Department of Emergency Services and the Gold Ridge Fire Department, as necessary to ensure compliance with Fire Safe Standards.
Mitigation Measure J.1

Mitigation Monitoring: PRMD will verify that the building plans are reviewed for compliance with Fire Safe Standards.

- U 146. During quarry operations, particularly initial grading and on-going clearing operations, should any undiscovered evidence of archaeological materials be encountered, work at the place of discovery shall be halted, and a qualified archaeologist shall be consulted to assess the significance of the finds. Prompt evaluations could then be made regarding the finds, and management plan consistent with CEQA and Sonoma County cultural resources management requirements could be adopted. This mitigation shall appear as a note on the grading plans.
Mitigation Measure K.1b

Mitigation Monitoring: PRMD will coordinate with the qualified archaeologist and ensure that work is halted if archaeological resources are uncovered.

- U/R 147. If prehistoric Native American burials are encountered, a qualified archaeologist, the Sonoma County Coroner, the California Native American Heritage Commission and local Native American Heritage Commission shall be consulted in accordance with established requirements.
Mitigation Measure K.1c

Mitigation Monitoring: PRMD will coordinate with the qualified archaeologist, the Sonoma County Coroner, the California Native American Heritage Commission and local Native American Heritage Commission should Native American burials be discovered uncovered.

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- U/R 148. Prior to the start of construction, construction personnel involved with earth-moving activities will be informed on the appearance of fossils and the proper notification procedures. This worker training will be prepared and presented by a qualified paleontologist.
Mitigation Measure K.2a
- Mitigation Monitoring: PRMD will monitor the mitigation by requiring the operator to submit to PRMD a written list of the employees and the date of their participation in the required training sessions prior to authorizing clearing or mining and periodically when new employees are hired.
- U/R 149. Earth-moving quarry activities shall be monitored by the mining personnel under the direction of the project paleontologist where this activity will disturb previously undisturbed sediment. Monitoring will not be conducted in areas where exposed sediment will be buried, but not otherwise disturbed. If high-potential and undetermined-potential areas within the quarry can be distinguished, full-time monitoring shall take place in rock units that have high paleontologic sensitivity, e.g. Wilson Grove Formation, while units of undetermined sensitivity shall be spot-checked monitored. In lieu of any rock-unit distinction on the site, the frequency and duration of the monitoring conducted shall be under the discretion of the project paleontologist.
Mitigation Measure K.2d
- Mitigation Monitoring: PRMD staff will coordinate with the qualified paleontologist and ensure that a monitoring plan is developed in accordance with the above condition.
- U/R 150. Significant fossils discovered shall be salvaged. Salvage would include recovery of exposed significant paleontologic resources, removal and/or molding of exposed trackways and sampling where necessary to recover microfossil remains.
Mitigation Measure K.2e;
- Mitigation Monitoring: If fossils are discovered, PRMD ARM staff will coordinate with the qualified paleontologist to ensure that they are salvaged in accordance with the above condition.
- U/R 151. Upon completion of a 50% threshold of quarry excavation, as determined by Roblar Quarry managers, the project paleontologist shall prepare a progress report including a summary of the field and laboratory methods, site geology and stratigraphy, faunal list, and a brief statement of significance and relationship of the site to similar fossil localities. A similar final report shall be prepared at the 100% threshold of quarry excavation. These reports shall be distributed to the appropriate lead and cooperating agencies and any relevant scholarly publications.
Mitigation Measure K.2f;
- Mitigation Monitoring: PRMD ARM staff will verify that a progress report and a final report are submitted as required.
- U/R 152. This Use Permit allows mining/rock extraction, processing, rock crushing, screening and stockpiling, and concrete/asphalt recycling supported by an office, a scale, and on-site fueling/shop operations, with up to 10 employees on APN 028-080-009 as described in the Roblar Road surface mining Draft EIR dated May 2008, as modified by these conditions. In no case shall the amount of material sold or exported in any one year from the entire quarry operation exceed the 570,000 cubic yard limit, including recycled materials, unless a modification to this Use Permit is first obtained.

Permitted hours of operation are 7:00 a.m. to 5:00 p.m. weekdays and 7:00 a.m. to 4:00 p.m. on Saturdays. Extended evening hours (until 10:00 p.m.) as needed, consistent with the County Surface Mining and Reclamation Ordinance (SMARO) and the Aggregate Resources Mining (ARM) plan may be permitted with prior written County authorization. Blasting shall be limited to day time hours from 10:00 a.m. to 4:00 p.m., Monday through

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Friday. There shall be no clearing or mining operations on Sundays or federal holidays. The approved mining area shall not encroach within 25 feet of the boundary of the Mineral Resources Zoning District. The boundaries of the approved mining area shall be surveyed and staked prior to the commencement of clearing or mining in the expansion area.

As a condition of exercising this Use Permit, the applicant agrees that for as long as the Use Permit remains in effect, all conditions set forth herein shall be applicable to both mining and processing within the parcel APN 028-080-009.

U/R 153. The operator and subsequent owners or operators of the above-referenced project shall complete mining and reclamation activities in accordance with the Roblar Road surface mining application materials and Reclamation Plan dated September 2009 as revised by these Conditions of Approval and subject to the revised Reclamation Plan requirements herein. Owners shall maintain the site in perpetuity in accordance with the Reclamation Plan, including but not limited to the drainage improvements, slopes and vegetation. Prior to the lease, sale or other conveyance of any portion of the real property subject to this approval, the owner shall provide a copy of the Use Permit and Reclamation Plan approval along with this exhibit to the prospective lessee, buyer or other recipient of such conveyance. The County has the power to modify or revoke a permit, entitlement, or project approval if the conditions are not met. The mining operator must also notify the State Division of Mines and Geology and PRMD of any changes in ownership/operator and a new performance bond may be required.

U/R 154. When mining encroaches within 200 feet of any property line, the approved top of final reclamation slope in that area shall be clearly marked in the field by brightly colored stakes projecting at least 4 feet above ground level spaced every 200 feet. When mining encroaches within 100 feet of the approved toe of final reclamation slope in any area, the toe shall be clearly marked in the field by brightly colored stakes projecting at least 4 feet above ground level spaced every 200 feet. The operator shall be responsible for submitting a site plan or aerial photograph showing the extent of existing mining in relationship to all property lines if requested by PRMD to verify the need for, or location of, the required stakes.

U/R 155. Payment of ARM Plan Fees for Monitoring, Administration, and Other Mitigation:

The operator shall contribute to ARM Plan Monitoring and Administration funds established by the County pursuant to the ARM Plan and shall otherwise mitigate identified impacts as follows:

Inspection Enforcement and Monitoring Fees:

Annual inspection, enforcement and monitoring fees shall be paid by the operator in order to cover all actual costs incurred by the County for the inspection, monitoring, and enforcement of the applicable Use Permit and reclamation plan conditions in accordance with the ARM Plan. Where the monitoring service of a qualified professional is required by the Mitigation Monitoring Program, additional monitoring fees may be levied on the operator to cover such costs. *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff shall be responsible for determining compliance with this condition. PRMD staff shall also be responsible for billing the operator for all monitoring work done in compliance with ARM Plan and County ordinance requirements. Violations of the condition may result in proceedings to revoke the Use Permit for mining.

U/R 156. The Use Permit and Reclamation Plan shall be subject to the provisions of the 1994 ARM Plan, Chapter 26A of the Sonoma County Code, and other County ordinances, local, state and federal regulations, rules, orders and requirements regulating surface mining and reclamation in existence or hereafter adopted pursuant to the 1994 ARM Plan.

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- R 157. The operator shall notify PRMD in writing at least fifteen (15) days before the conclusion of each phase of reclamation to request a site inspection. *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff shall inspect the site periodically in accordance with the inspection, enforcement, monitoring, and mitigation program of the ARM Plan and also within thirty (30) days of receiving the operator's notification of completion of each phase of reclamation. A written inspection report on each site visit shall be placed in the project file, which shall be used to determine the official start date of reclamation effort time frames for each area as established in these Conditions of Approval.

- U/R 158. To the extent required by applicable law, the operator and all successors in interest shall obtain any and all permits or approvals required by other agencies having jurisdiction over the project and shall provide copies of same to PRMD. This permit is subject to the conditions of said permits and any violation of other such permits shall constitute a violation of this Use Permit. If there are conflicts between the conditions of any permits, the more restrictive shall apply. PRMD Project Review staff will work with the agencies and the operator to help achieve solutions. A modification to this Use Permit may be required. Such agencies may include, but are not limited to:

- a) Sonoma County Water Agency
- b) Sonoma County Department of Health Services
- c) Bay Area Air Quality Management District
- d) California Department of Fish and Game
- e) California Water Resources Control Board
- f) North Coast Regional Water Quality Control Board
- g) Army Corps of Engineers
- h) U.S. Fish and Wildlife Service
- i) U.S. Environmental Protection Agency
- j) California Department of Transportation (Caltrans)
- k) NOAA Fisheries

- U/R 159. Grading of slopes, replacement of soil, and replanting shall be completed concurrently with mining activities where possible rather than be delayed until after the completion of all mining. In no case shall the planting of vegetation and final reclamation of slopes last more than two years past cessation of mining in that area unless weather or other conditions beyond the control of the operator make performance within this time period unreasonable. To ensure accurate monitoring of this condition, the operator shall be responsible for submitting a site plan or aerial photograph by October 1st of every second year (after mining in the expansion area has begun) that clearly depicts the total extent of the mining and reclamation areas on the property. Failure to comply with this condition shall require the immediate cessation of all mining, processing, and sales of material (reclamation work may continue). *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff review the reports and will periodically monitor compliance with the condition during ongoing quarterly field inspections and will respond to all complaints. All inspection reports will be placed in the project file.

- U/R 160. The operator shall continue to provide the California Department of Conservation and PRMD, in the manner specified by said agencies, annual reports on mining and

reclamation activities on the site until the project is completed and the site is taken off the state's mining list. *ARM PEIR*

Mitigation Monitoring: PRMD will review reports for compliance with permit requirements and make available to the public.

- U/R 161. The operator shall require all truck drivers using the quarry to utilize the designated haul route and avoid the use of Roblar Road, east of the project site and Pepper Road, east of Mecham Road.
- U/R 162. The operator shall require all rock haulers to participate in a truck driver education/safety orientation which familiarizes them with speed limit zones, school bus stops, weight and load height limits, and established procedures to reduce public conflicts and ensure traffic safety. Truck drivers shall be informed that Roblar Road, east of the quarry and Pepper Road, east of Mecham Road are not approved haul routes, and therefore shall not be used. A list of employees and independent haulers undergoing the orientation shall be submitted to PRMD on an annual basis.
- U/R 163. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Planning Commission, as appropriate. Such changes may require a new or modified Use Permit and additional environmental review.

The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The operator must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. The Director of PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by the Director of PRMD are limited to those items that were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from the Director, and shall not affect the original permit approval date or the term for expiration of the permit.

- U/R 164. This permit shall be subject to revocation or modification by the Planning Commission if: (a) the Commission finds that there has been a violation or noncompliance with any of the conditions, (b) the use for which this permit is hereby granted constitutes a nuisance, or (c) the Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use, recognizing that the project as approved may result in some unavoidable environmental impacts. Any such revocation shall be preceded by a public hearing pursuant to Section 26-92-120, except that the Planning Commission shall be the hearing body, and noticed pursuant to 26-92-140 of the Sonoma County Code.
- U/R 165. The applicant shall notify PRMD in writing 30 days before implementation/activation of the use permit. Implementation/activation of the use permit shall consist of mining or clearing on the mining parcel or implementation of major conditions of approval as determined by PRMD. If the Use Permit has not been implemented/activated within five (5) years after the date of the granting thereof, the permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the five year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code. This Use Permit shall expire when the mining area and Access Roads 1 and 2 have been reclaimed as approved by PRMD, or 20 years from the date of permit implementation/activation, whichever occurs first. Upon the completion of mining, all processing equipment used for mining and other materials, equipment and vehicles shall be removed from the site so that reclamation can be completed.



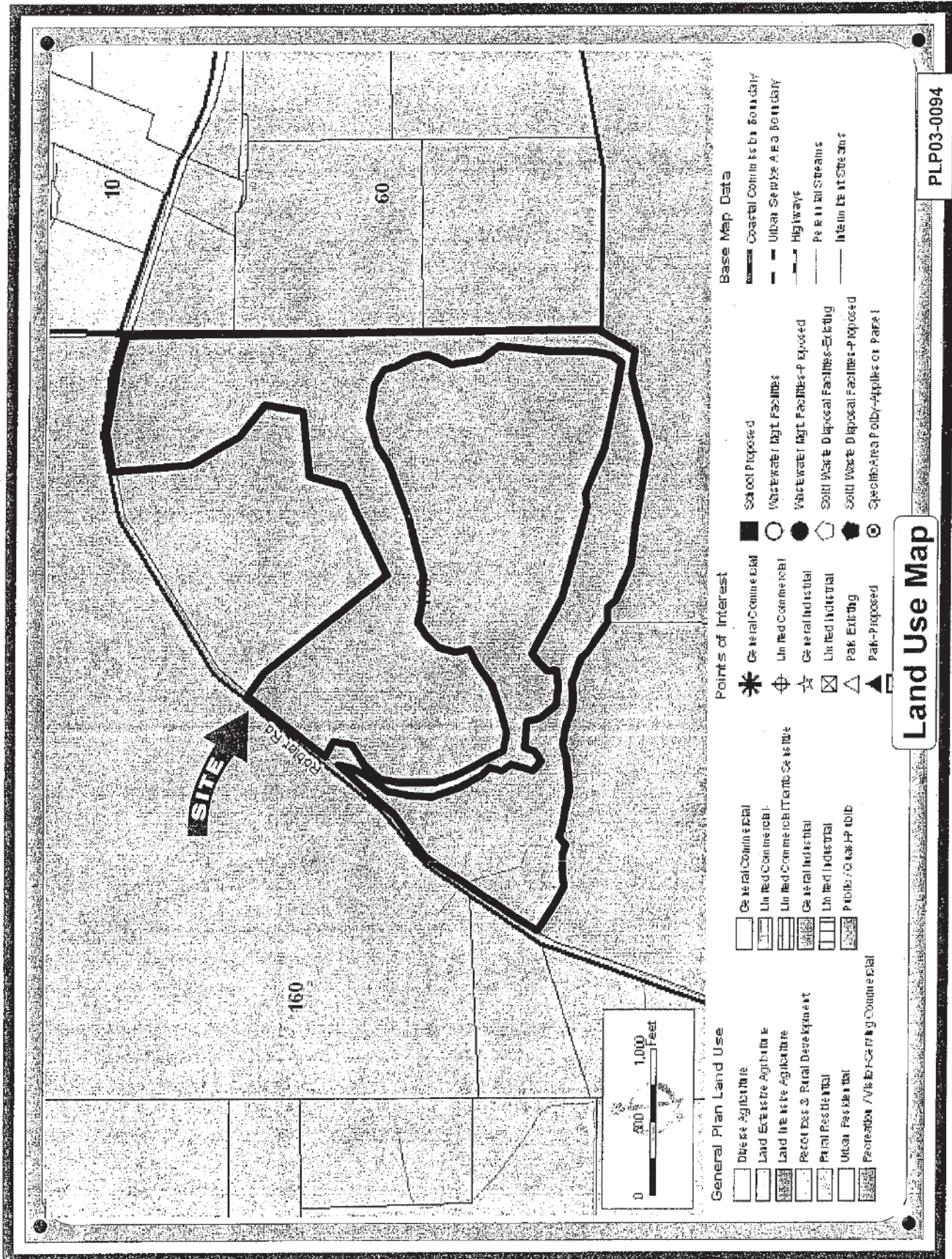


EXHIBIT C



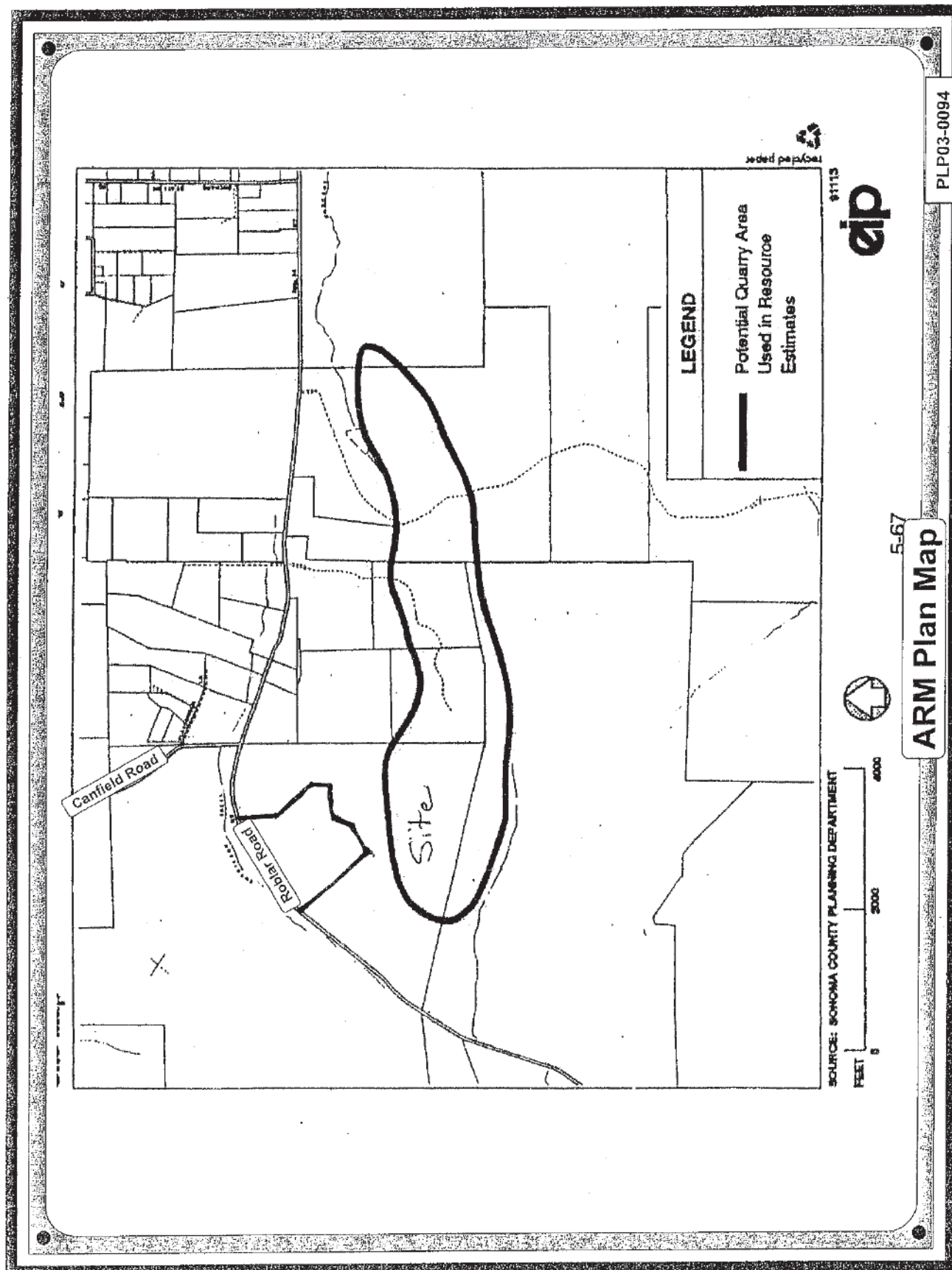
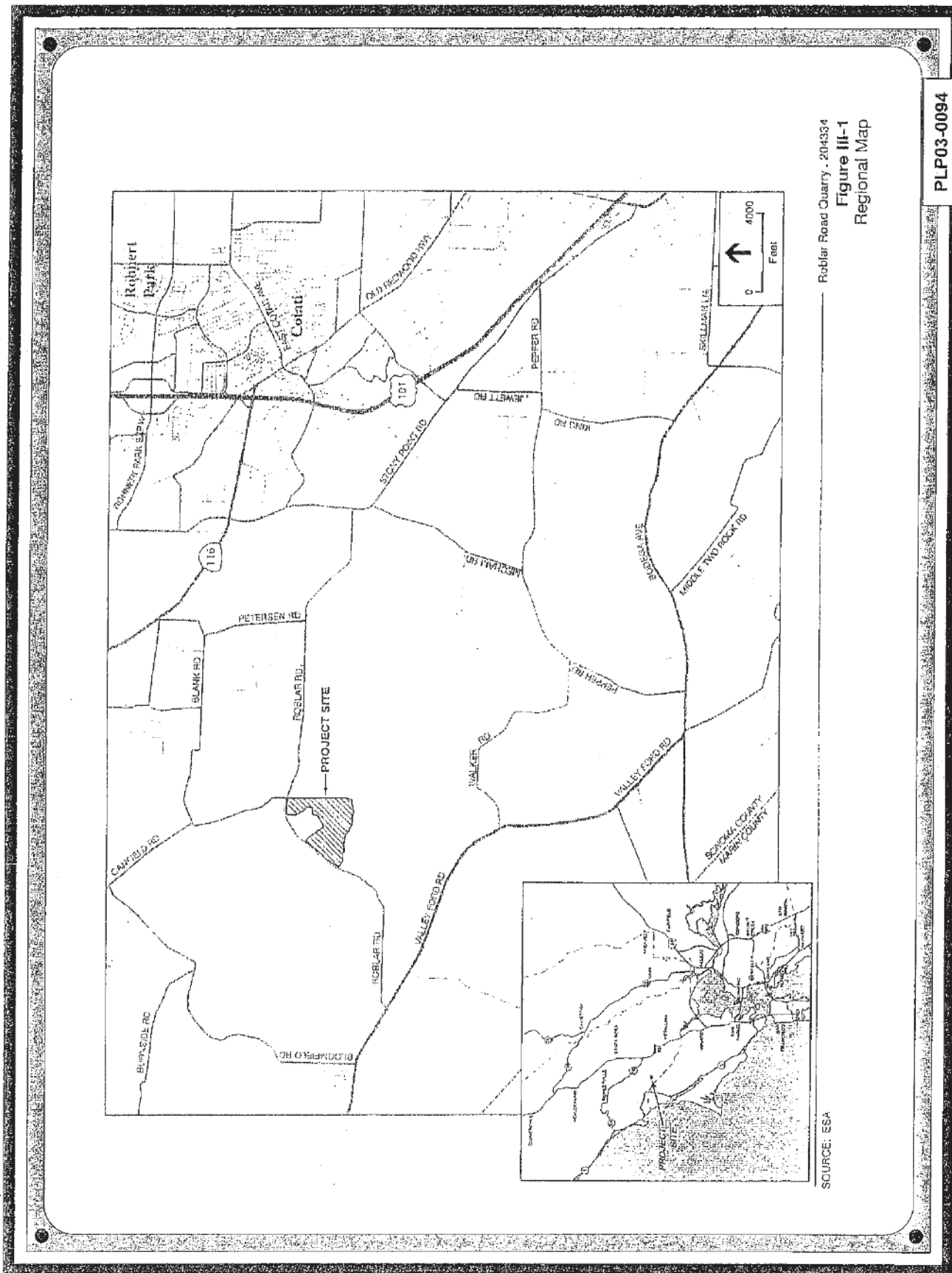


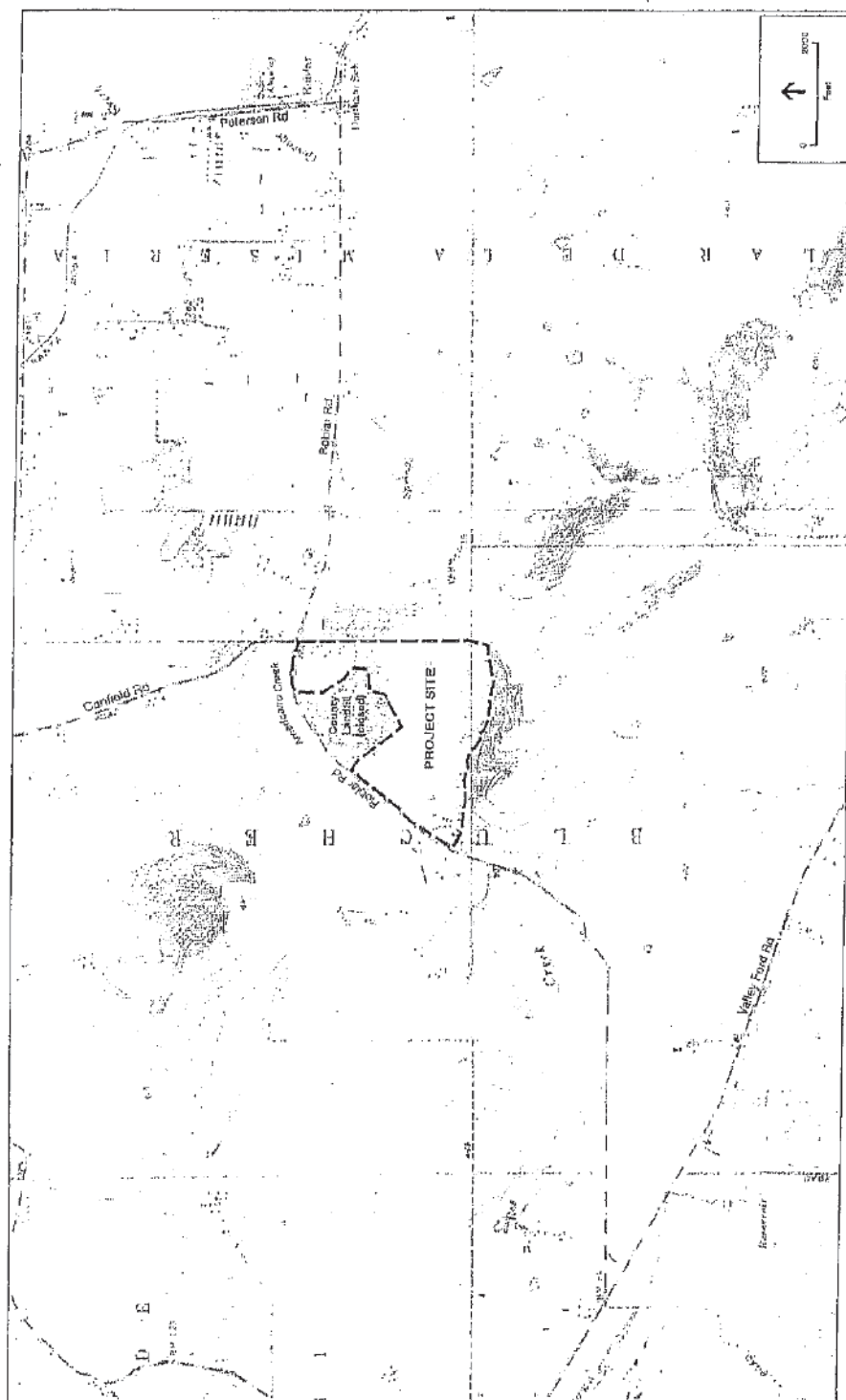
EXHIBIT E



Roblar Road Quarry - 204334
Figure III-1
 Regional Map

PLP03-0094

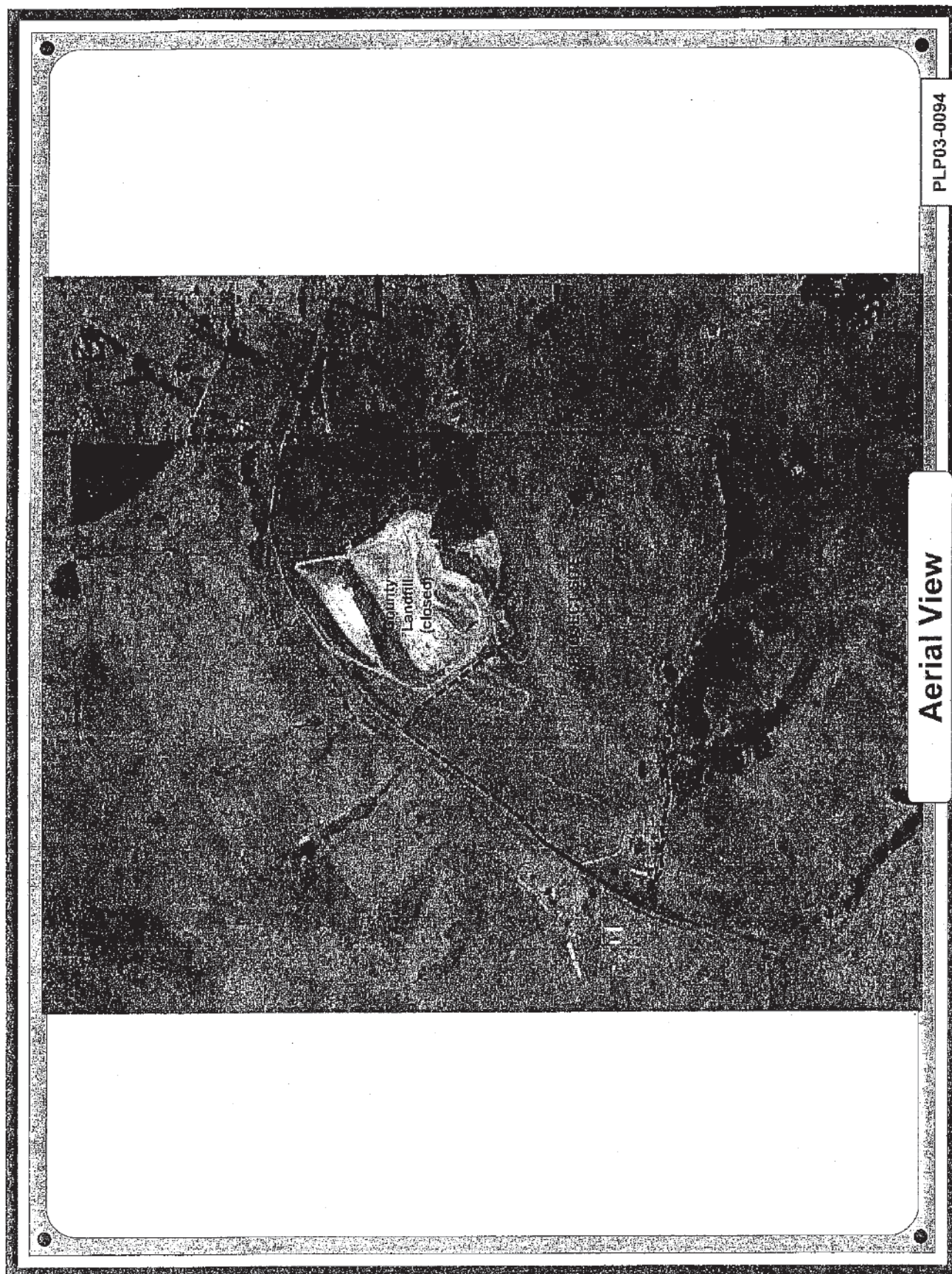
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Roblar Road Quarry - 204394

Figure III-2
Site Location Map

SOURCE: USGS



Aerial View

PLP03-0094

EXHIBIT H

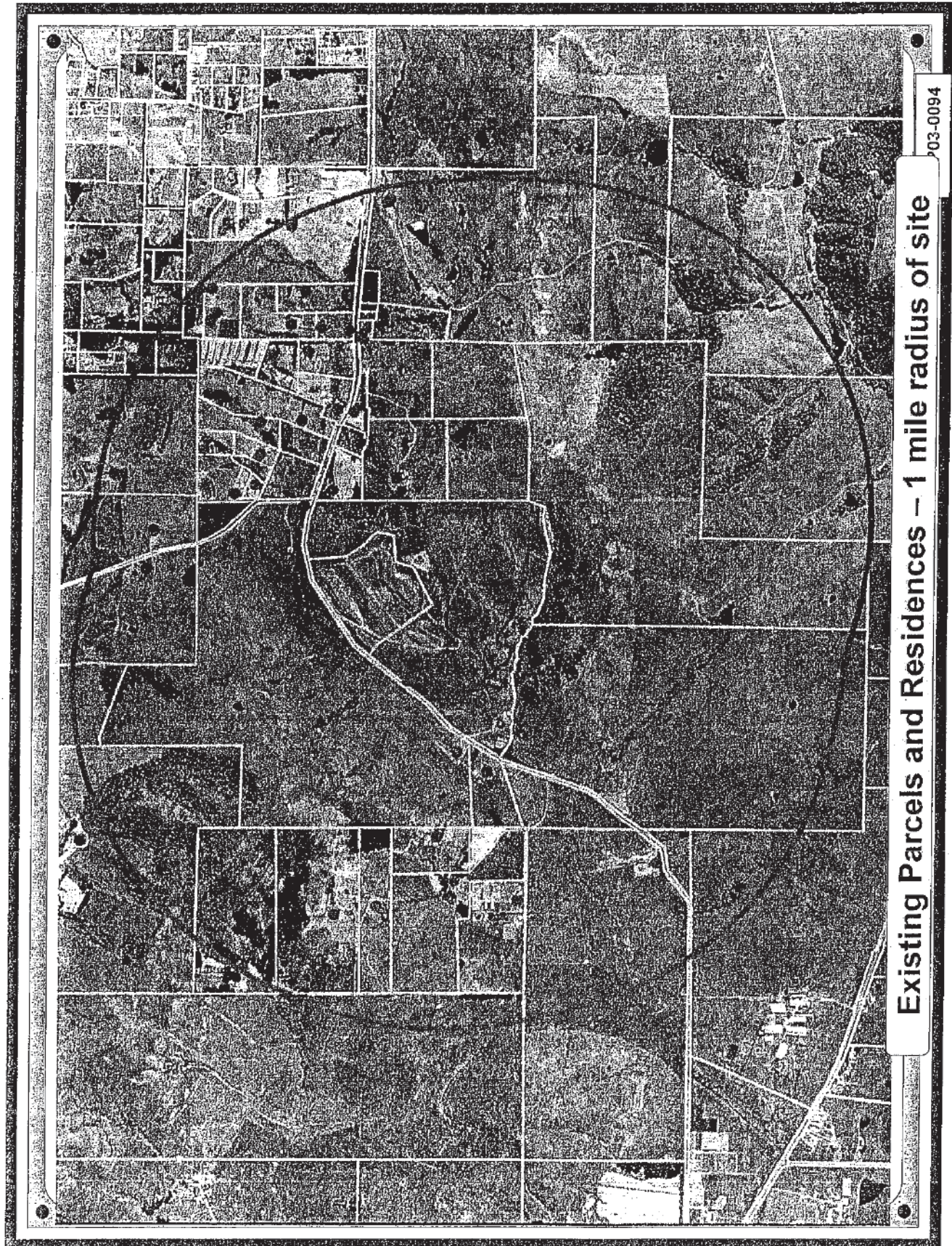
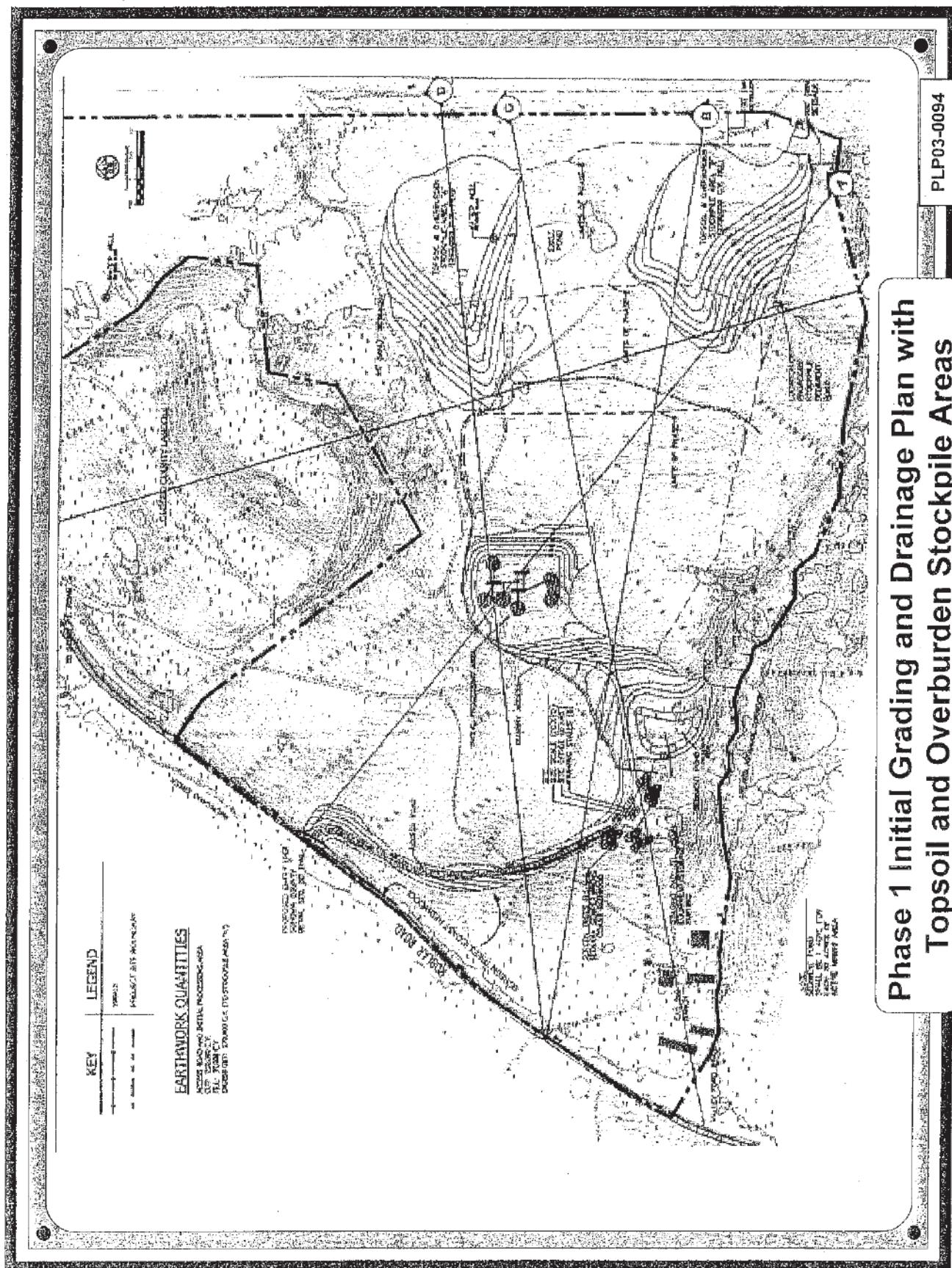
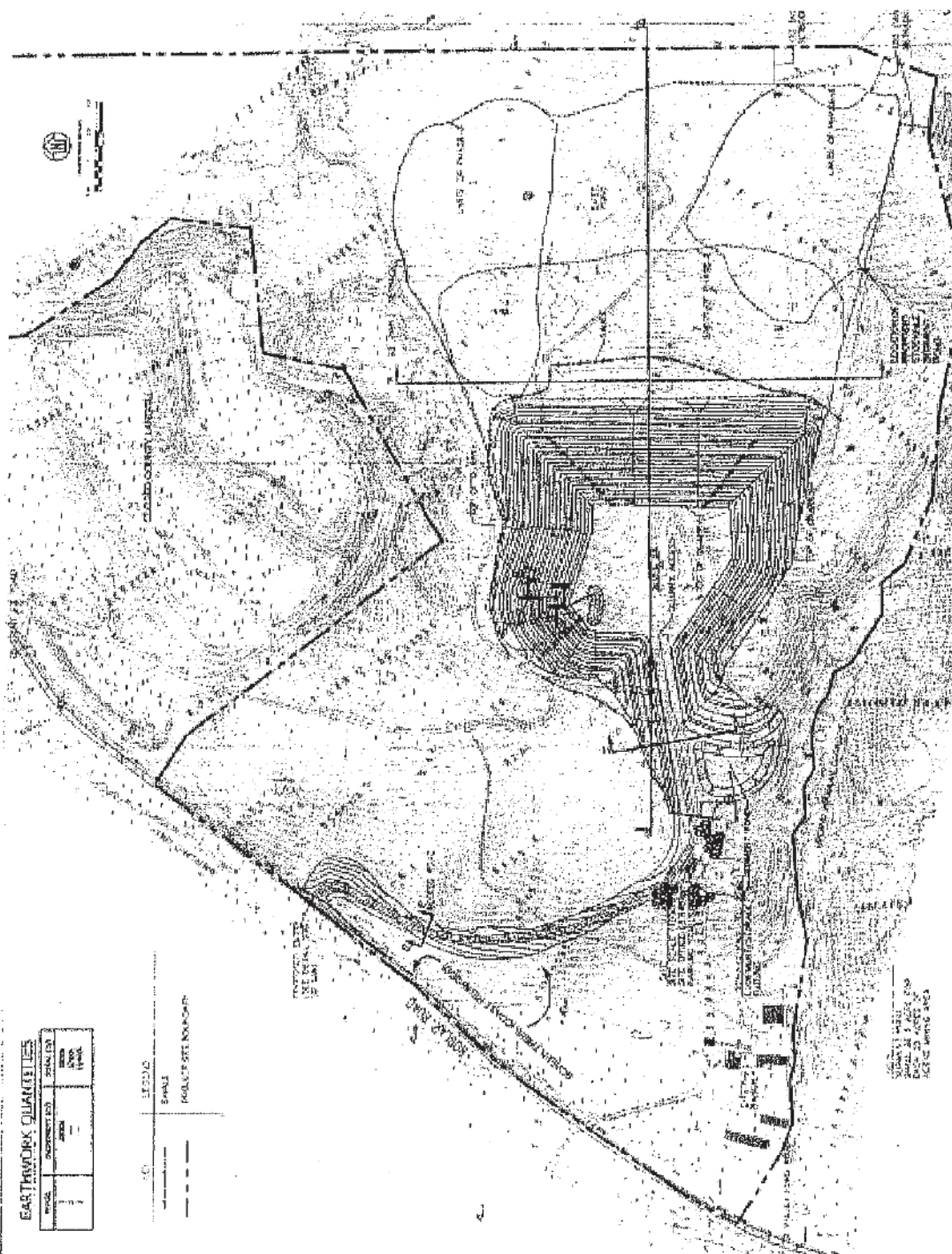


EXHIBIT I



PLP03-0094

Phase 1 Grading and Drainage Plan



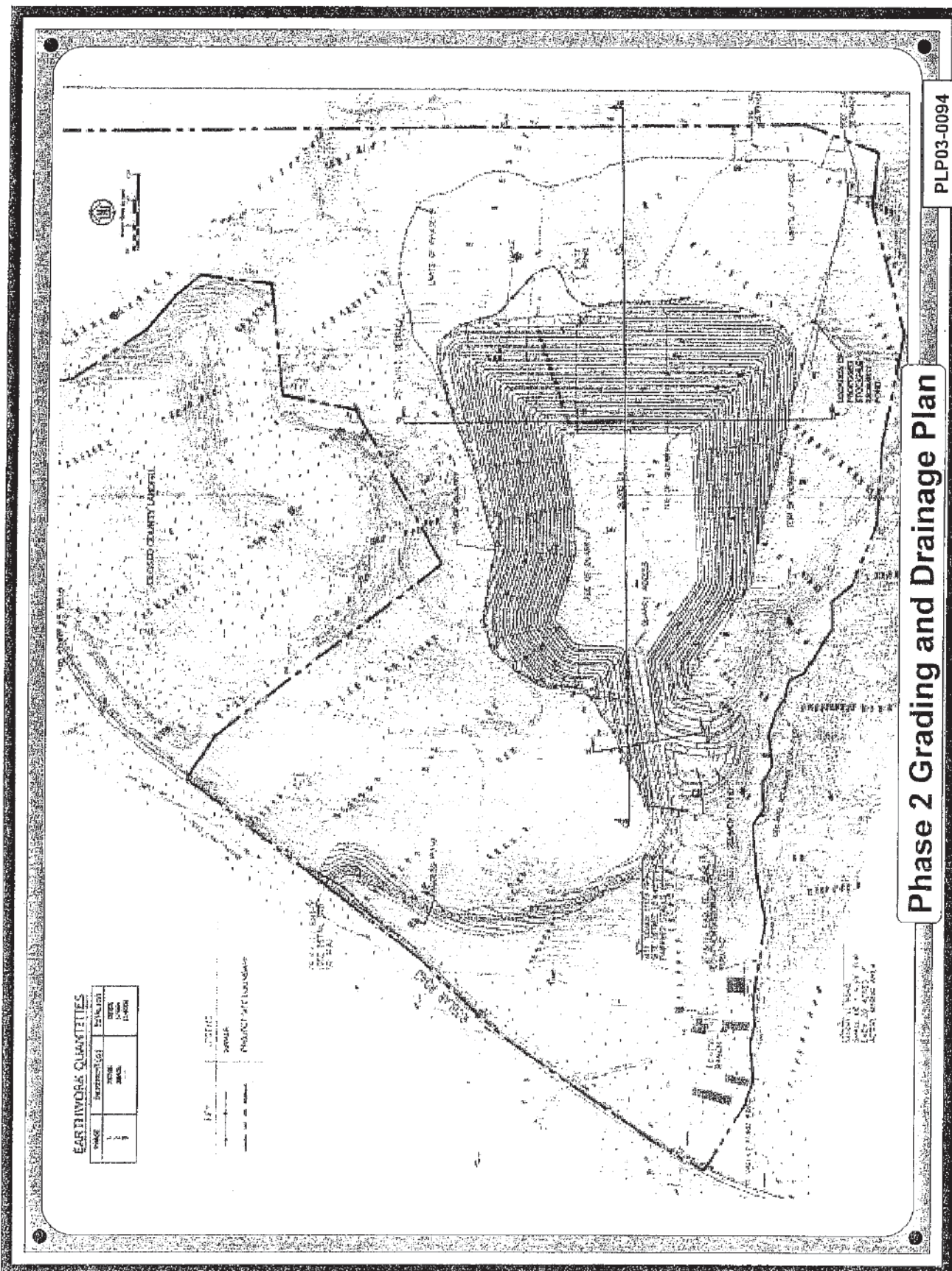
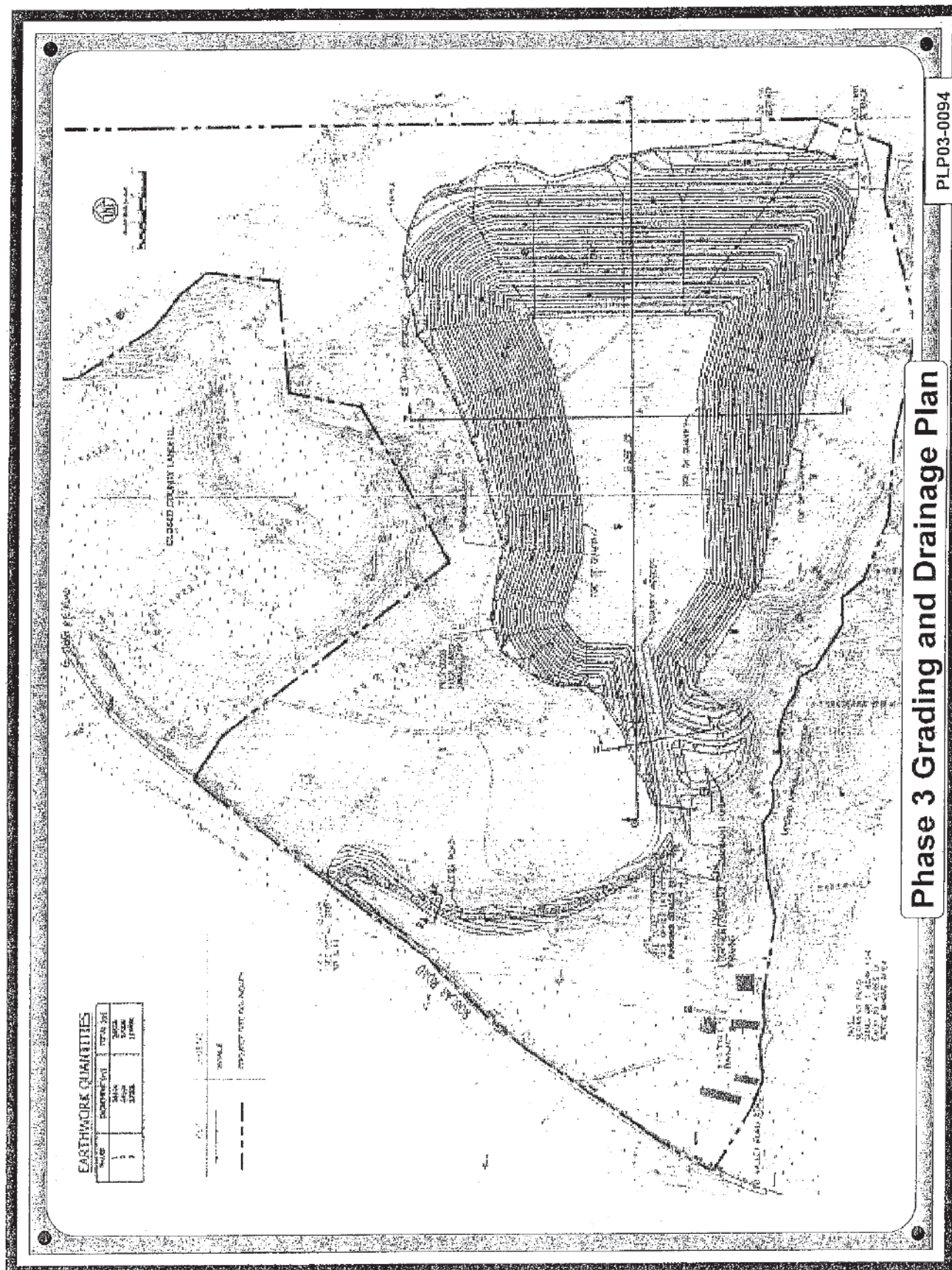
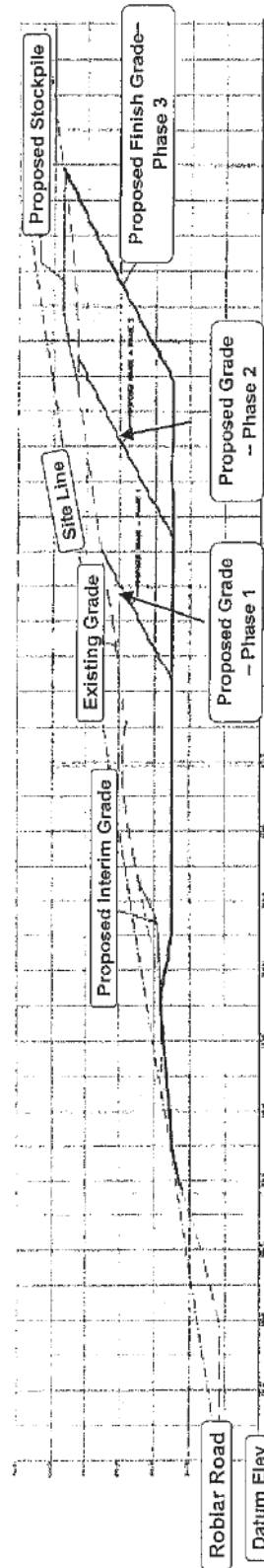
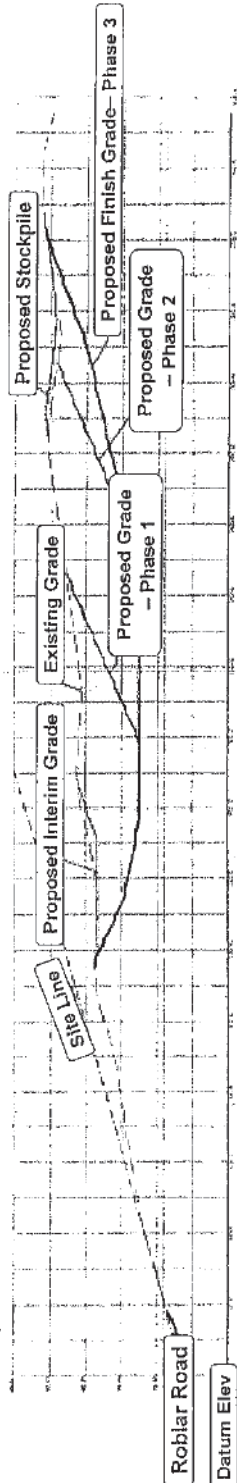


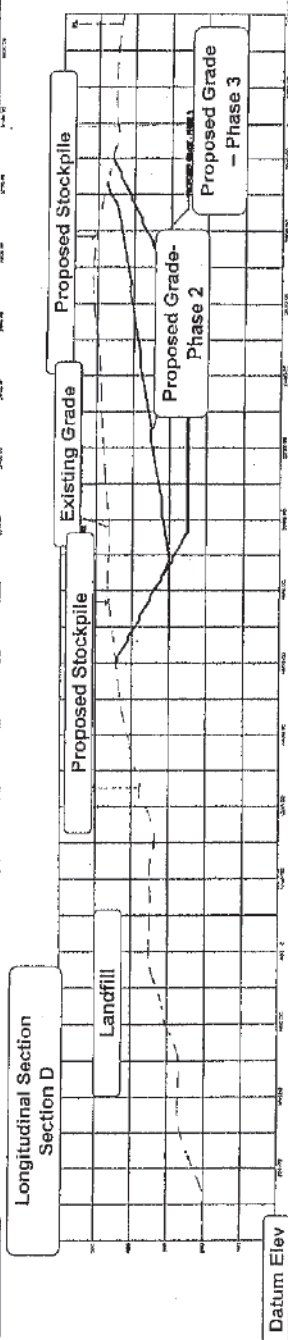
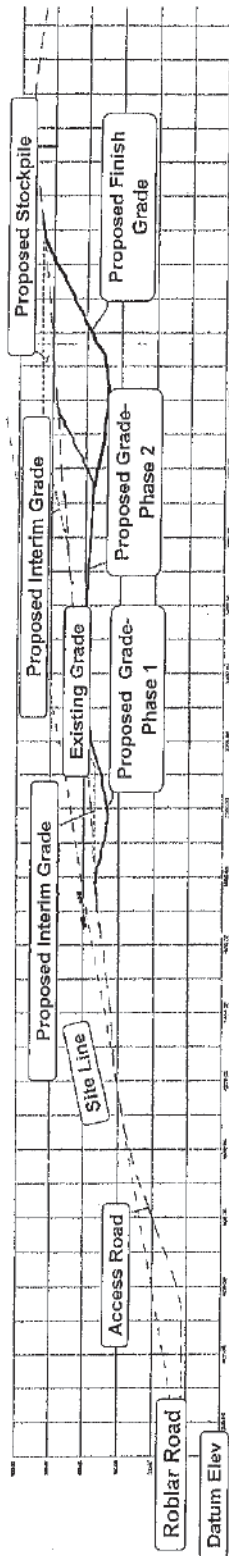
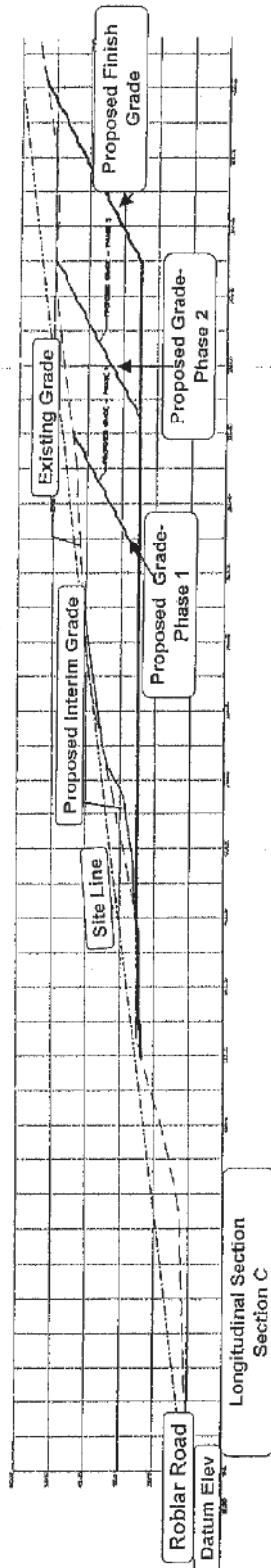
EXHIBIT L



PLP03-0094



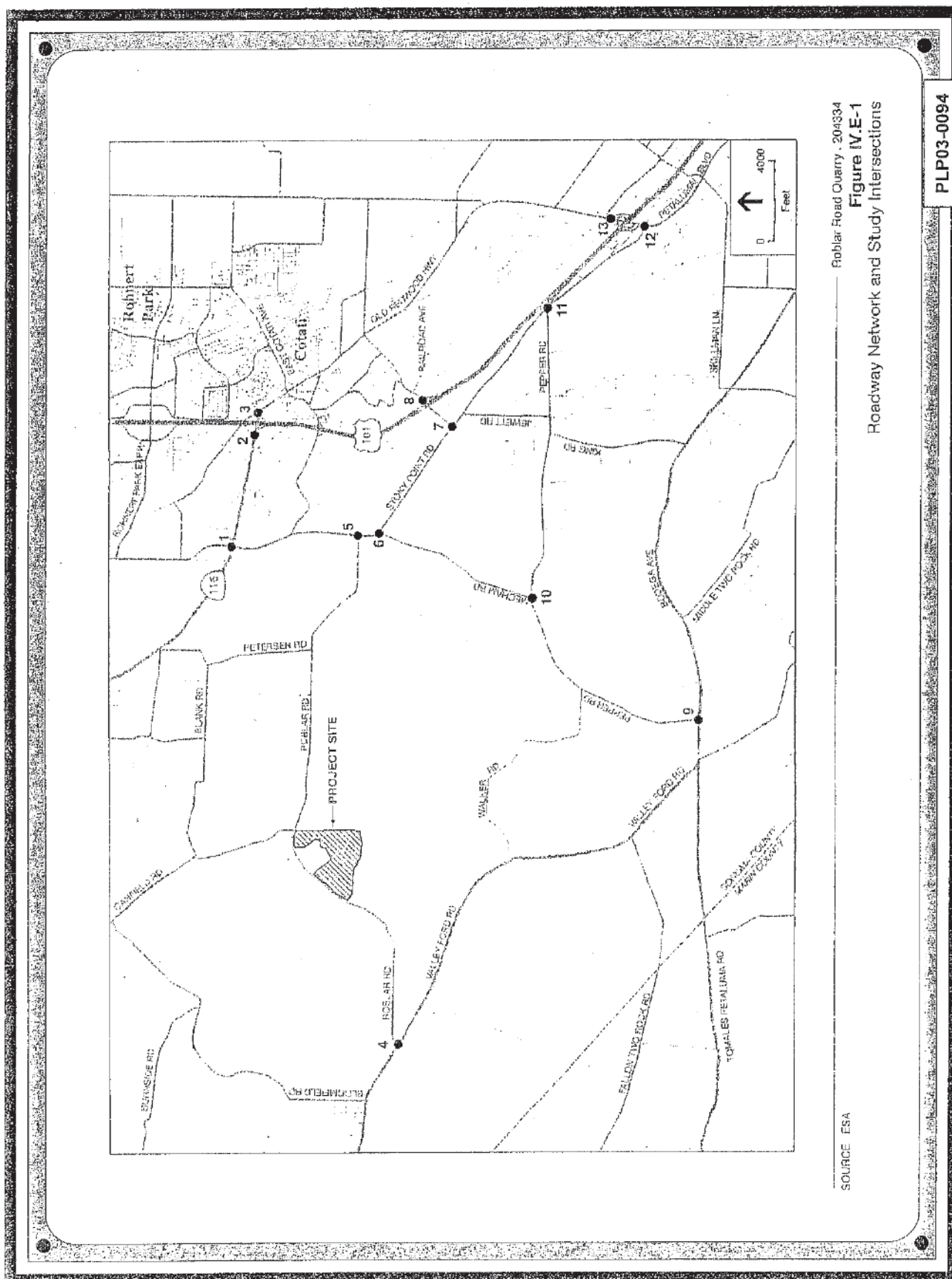
Site Longitudinal Sections with
Interim and Finished Grades



Roblar Road Quarry, 2000
Figure III-3
Site Longitudinal Sections with
Interim and Finished Grades

Site Longitudinal Sections with Interim and Finished Grades

PLP03-0094



Source: ESA
 Foblar Road Quarry - 204334
Figure IV.E-1
 Roadway Network and Study Intersections

PLP03-0094

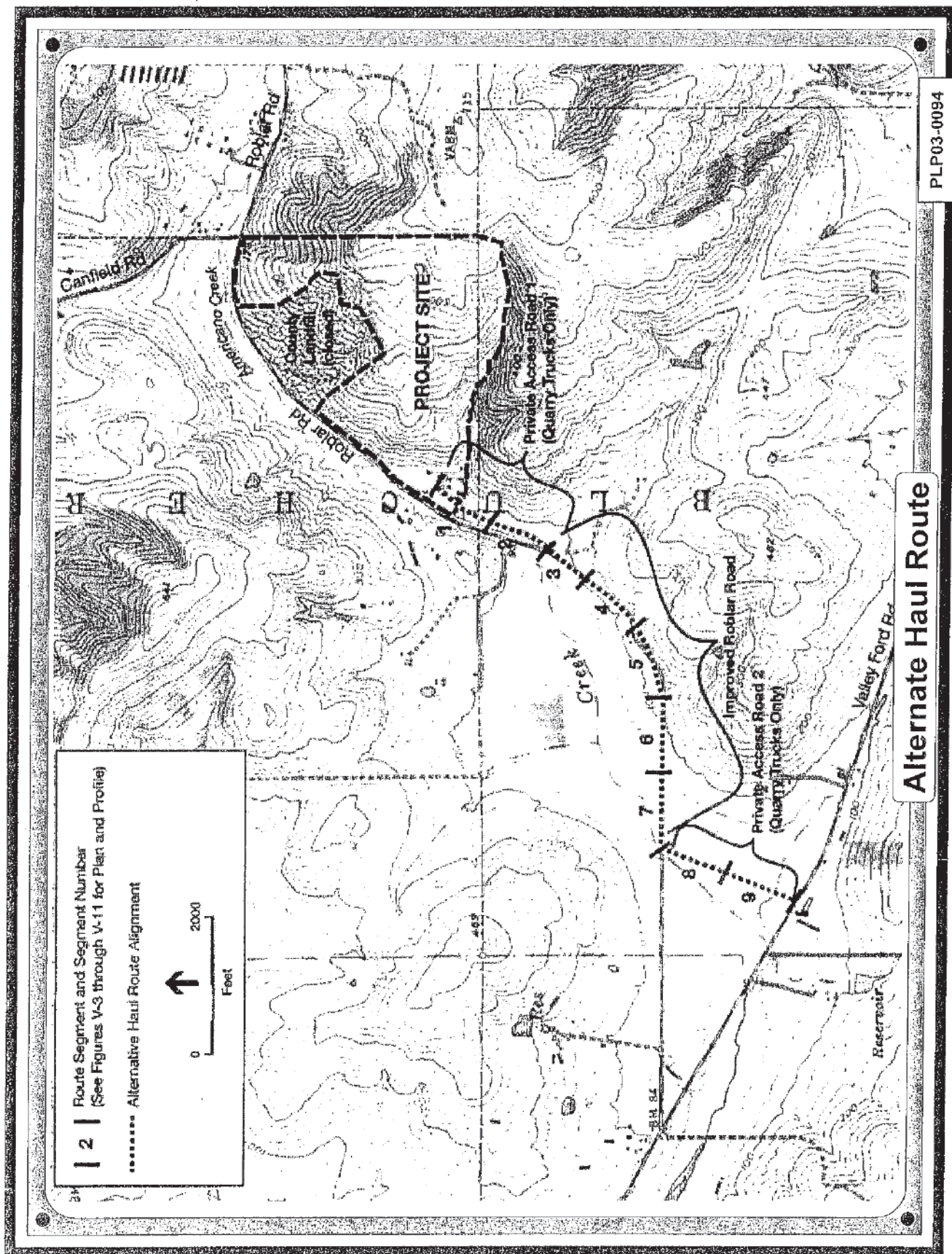
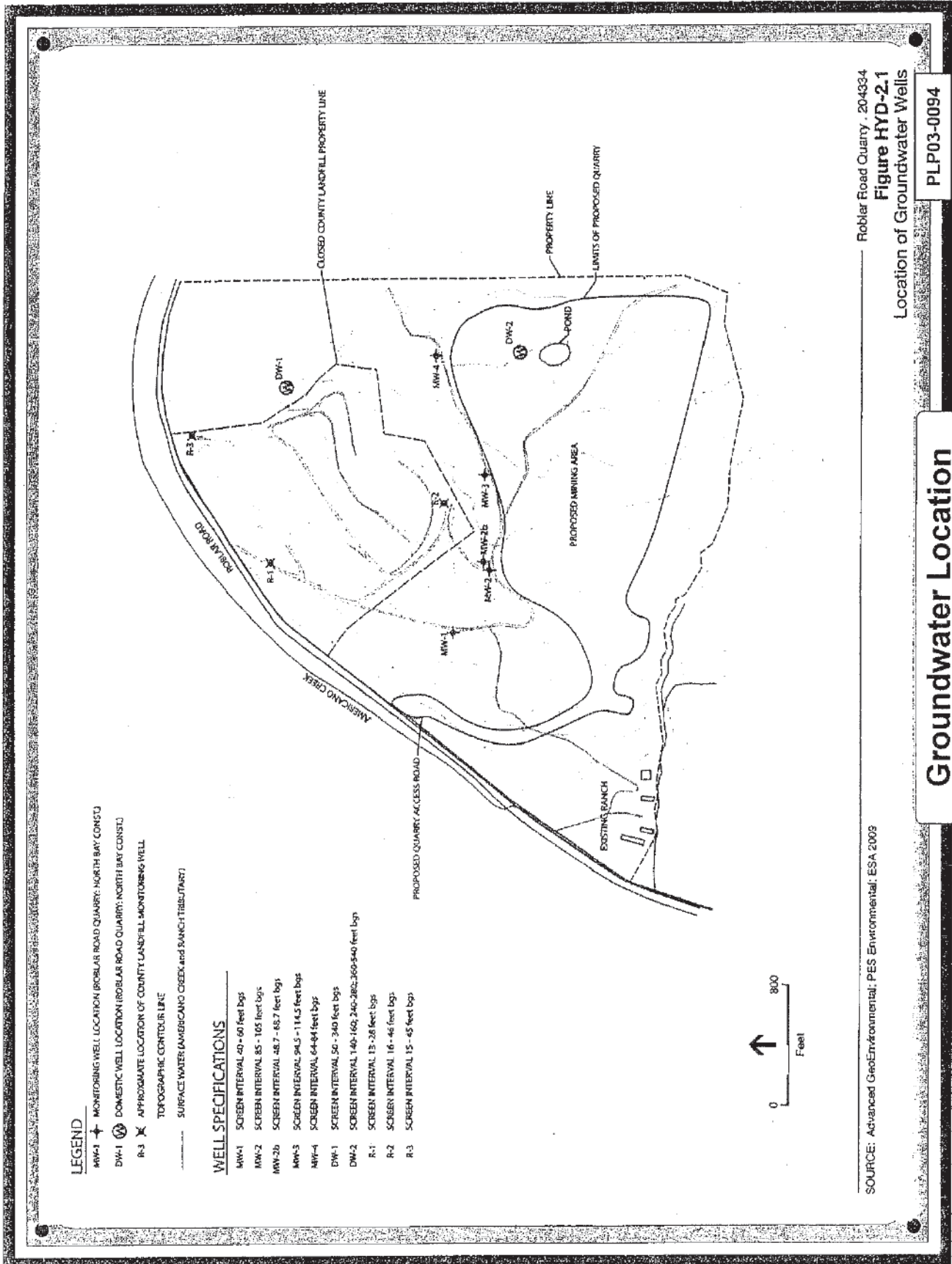
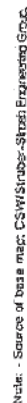


EXHIBIT P

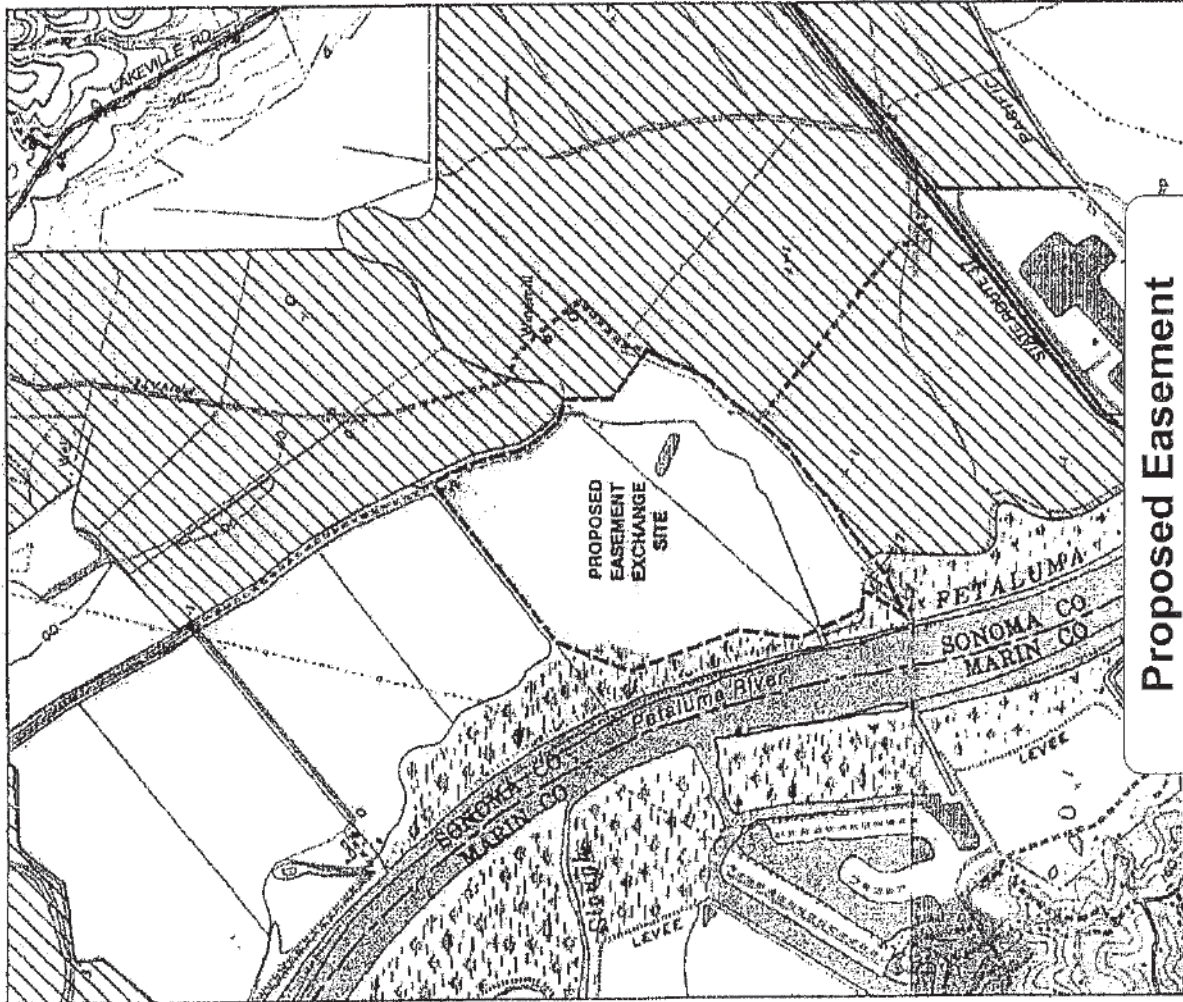




Robler Road Quarry - 204334
Figure IV.C-6
Purs at Quarry Buildout

PLP03-0094

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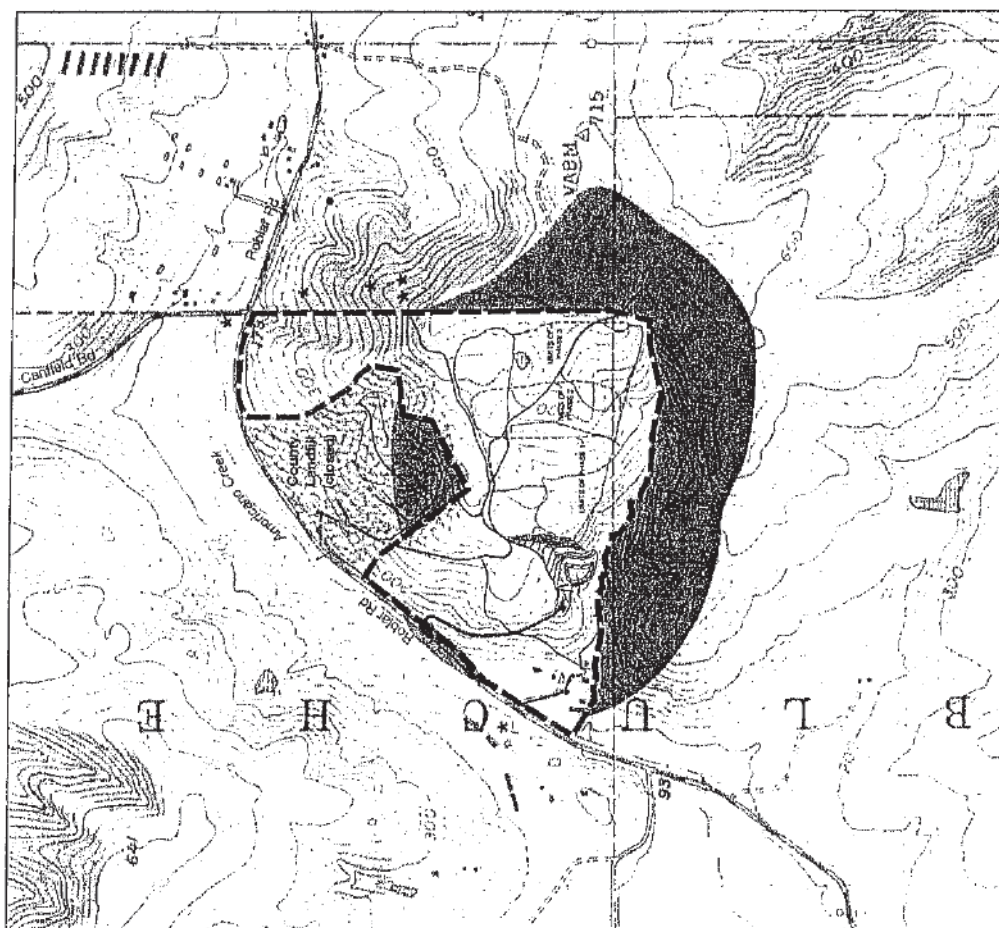


**Proposed Easement
Exchange**

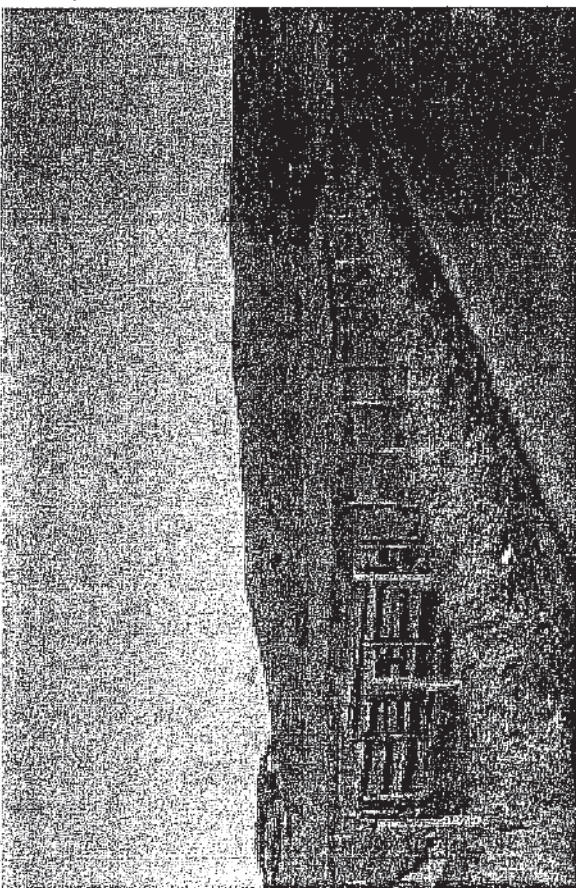
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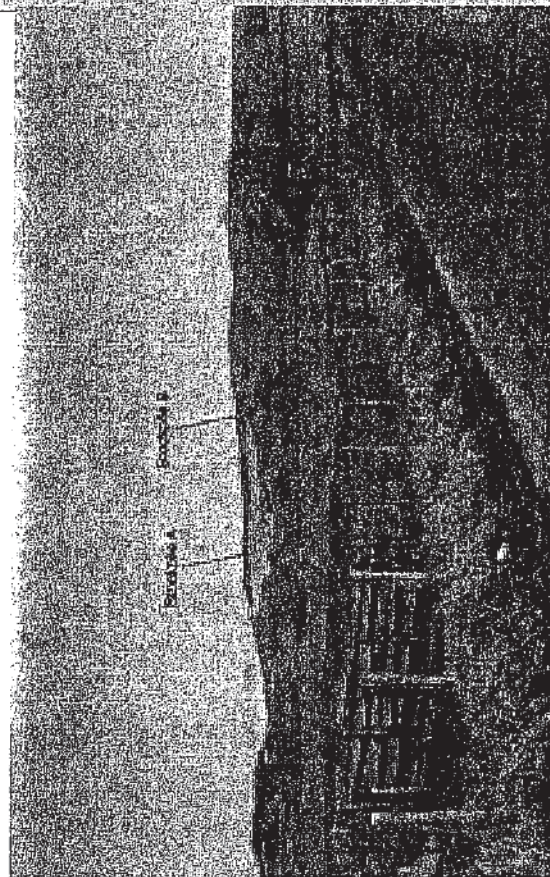
Quarry Noise Threshold Zone



**Viewpoint 2: Existing View
looking northeast from Roblar
Road**

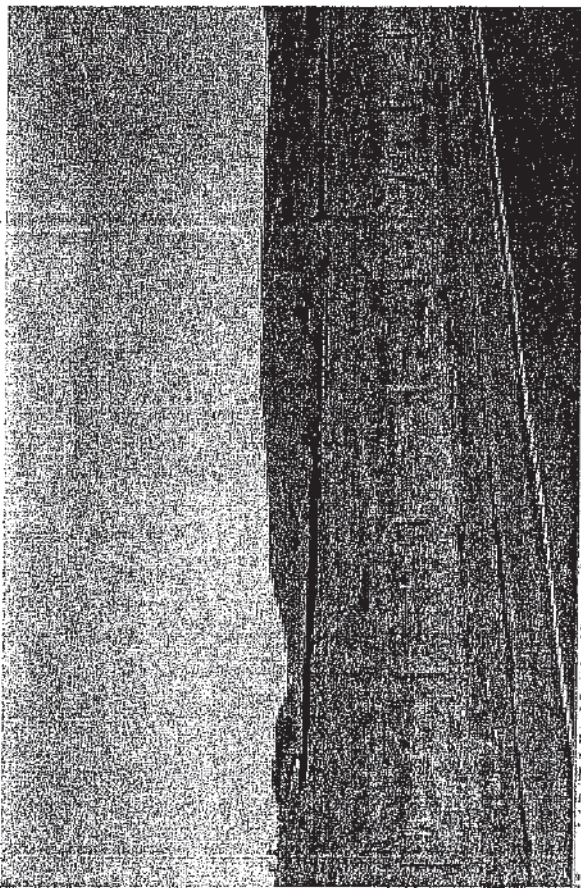


**Visual Simulation of Proposed
Project – Phase 1 including
stockpiles**



PLP03-0094

**Viewpoint 3: Existing View
looking northeast from Valley
Ford Road**



**Visual Simulation of Proposed
Project – Phase 3**



PLP03-0094

PLP03-0094

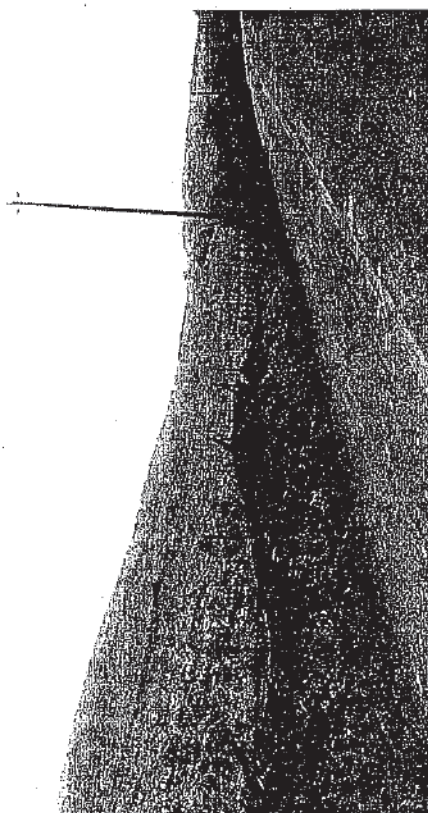


Figure IV.I-5 - Viewpoint D: Looking south from Roblar Road towards proposed location of access road on project site

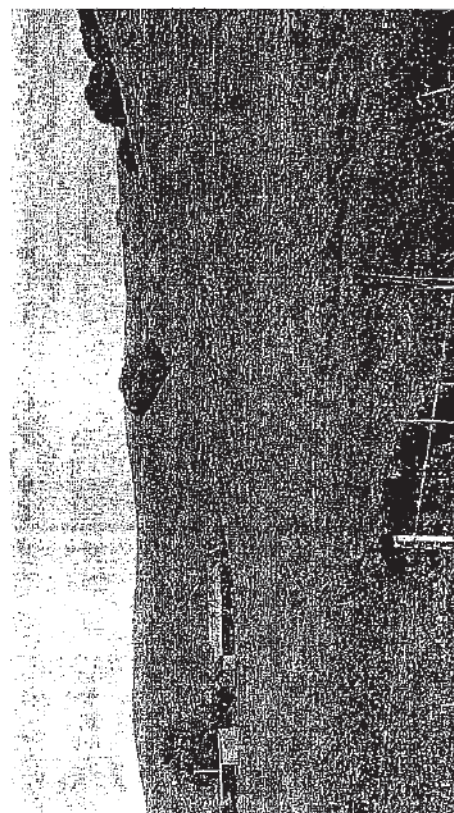


Figure IV.I-6 - Viewpoint E: Looking northeast from Roblar Road towards project site

SOURCE: ESA Roblar Road Quarry, 20434

PLP03-0094

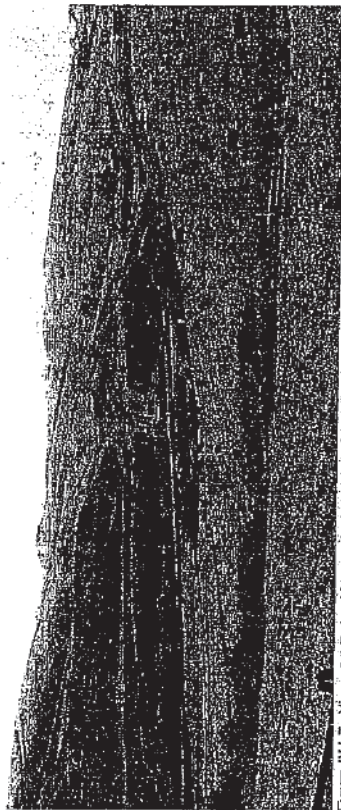


Figure IV.I-7 - Viewpoint F: Looking southwest from Garfield Road towards closed County landfill and project site

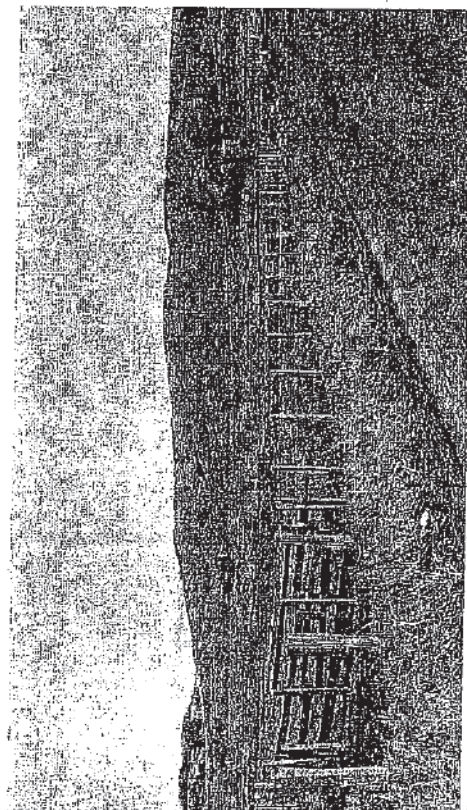
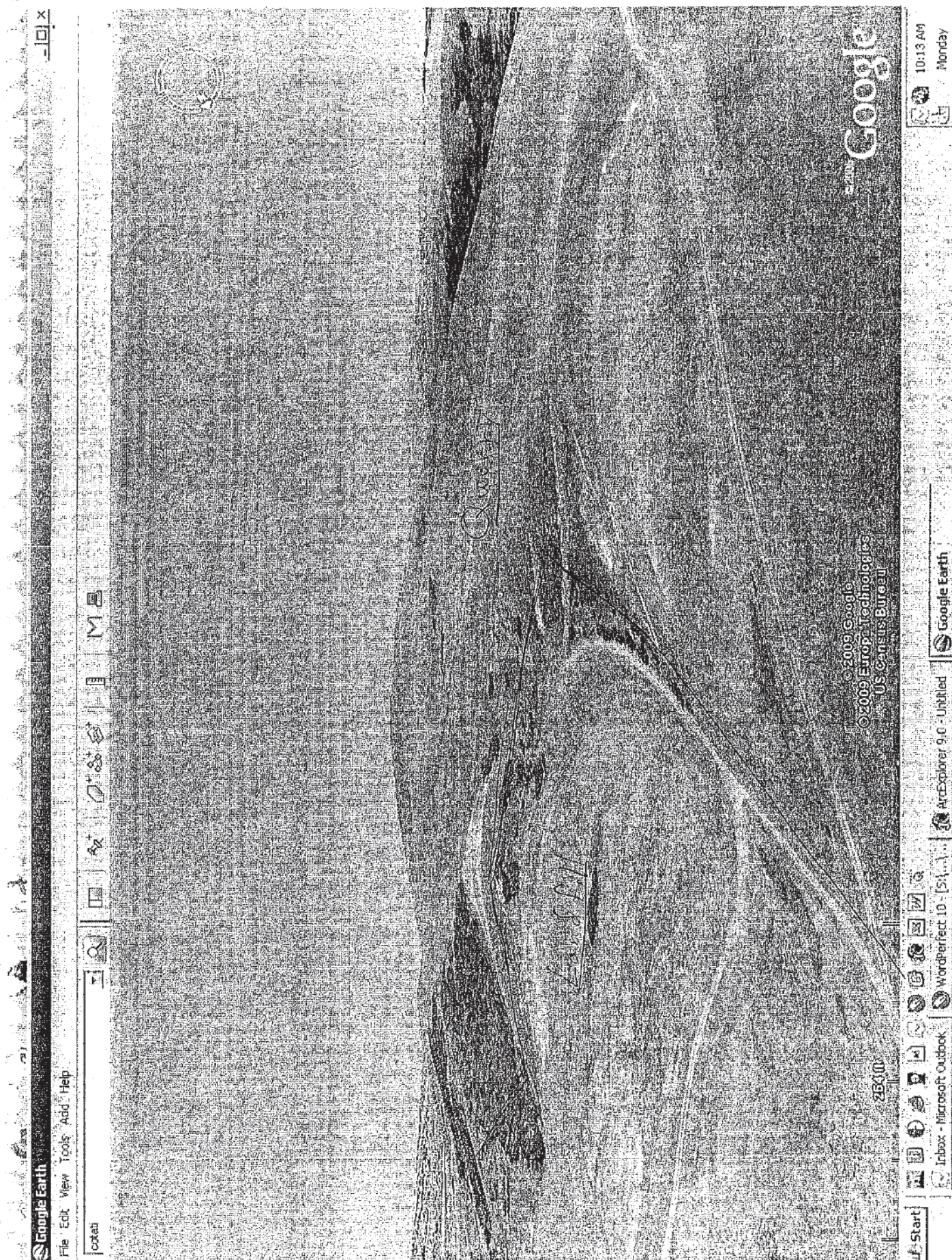


Figure IV.I-8 - Viewpoint G: Looking northeast from Roblar Road towards project site (>1 mile away)

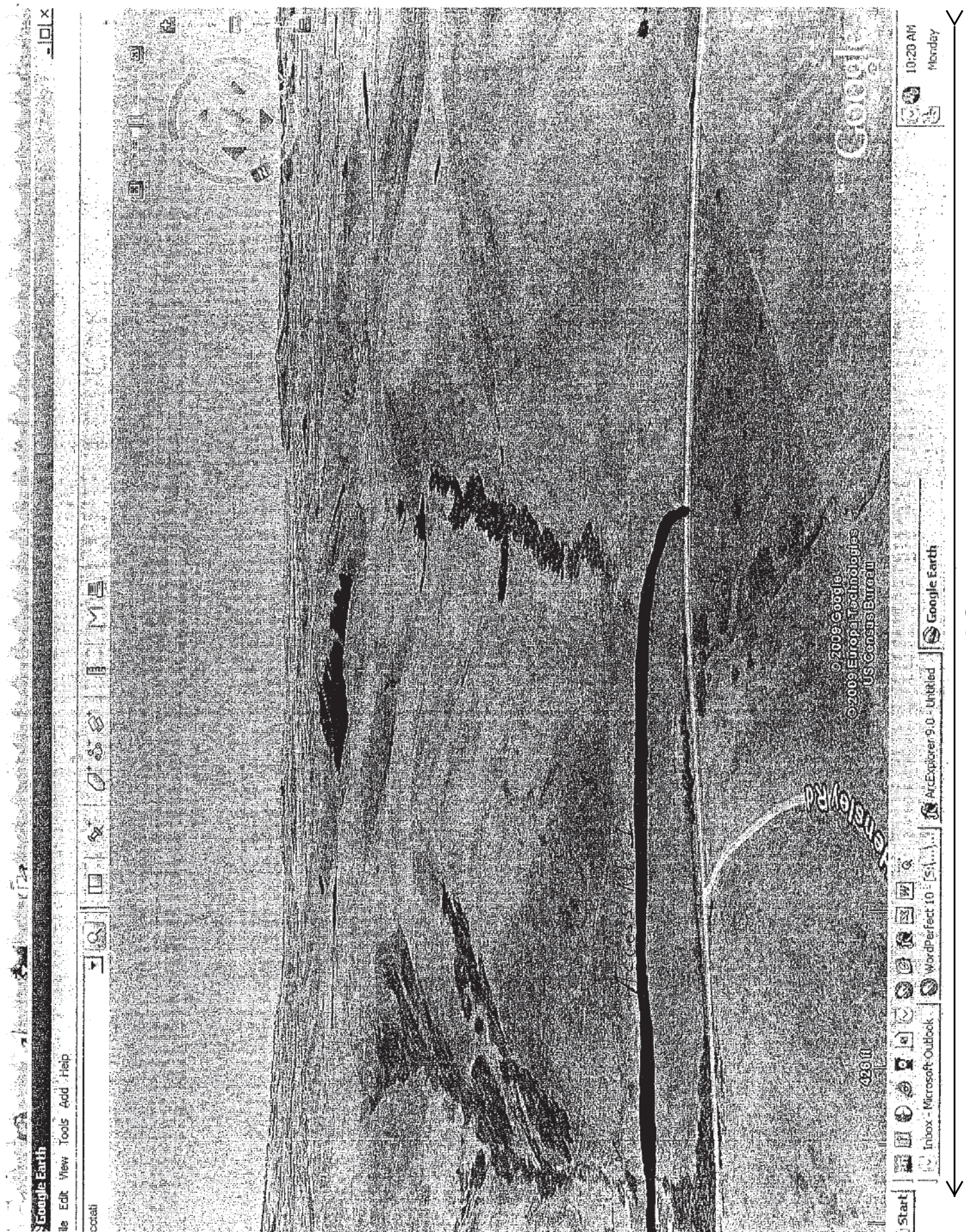
SOURCE: ESA
Roblar Road Quarry, 204334

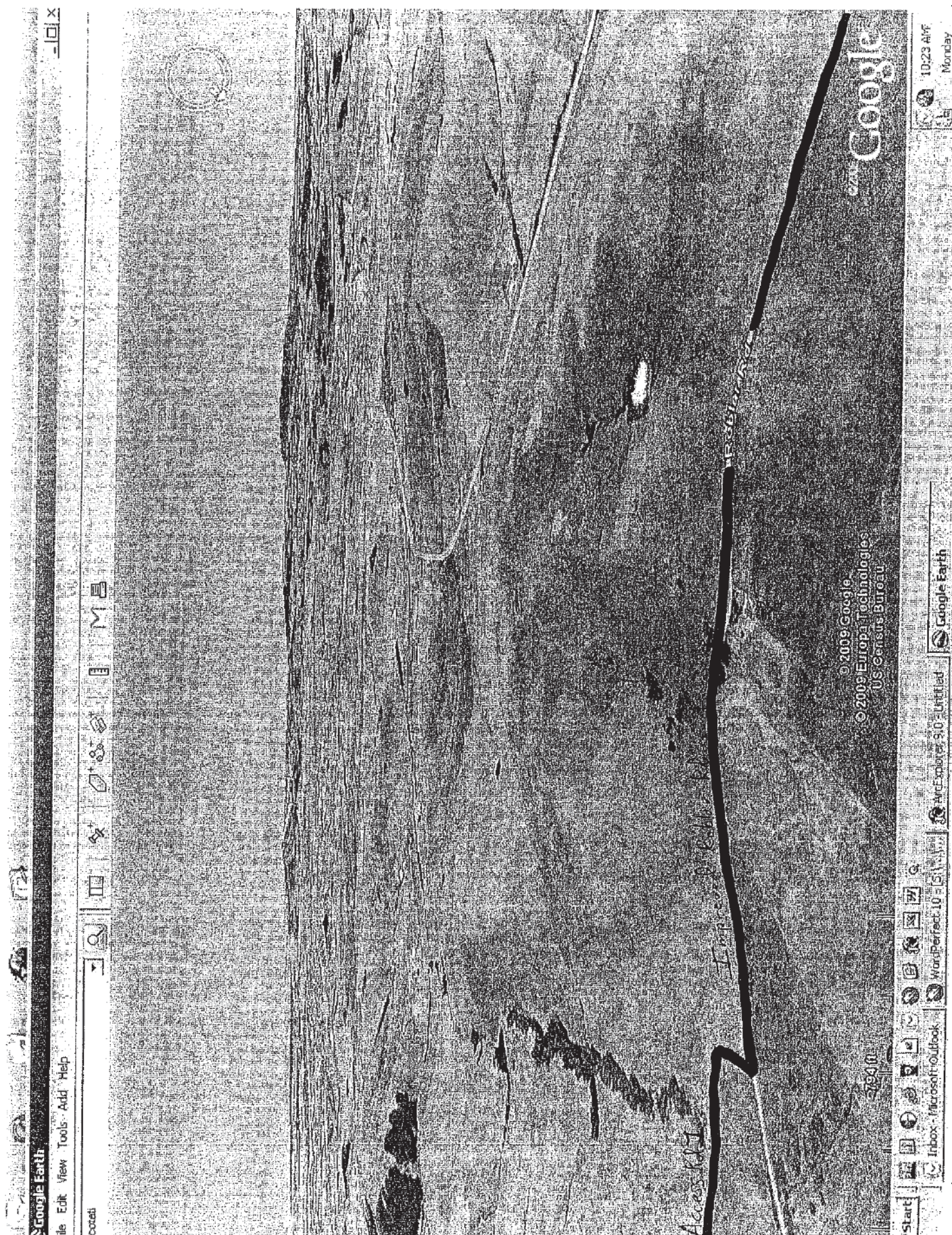


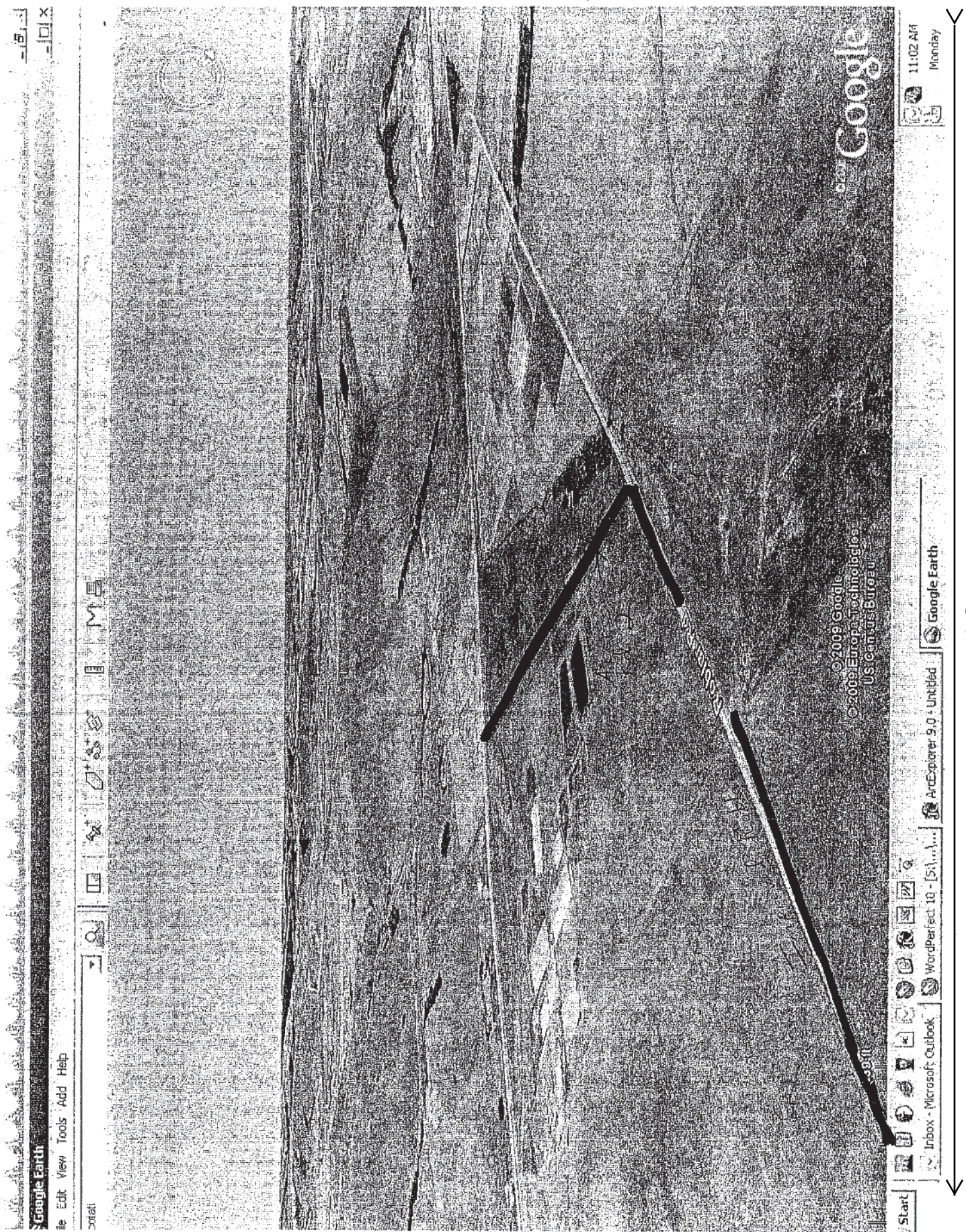












COUNTY OF SONOMA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC WORKS
2300 COUNTY CENTER DRIVE, SUITE B 100
SANTA ROSA, CALIFORNIA 95403

Phillip M. Demery, Director



AREA CODE (707)
ROADS 565-2231
TRANSIT 585-7516
REFUSE 565-7940
AIRPORT 565-7243
AIR POLLUTION 433-5911
FAX 565-2620
www.sonoma-county.org/tpw

November 16, 2009

Mr. Blake Hillegas
Permit and Resource Management Department
County of Sonoma
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: Roblar Quarry Project (PLP 03-0094)

Dear Blake:

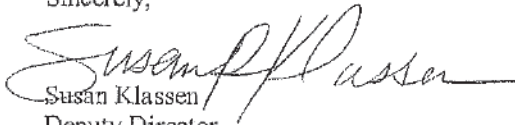
Pursuant to your request, the Department of Transportation and Public Works – Integrated Waste Division is submitting the attached draft conceptual conditions of approval for the above-referenced project.

Although the Draft EIR and Response to Comments Document conclude that there are no significant hydrologic environmental impacts after mitigation, the Department remains concerned over the potential liability associated with the risk that the Quarry project will draw contaminants from the former Roblar Landfill over to the Quarry site. There is currently no off-site migration of contaminants from the former Roblar Landfill. See attached memo from Geosyntec dated November 13, 2009, whereby Geosyntec undertook a review of the current information and data and concluded that the contaminants found in the monitoring wells on the Quarry project site are not related to the former Roblar Landfill. The Response to Comments Document also concurs with this position.

As pointed out in the Draft EIR, the Quarry project could potentially impact the flow of groundwater and could draw contaminants from the former Landfill to the Quarry site. Even though the project mitigation measures require the Quarry owner/operator to address the potential significant *environmental* impacts of such an event, the Regional Water Quality Control Board could issue a cease and desist order or a cleanup and abatement order against the County and/or the Quarry owner/operator if such an event occurs which could expose the County and the Quarry owner/operator to significant costs. While the Quarry owner/operator may be willing to risk such costs, the Department does not believe that the County, and ultimately the taxpayers, should bear the burden of such costs. Thus, the Department is recommending that a condition of approval include the Quarry owner/operator entering into an agreement with the County whereby the Quarry owner/operator indemnifies and releases the County for the risks of the Quarry project given its proximity to the adjacent former Roblar Landfill.

Should you have any questions, please do not hesitate to contact me.

Sincerely,


Susan Klassen
Deputy Director
Transportation/Operations

Attachments: Draft Conditions of Approval
Geosyntec Letter dated November 13, 2009.

DRAFT CONDITIONS OF APPROVAL

1. [Project Applicant] shall enter into an indemnification and release agreement, in a form approved by County Counsel, whereby the Applicant agrees to the following:
 - (a) Project Applicant shall accept responsibility for loss or damage to any person or entity, including the County and its Board of Supervisors, representatives, agents, employees, and consultants (hereinafter "County") and/or Applicant, that arises out of, pertains to, results from and/or relates to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project. The burden of proof shall be on the Project Applicant to demonstrate that any contaminants found on the Quarry site are not the result of the Quarry Project.
 - (b) Project Applicant shall indemnify and hold harmless County, from and against any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgments undertaken and/or asserted by any person or entity, including any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project. This includes all costs and expenses of any kind, including attorneys' fees and expenses, incurred by the County.
 - (c) Project Applicant shall release the County from any and all losses, costs and/or expenses of any kind Project Applicant incurs or may incur as a result of any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgments undertaken and/or asserted by any person or entity, including the Project Applicant or any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as result of the Quarry Project. This release shall be binding on all future owners/operators, successors and assigns of the Quarry site.

66
cont.



2100 Main Street, Suite 150
Huntington Beach, California 92648
PH 714.969.0800
FAX 714.969.0820
www.geosyntec.com

Technical Memorandum

Date: 13 November 2009
To: Phillip Demery, Director
Sonoma County Department of Transportation and Public Works
From: Henry B. Kerfoot, Geosyntec Consultants;
Andrew J. Barnes, Geosyntec Consultants
Subject: Evaluation of Detections of Volatile Organic Compounds (VOCs)
in Groundwater Samples from Roblar Road Quarry

EXECUTIVE SUMMARY

At the request of the County of Sonoma Department of Transportation and Public Works, Geosyntec Consultants, Inc. (Geosyntec) has evaluated data from the Roblar Road Quarry (the Quarry) and the Roblar Landfill (Landfill) to assess whether there is evidence that demonstrates that the Landfill is the source of volatile organic compounds (VOCs) detected in groundwater samples collected from Quarry wells.

Two general technical approaches were used to evaluate the data. The first compared the VOCs in the samples from Quarry wells to: (1) the Landfill VOC fingerprint derived from Landfill well data; and (2) the VOC fingerprint of the Landfill leachate. The second approach evaluated potential transport pathways between the waste and the Quarry wells. These approaches are described in more detail below.

Based on our evaluation of the data, the evidence indicates that the Landfill is not the source of VOCs detected from the Quarry wells.

INTRODUCTION

At the request of Sonoma County Department of Transportation and Public Works, Geosyntec has evaluated data related to detections of volatile organic compounds (VOCs) in groundwater samples from the Quarry, a proposed quarry located generally south of Roblar Landfill (the Landfill or Site), a closed waste disposal facility operated by the County of Sonoma. The purpose of the evaluation was to assess the likelihood that VOCs detected in groundwater samples from Quarry wells originated from the Landfill. Our evaluation is based on the data provided by the County (see Appendix A) and data provided in the October 2009 Roblar Road Quarry Environmental Impact Report response to comments. This technical memorandum presents the results of that evaluation.

Evaluation of Detections of VOCs in
Groundwater Samples from Roblar Road Quarry
13 November 2009
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The remainder of this memorandum is organized into four sections:

- **Background** – Describes Landfill and Quarry conditions and groundwater chemical data, including VOC detections in samples from groundwater monitoring wells;
- **Technical Approach** – Presents VOC and inorganic fingerprints associated with impacts from landfill gas and from landfill leachate and the methodology used to evaluate potential VOC transport pathways from the Landfill;
- **Evaluation** – Discusses the evaluation of chemical fingerprints to assess potential VOC transport from the Landfill to Quarry wells with VOC detections; and
- **Summary** – Summarizes the evaluation results and conclusions.

BACKGROUND

Roblar Landfill is a closed Municipal Solid Waste (MSW) disposal facility on Roblar Road in Petaluma, California. The Landfill does not have a liner or a gas collection and control system. Waste in the southern portion of the Site was burned, in accordance with common practice at that time. Roblar Landfill is not subject to Waste Discharge Requirements (WDRs), but the County monitors groundwater for potential groundwater impacts using Monitoring Wells R-1, R-2, and R-3.

The proposed Roblar Road Quarry is located at 7601 Roblar Road, Petaluma, California, immediately south (upgradient) of the Landfill. Figure 1 shows the locations of the Landfill and Quarry wells, groundwater elevation contours, and Americano Creek, north of the Landfill. The ground surface in the vicinity of the Landfill dips downward towards Americano Creek to the north and northwest (Figure 1).

Geologic cross sections were prepared by the Sonoma County Department of Transportation and Public Works in October of 2008 and are presented in Appendix B. There are uncertainties in ground surface elevations for some of the borings; however, the cross sections serve to present general relationships of structural geology, well construction, and hydrogeology at the site.

The cross sections show the Landfill atop a layer of alluvium comprised of “sands, silty sands, clayey sands, silts, etc.” This alluvial layer varies in thickness from approximately 35 ft to 75 ft near the Landfill and from approximately 50 ft to 125 ft to the south at the planned Quarry location. The alluvial layer overlies Tolay Volcanic bedrock beneath the Landfill and the Quarry (Appendix B). The surficial expression of the Tolay Volcanic bedrock dips downward in a generally northerly direction.

Evaluation of Detections of VOCs in
Groundwater Samples from Roblar Road Quarry
13 November 2009
Page 3

As shown on Figure 1, three monitoring wells (Well R-1, Well R-2, and Well R-3) monitor groundwater at the Landfill and show a northwesterly flow direction. Wells R-1 and R-3 are located generally to the north (downgradient) of the Landfill, and Well R-2 is located to the south (upgradient). Wells R-1, R-2, and R-3 are screened across the water table. Based on its location upgradient of the waste, Well R-2 is considered a background well. This is further supported by the fact that concentrations of inorganic water quality parameters potentially affected by the Landfill are stable and lower than unimpacted downgradient Well R-3 (chloride and TDS). Well R-2 alkalinity concentrations are higher than those for unimpacted downgradient Well R-3, but are within a range consistent with natural spatial variability. As shown on Figure 1, Quarry wells MW-2, MW-2b, MW-3, MW-4, and DW-2 are in or downgradient of the proposed quarry, but generally upgradient of the Landfill. Well MW-1 is installed cross-gradient of the Landfill and Well DW-1 is installed cross-gradient and downgradient of a southeastern lobe of the Landfill. Quarry wells MW-1, MW-2, MW-3, DW-1, and DW-2 are screened 35 to 50 ft or more below the water table. Wells MW-2b and MW-4 are screened across the water table.

Groundwater beneath the Landfill flows generally to the northwest, towards Americano Creek (Figure 1). The depth to groundwater is as shallow as approximately 10 ft below ground surface (bgs) at downgradient Monitoring Wells R-1 and R-2. The depth to groundwater beneath the Landfill varies between approximately 15 ft bgs and 50 ft bgs, with the variation due to the constant-elevation Landfill top decks and the steeply sloping water table surface (see cross sections in Appendix B). Groundwater is encountered at a depth of approximately 100 ft bgs upgradient of the Landfill in Quarry Well MW-3.

Groundwater monitoring downgradient of the Quarry uses Monitoring Wells MW-1, MW-2, MW-2b, MW-3, and MW-4 and Wells DW-1 and DW-2. As shown in the cross sections in Appendix B, Wells DW-1 and DW-2 have a screened interval in the bedrock that is below the water table surface and Wells MW-1, MW-2, and MW-3 have screened intervals that are close to the base of the alluvium. The fact that several of the Quarry wells are screened across the top of the water table is an important point that will be discussed below.

Since November 2004, Landfill Well R-1 has had ten rounds of sampling for VOCs and Landfill Wells R-2, and R-3 have had eight rounds. Monitoring Well R-2 is located upgradient of the Landfill; it has not had detections of VOCs or other evidence of Landfill impacts reported, except a low acetone concentration in 2008. Acetone is a common laboratory contaminant and is also naturally produced. Because this detection was not accompanied by changes in inorganic parameters commonly associated with landfill impacts such, as alkalinity or chloride concentrations, it is likely a false positive. Well R-3 is located downgradient of the Landfill and has not had Landfill impacts reported. Well R-1 is located downgradient of the Landfill, and it

Evaluation of Detections of VOCs in
Groundwater Samples from Roblar Road Quarry
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Page 4

has had consistent detections of *cis*-1,2-dichloroethene in all samples since November 2004 and vinyl chloride (chloroethene) detected in five of the ten rounds (Table 1) since that date. These results from Well R-1 are considered to reflect the influence of the Landfill.

The Quarry began monitoring groundwater for VOCs in February 2007, and Table 1 shows the results of that monitoring. Relatively low levels of VOCs were detected in samples from all five Quarry wells in the first sampling event. Detections of VOCs in the first round of sampling following well installation are not uncommon, and subsequent sampling events are required to confirm such detections. VOC detections in samples from Wells MW-1 and DW-2 are not reported after the first-round samples and as a result these wells are considered not to be VOC-impacted and are not evaluated below.

As many as seven sampling events with VOC analyses have occurred for the wells of interest, although new Wells MW-2b and MW-4 have each had only one sampling event. Table 2 lists the VOC concentrations from these sampling events.

Samples from Well MW-2 were found to have high pH and alkalinity values, consistent with effects of grout in the well. Because of that, the inorganic chemical data for Well MW-2 are most likely not an accurate reflection of groundwater conditions in the vicinity. Thus, the inorganic data for MW-2 samples cannot be used in this evaluation. Well MW-2b, which was installed to replace Well MW-2, does not show impacts (no detectable VOCs). Thus VOCs detected in Well MW-2 are considered to be artifacts of well construction. Well MW-2 is considered not to be affected by VOCs.

Samples from the two new wells, MW-2b and MW-4, had no detectable VOC concentrations. Wells MW-2b and MW-4 are considered not to be affected by VOCs.

Samples from Well MW-3 have not shown a VOC detection that is confirmed by a duplicate sample or subsequent sampling. Therefore, Well MW-3 is judged not to be affected by VOCs.

Three VOCs have been detected in groundwater samples from Well MW-2: acetone, methyl ethyl ketone (MEK), and toluene. Acetone was detected in four of five sampling events (but not confirmed by a duplicate in April 2007). MEK was detected in two of five sampling events in Well MW-2, and toluene was detected at the detection limit in one of the five (but was not confirmed by a duplicate sample).

Groundwater samples from Well DW-1 had chloroform detected in two of five sampling events and chloromethane detected in the first sampling event.

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Samples from Well DW-2 showed VOC detections only in the first sample event. In December of 2008, a step-drawdown test was performed by PES Environmental [2009] using Well DW-2. A groundwater sample collected at the end of the test was analyzed and showed 33 µg/L of the VOC toluene.

General water quality parameters were also monitored in the Quarry monitoring program, except for the first event. Data for general water quality parameters, such as alkalinity and chloride concentrations, can be useful in evaluating Landfill releases, and Table 3 summarizes results of general water quality analyses.

Since February 2007, general water quality parameter data are available for 10 rounds of samples for Landfill Well R-1 and eight rounds of samples for Landfill Wells R-2 and R-3. General water quality parameter data are available for five events from DW-1 and DW-2; six events from Wells MW-1 and MW-3; five events for MW-2; and, for the single MW-2b and MW-4 samples.

In summary, the data that are suitable for our evaluation of the potential source of VOCs detected include the following wells with VOC detections:

- VOC data from Landfill Well R-1 and from Quarry Well DW-1; and
- Inorganic data from all wells except Quarry Well MW-2.

TECHNICAL APPROACH

Two general technical approaches were used to evaluate the data. The first compared the VOCs in the samples from Quarry wells to: (1) the Landfill VOC fingerprint derived from Landfill well data; and (2) the VOC fingerprint of the Landfill leachate. The second approach evaluated potential transport pathways between the waste and the Quarry wells. These approaches are described in more detail below.

- *Comparison of Fingerprints*— The assemblage of VOCs present in a well impacted by the Landfill can be used as a fingerprint of VOCs from Landfill impacts. Comparison of this Landfill fingerprint to the VOCs detected in Quarry wells can help assess whether the Landfill is the likely VOC source.
- The VOCs detected in Quarry well samples can also be compared to the Landfill leachate VOC fingerprint to assess the potential for leachate impacts in Quarry wells.
- Similarly, concentrations of inorganic parameters in samples from a Landfill-impacted well can be used to identify the site-specific inorganic Landfill fingerprint, which can be compared to the inorganic data from Quarry well samples. Alkalinity is a parameter

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that is elevated by either leachate or gas impacts, so a correlation between sample alkalinity and VOC concentrations is consistent with a Landfill VOC source. Chloride is a constituent associated with leachate and not with gas impacts, so that a correlation of both alkalinity and chloride with VOC concentrations is consistent with leachate impacts. Total dissolved solids (TDS) concentrations are typically higher in landfill leachate than in groundwater. When this is the case, increased groundwater TDS concentrations are consistent with leachate impacts on the groundwater.

- *Evaluation of Potential Transport Pathways*— Landfills can impact groundwater in two ways – through Landfill gas contact with groundwater or through leachate from the waste. Groundwater impacts from Landfill gas can be observed in any direction from the waste, while leachate impacts are typically limited to wells located downgradient of the waste.

Landfill gas transport requires a continuous permeable pathway from the waste to groundwater. In addition, the depth of Landfill gas impacts is limited to the surface of the water table. Thus, for monitoring wells to detect gas impacts they should be screened across the surface of the water table. If a well is screened below the surface of the water table, VOCs detected likely do not originate from Landfill gas in the absence of downward groundwater flow. The available data preclude an evaluation of vertical groundwater flow in Quarry wells. It should be kept in mind that the waste in the southern portion of the Landfill was burned. Burning would greatly reduce and possibly eliminate the potential for the waste to generate gas and would greatly decrease the concentrations of volatile compounds, particularly flammable compounds such as or toluene. In addition, other VOCs would be evaporated due to the high temperatures created by burning waste.

Leachate transport is gravity and density driven and leachate tends to flow vertically downward to groundwater, then the impacts flow primarily horizontally in the downgradient direction. Leachate commonly has elevated concentrations of TDS, making it denser than groundwater. The higher density of leachate can cause it to “sink” in groundwater, so that leachate impacts tend to extend downward in the aquifer, in contrast to gas impacts, and groundwater impacts from leachate can extend deeper than the water table surface.

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EVALUATION

Landfill Monitoring Well and Leachate Data

Well R-1, located downgradient of the Landfill, is suspected to be impacted by the Landfill and has had consistent detections of *cis*-1,2-dichloroethene and limited detections of vinyl chloride. As discussed in the previous section, Wells R-2 and R-3 do not exhibit Landfill impacts, so the focus of this evaluation will be on Quarry wells and Landfill Well R-1.

Landfill impacts on Well R-1 could originate from either leachate or gas. Data from those samples were evaluated to assess whether they are consistent with gas or leachate as the source of VOCs. Based on our experience with landfills either landfill gas or leachate could cause increased alkalinity concentrations although leachate can increase chloride concentrations while gas does not. Figure 2 shows chloride concentration data for Wells R-1, R-2, and R-3. Chloride concentrations for samples from affected downgradient Well R-1 have been consistently less than or equal to those for downgradient Well R-3 and above those for background Well R-2 (located upgradient). Well R-1 alkalinity concentrations have been generally an order of magnitude greater than those for downgradient Well R-3, with Well R-3 concentrations consistently below the concentrations for background Well R-2. This increase in alkalinity for the well (R-1) without a corresponding increase in the TDS concentration suggests that the Well R-1 groundwater impacts, including VOCs, can be attributed to landfill gas, rather than leachate.

This is also consistent with the findings of the comparison between leachate fingerprint and groundwater quality in Well R-1. Sonoma County has organic constituent concentration data for Site leachate samples collected between 2003 and 2008. Analyses for VOCs were performed each year, with other analyses being performed in various years. Table 1 lists the concentrations of organic constituents detected in leachate samples for each year.

As summarized in Table 1, detected VOCs are limited to acetone, 1,1-dichloroethane, and chlorobenzene. Each was detected in only one of five annual leachate sampling events. The only other organic compound detected, 0.024 ug/L of 4,4'-DDE, is not germane to our discussion because its very low aqueous solubility would make it essentially immobile in groundwater. The leachate data for the Site are noteworthy because of the low number of VOCs detected and the low VOC concentrations observed. The total dissolved solids (TDS) concentrations of the leachate samples were consistently between 600 and 700 milligrams per liter. This is approximately twice background groundwater values, but is relatively low in comparison to leachate from unburned municipal solid waste. It is possible that the leachate in the leachate samples is dominated by burned waste located in the southern portion of the Site while the VOC fingerprint at Well R-1, located the north of the waste, is attributable to gas migration from

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unburned material in the northern portion of the waste. In any event, Site leachate has a higher TDS concentration than background groundwater.

Based on the impacts to Well R-1, to the north of the waste, *cis*-1,2-dichloroethene represents the fingerprint for the unburned waste in that portion of the waste. Based on the leachate data, low concentrations of acetone, 1,1-dichloroethane, or chlorobenzene represent the Landfill VOC fingerprint and elevated TDS concentrations represent the inorganic leachate signature.

The use of these fingerprints must be combined with assessment of possible transport pathways to assess whether the Landfill has impacted groundwater.

Comparison of Landfill Fingerprints to Quarry Well Data

Neither *cis*-1,2-dichloroethene nor vinyl chloride were detected in Quarry Well samples. Furthermore, the VOCs detected in Quarry wells were not detected in the samples from Well R-1. Based on this lack of correlation, the data for samples from Quarry wells do not fit the VOC fingerprint of Landfill gas impacts.

Quarry well VOC detections have been limited to chloromethane, acetone, methyl ethyl ketone, chloroform, chloromethane, and toluene. Of those VOCs, only acetone is consistent with the fingerprint of leachate from the Site. These compounds are discussed further below.

There are potential non-Landfill sources of the VOCs that were detected in Quarry wells. Wells MW-2, MW-3, and DW-2 have reported detections of acetone and/or methyl ethyl ketone. Heins et al. (1989) have noted that these compounds can be naturally produced in soils from organic matter. Acetone detections can result from grouting materials, such as bentonite pellets, and is attributed to the coating of the pellets (www.deq.state.mi.us/documents/deq-wd-gws-wcu-coatedbentonitetabs.pdf). Of the Quarry wells, Well MW-2 had the highest and most frequent acetone concentrations reported (See Table 1). The Well MW-2 inorganic data are consistent with impacts typically associated with grout. The co-occurrence of inorganic impacts (elevated pH and alkalinity) consistent with grouting and acetone detections suggests a linkage between grouting materials and acetone. Well MW-2b, located close to the location of Well MW-2, did not confirm the data from Well MW-2, in that no acetone or other VOCs were detected in the November 2008 sample. This indicates that the Well MW-2 VOC detections are likely artifacts of well construction.

Well MW-2 also had a toluene detection reported that was not confirmed by a duplicate sample and Well DW-2 had a toluene detection in the first sample. Toluene is a major component of gasoline and can originate from generator or automobile exhaust, gasoline vapors, or ambient air.

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Wells MW-1 and DW-1 each had a chloromethane detection in the first round of sampling and Well DW-1 had chloroform detections in the last two samples (no duplicate data are available).

Of the five Quarry wells, only two (Well MW-2 and Well DW-1) have a sufficient number of samples with VOC detections and inorganic data (alkalinity and chloride) to evaluate whether the samples with VOCs exhibit the inorganic fingerprint similar to the Well R-1 data. Because of anomalous data for samples from Well MW-2, Well MW-2b was installed and VOCs were not detected when it was sampled, suggesting that the VOC detections in samples from Well MW-2 were artifacts of well construction. This leaves only the VOC detections from Well DW-1 samples to be evaluated.

The Well DW-1 samples have two VOC detections (chloroform in September 2007 and December 2007 and chloromethane in February 2007). The alkalinity and chloride data from DW-1 do not show a correlation with either VOC concentration and the chloride concentrations are not elevated. This absence of a correlation is not consistent with a Landfill source of VOCs detected in samples from Well DW-1.

Figure 4 shows a plot of TDS concentrations over time for the Quarry wells with data points with VOC detections circled. Well DW-1 TDS concentrations have remained in the same range, similar to the TDS concentrations for the other Quarry wells, when VOCs were detected and when they were not. This is not consistent with the consistent higher TDS concentration of Site leachate, and is not consistent with leachate impacts on this well.

Evaluation of Transport Pathways

As noted above, appropriate transport pathways must be present for gas or leachate to impact groundwater; however, such pathways do not appear complete between the Landfill and the Quarry wells.

- Leachate migration would not be expected to impact the Quarry wells, because the wells are upgradient of the Landfill. Figure 1 shows the direction of groundwater flow beneath the waste to be *away from* Wells MW-1, MW-2, MW-3, DW-1 and DW-2. Based on the groundwater flow direction, leachate impacts would not be expected to travel to the impacted Quarry wells in the absence of local flow anomalies.
- Landfill gas migration in the upgradient direction and contact with groundwater is a transport process that could explain the detections of VOCs in upgradient wells. However, gas impacts do not seem likely, since the waste in the southern portion of the Landfill, closest to the Quarry wells of concern, was burned, depleting the organic

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matter that would produce migrating landfill gas and potentially removing VOCs by volatilization.

- For a Landfill-gas VOC source, groundwater impacts would be near the water table surface. The screened intervals of Wells MW-1, MW-2, and MW-3 are close to the lower surface of the alluvial layer and begin at 25 ft or more below the surface of the water table. The screened intervals for Wells DW-1 and DW-2 are in the bedrock, below the alluvium that contains the vadose zone.
- A November 2008 sample from Well MW-2b, installed to replace Well MW-2, had no VOCs present. This is consistent with the apparent grouting effects on data for samples from Well MW-2.
- For a Landfill-gas VOC source, the gas would have to migrate at least the distance from the waste to the monitoring well. The closest Quarry well, Well MW-3, is more than 400 ft from the waste. Based on the experience of Geosyntec personnel at over 50 municipal solid waste landfills, that distance is not consistent with typical distances for migration of gas from Municipal Solid Waste landfills. If gas migration of that magnitude were occurring in the vicinity of Well MW-1, samples from Well R-2 would have shown VOC detections, and they do not.

SUMMARY

Available data is not consistent with the Roblar Landfill as the source of VOC detections in groundwater samples from Quarry wells MW-1, MW-2, MW-3, DW-1, or DW-2, for the following reasons.


- The VOCs detected in the Quarry wells do not match the VOC fingerprint from current Landfill groundwater impacts or Landfill leachate as developed above.
- Inorganic data for samples from Quarry wells do not match the inorganic fingerprint of Roblar Landfill leachate, based on site-specific data or known chemical characteristics of leachate.
- The direction from the Roblar Landfill to the Quarry wells is inconsistent with migration of contaminated groundwater from the Landfill to the Quarry wells.
- The distance of the Quarry wells from the Landfill is much greater than the expected (or observed at other sites) distance of landfill gas migration.


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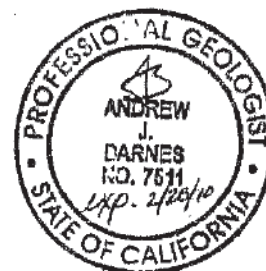
Our evaluation of the Roblar Landfill and adjacent Quarry Well data is based on data described in Appendix A. Our evaluation is based on Roblar Landfill and hydrogeologic conditions as described by the documents provided and our knowledge and experience with geochemistry. Future hydrogeologic changes, such as increased groundwater extraction, could change the dynamics of the system and alter the fate and transport of VOCs and other constituents.

Geosyntec is pleased to be of continuing service to the County of Sonoma and appreciates the opportunity to have served you. Please feel free to contact us with questions you may have regarding this or other matters.

Sincerely,


Henry B. Kerfoot
Senior Chemist


Andrew J. Barnes, P.G.
Associate



Attachments:

- Table 1: Organic Constituents Detected in Annual Leachate Samples, Roblar Landfill
Petaluma, California
- Table 2: Groundwater Volatile Organic Compounds
- Table 3: Groundwater Inorganic Water Quality Parameters
- Figure 1: Roblar Road Quarry
- Figure 2: Chloride Concentrations for Wells R-1, R-2, and R-3
- Figure 3: Alkalinity Concentrations for Wells R-1, R-2, and R-3
- Figure 4: Total Dissolved Solids Concentrations in Quarry wells
- Appendix A: Documents Reviewed
- Appendix B: Cross Sections

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TABLES

Table 1. Organic Constituents Detected in Annual Leachate Samples, Roblar Landfill, Petaluma, California

Year	VOCs ^a	SVOCs ^a	OC Pesticides ^a
2003	None	NA ^b	NA
2004	Acetone, 13 ug/L	None	NA
2005	Chlorobenzene, 0.55 ug/L	None	NA
2006	1,1-Dichloroethane, 0.9 ug/L	None	NA
2007	None	None	4,4'-DDE 0.024 ug/L

NOTES:

^a VOCs = Volatile Organic Compounds; SVOCs = Semi-Volatile Organic Compounds; OC Pesticides = organochlorine pesticides

^b NA = Not Analyzed for

TABLE 2: GROUNDWATER VOLATILE ORGANIC COMPOUNDS (µg/L) ^a

Sample Location	Date	Acetone	Cis-1,2-Dichloroethene	Chloromethane	Chloroform	Methyl Ethyl Ketone	Toluene	Vinyl Chloride	1,1,2-Trichloroethane
R-1	11/19/04	<5.0 / <5.0	1.2 / 1.6	<0.5 / <0.5	<0.5 / <0.5	<1.0 / <1.0	<0.5 / <0.3	<0.5 / <0.5	<0.5 / <0.5
	11/30/04	<5.0	2.6	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	01/06/05	<5.0	1.3	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/12/05	<5.0	2.0	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	07/13/05	<5.0	2.5	<0.5	<0.5	<1.0	<0.3	0.60	<0.5
	07/26/06	<5.0	3.2	<0.5	<0.5	<1.0	<0.3	0.76	<0.5
	04/20/07	<5.0	4.0	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	07/05/07	<5.0	4.1	<0.5	<0.5	<1.0	<0.3	0.77	<0.5
	09/07/07	<5.0	5.4	<0.5	<0.5	<1.0	<0.3	1.2	<0.5
	03/25/08	<5.0	4.5	<0.5	<0.5	<1.0	<0.3	0.54	<0.5
R-2	07/09/08	<0.5	3.9	<0.5	<0.5	<1.0	<0.3	0.86	<0.5
	07/14/09	<0.5	3.8	<0.5	<0.5	<0.5	<0.3	0.88	<0.5
	11/19/04	<5.0	<0.5	<0.5	<0.5	<1.0	<0.5	<0.5	<0.5
	01/06/05	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/12/05	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	07/13/05	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/20/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	09/07/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	12/27/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	03/25/08	5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
R-3	11/19/04	<5.0	<0.5	<0.5	<0.5	<1.0	<0.5	<0.5	<0.5
	01/06/05	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/12/05	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	07/13/05	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/20/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	09/07/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	12/27/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	03/25/08	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	02/02/07	<5.0	<0.5	0.74	<0.5	<1.0	<0.3	<0.5	<0.5
	04/20/07	<5.0 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / NA	<0.3 / <0.5	<0.5 / <0.5	<0.5 / <0.5
MW-1	09/07/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	12/27/07	<5.0 / <10	<0.5 / <1.0	<0.5 / <1.0	<0.5 / <1.0	<1.0 / <10	<0.3 / <0.5	<0.5 / <0.5	<0.5 / <1.0
	03/25/08	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	11/12/08	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
	11/12/08	<10	<0.5	<0.5	<0.5	<10	<0.5	<0.5	<0.5

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TABLE 2: GROUNDWATER VOLATILE ORGANIC COMPOUNDS (µg/L) ^a (Continued)

Sample Location	Date	Acetone	Cis-1,2-Dichloroethene	Chloromethane	Chloroform	Methyl Ethyl Ketone	Toluene	Vinyl Chloride	1,1,2-Trichloroethane
MW-2	02/02/07	9.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/20/07	10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	1.8 / NA	0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
	09/07/07	21	<0.5	<0.5	<0.5	2.3	<0.3	<0.5	<0.5
	12/27/07	<5.0 / <10	<0.5 / <1.0	<0.5 / <1.0	<0.5 / <1.0	<1.0 / <1.0	<0.3 / <0.5	<0.5 / <0.5	<0.5 / <1.0
	03/25/08	5.6	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
MW-2b	11/28/08	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / <1.0	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
MW-3	02/02/07	8.7	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	04/20/07	<5.0 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / NA	<0.3 / <0.5	<0.5 / <0.5	NA / <0.5 / <0.5
	09/07/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	12/27/07	<5.0 / <10	<0.5 / <1.0	<0.5 / <1.0	<0.5 / <1.0	1.5 / <1.0	<0.3 / <0.5	<0.5 / <0.5	2.8 / <1.0
	03/25/08	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
MW-4	11/12/08	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / <1.0	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
	11/28/08	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / <1.0	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
DW-1	02/01/07	<5.0	<0.5	1.2	<0.5	<1.0	<0.3	<0.5	<0.5
	04/20/07	<5.0 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / NA	<0.3 / <0.5	<0.5 / <0.5	<0.5 / <0.5
	09/07/07	<5.0	<0.5	<0.5	0.80	<1.0	<0.3	<0.5	<0.5 / <1.0
	03/25/08	<5.0	<0.5	<0.5	2.2	<1.0	<0.3	<0.5	<0.5
	11/12/08	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / <1.0	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
DW-2	02/01/07	5.6	<0.5	<0.5	<0.5	<1.0	0.35	<0.5	<0.5
	04/20/07	<5.0 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / NA	<0.3 / <0.5	<0.5 / <0.5	<0.5 / <0.5
	09/07/07	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	03/25/08	<5.0	<0.5	<0.5	<0.5	<1.0	<0.3	<0.5	<0.5
	11/12/08	<10 / <10	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5	<1.0 / <1.0	<0.5 / <0.5	<0.5 / <0.5	<0.5 / <0.5
	12/08/08	ND	ND	ND	ND	ND	33	ND	ND

Notes:

^a Data excerpted from:

- Advanced GeoEnvironmental, Inc., 24 April 2008. *Quarterly Report – First Quarter 2008. Roblar Road Quarry, 7601 Roblar Road, Petaluma, California.*
- Pacific Geoscience, 27 July 2007. *Ground Water Monitoring Report (July 2007 Event) for the Roblar Landfill, Sonoma County, California.*
- PES Environmental, 20 January 2009. *Results of Well DW-2 Step-Drawdown Test and Groundwater-Level Monitoring Program, Roblar Road Quarry.*

NS = Not Sampled.

µg/L = micrograms per liter.

Bold font = detection above laboratory reporting limit.

TABLE 3: GROUNDWATER INORGANIC WATER QUALITY PARAMETERS (mg/L) ^a

Sample Location	Date	pH (units)	Specific Conductivity (µmhos/cm)	Total Alkalinity	Carbonate Alkalinity	Bicarbonate Alkalinity	Hydroxide Alkalinity	Total Hardness	Chloride	Nitrates as N	Sulfate	TDS	Turbidity (NTU)
R-1	11/19/04	6.8	520	160	<1.0	160	<1.0	NA	62	0.26	18	330	NA
	01/06/05	6.5	550	120	<1.0	120	<1.0	NA	68	1.2	28	360	NA
	04/12/05	7.2	550	160	<1.0	160	<1.0	NA	52	0.68	24	350	NA
	07/13/05	6.9	560	160	<1.0	160	<1.0	NA	69	0.26	20	350	NA
	07/26/06	7.0	560	170	<1.0	170	<1.0	NA	67	0.24	20	360	NA
	04/20/07	6.9	580	170	<5.0	170	<5.0	277	71	0.25	21	380	290
	07/05/07	6.6	570	190	<1.0	190	<1.0	NA	76	<0.2	20	410	NA
	09/07/07	6.8	580	180	<5.0	180	<5.0	211	72	<0.2	19	390	94
	12/27/07	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS
	03/25/08	6.7	560	160	<5.0	160	<5.0	256	72	0.20	21	380	110
R-2	7/14/09	6.9	600	180	<5.0	180	<5.0	NS	64	<0.2	16	360	NS
	11/19/04	6.4	240	82	<1.0	82	<1.0	NA	18	1.4	14	190	NA
	01/06/05	6.8	340	150	<1.0	150	<1.0	NA	27	0.64	16	250	NA
	04/12/05	6.9	220	67	<1.0	67	<1.0	NA	16	2.5	9.2	210	NA
	07/13/05	7.0	220	60	<1.0	60	<1.0	NA	16	1.8	9.8	180	NA
	04/20/07	7.1	210	66	<5.0	66	<5.0	127	16	1.9	8.9	180	11
	09/07/07	6.9	250	73	<5.0	73	<5.0	132	22	2.3	8.0	200	220
	12/27/07	6.6	290	78	<5.0	78	<5.0	127	34	2.0	8.9	220	130
	03/25/08	6.9	210	69	<5.0	69	<5.0	83	16	1.4	9.5	150	66
	11/19/04	6.0	570	60	<1.0	60	<1.0	NA	110	2.4	78	360	NA
R-3	01/06/05	5.9	370	21	<1.0	21	<1.0	NA	88	2.9	7.3	270	NA
	04/12/05	6.4	290	23	<1.0	23	<1.0	NA	67	2.6	6.1	210	NA
	07/13/05	6.1	550	25	<1.0	25	<1.0	NA	93	2.0	7.5	350	NA
	04/20/07	6.1	500	21	<5.0	21	<5.0	201	83	2.2	7.3	340	320
	09/07/07	6.4	400	19	<5.0	19	<5.0	127	97	3.1	8.6	340	84
	12/27/07	5.9	400	18	<5.0	18	<5.0	102	98	3.1	7.6	360	36
	03/25/08	6.0	330	20	<5.0	20	<5.0	102	71	3.4	11	260	260
	02/02/07	7.30 ^b	430 ^b	NA	NA	NA	NA	NA	NA	<0.2	NA	300	56
	04/20/07	7.8	420	170	<5.0	170	<5.0	216	20	<0.2	20	290	150
	09/07/07	7.4	400	170	<5.0	170	<5.0	162	20	<0.2	19	290	42
MW-1	12/27/07	7.7	410	170	<5.0	170	<5.0	180	20	<0.2	19	270	33
	03/25/08	7.5	380	180	<5.0	180	<5.0	191	19	<0.2	19	280	210
	11/12/08	7.41	400	192	NA	NA	NA	187	16.6	<0.5	16.1	275	22

TABLE 3: GROUNDWATER INORGANIC WATER QUALITY PARAMETERS (mg/L) ^a (Continued)

Sample Location	Date	pH (units)	Specific Conductivity (µmhos/cm)	Total Alkalinity	Carbonate Alkalinity	Bicarbonate Alkalinity	Hydroxide Alkalinity	Total Hardness	Chloride	Nitrates as N	Sulfate	TDS	Turbidity (NTU)
MW-2	02/02/07	11.64 ^b	542 ^b ms/m	NA	NA	NA	NA	NA	NA	<0.2	NA	1,000	30
	04/20/07	12	3,000	630	60	<5.0	570	458	66	<0.2	28	780	36
	09/07/07	12	1,600	1,100	110	<5.0	1,000	482	78	<0.2	9.1	500	100
	12/27/07	11	1,200	210	130	<5.0	82	288	56	4.0	54	450	45
MW-2b	03/25/08	12	1,700	400	110	<5.0	300	235	57	0.8	55	740	21
	11/12/08	7.03	310	75	NA	NA	NA	127	22.3	6.94	11.5	258	182
MW-3	02/02/07	7.46 ^b	320 ^b	NA	NA	NA	NA	NA	NA	<0.2	NA	250	3.2
	04/20/07	7.9	310	95	<5.0	95	<5.0	124	51	<0.2	22	230	1.4
	09/07/07	8.0	300	95	<5.0	95	<5.0	98	27	<0.2	22	230	0.65
	12/27/07	7.9	300	95	<5.0	95	<5.0	112	23	<0.2	20	220	0.26
MW-4	03/25/08	8.2	300	110	<5.0	110	<5.0	116	23	0.42	17	200	0.25
	11/12/08	7.58	305	165	NA	NA	NA	124	22.4	<0.5	14.1	247	4.0
	02/01/07	7.01	218	95	NA	NA	NA	60.4	36.7	2.65	3.58	201	108
DW-1	04/20/07	6.8	NA	NA	NA	NA	NA	NA	NA	<0.2	NA	290	8.5
	09/07/07	8.8	360	69	<5.0	69	<5.0	100	52	0.54	22	250	37
	03/25/08	6.8	480	160	<5.0	160	<5.0	17	32	0.21	25	300	7.6
	11/12/08	7.53	330	73	<5.0	73	<5.0	114	47	<0.2	30	200	11
DW-2	02/01/07	7.53	90	90	NA	NA	NA	79.1	36.3	<0.5	19.4	228	13.2
	04/20/07	7.7	NA	NA	NA	NA	NA	NA	NA	<0.2	NA	280	2.3
	09/07/07	7.3	260	87	<5.0	87	<5.0	69	14	<0.2	22	200	3.7
	03/25/08	7.7	250	80	<5.0	80	<5.0	64	15	<0.2	22	200	15
DW-2	11/12/08	7.83	275	88	<5.0	88	<5.0	81	14	<0.2	21	160	12
				106	NA	NA	NA	58.6	13.3	<0.5	16.6	229	3.5

Notes:

^a Data excerpted from:

- Advanced GeoEnvironmental, Inc., 24 April 2008. *Quarterly Report – First Quarter 2008. Roblar Road Quarry, 7601 Roblar Road, Petaluma, California.*
- Pacific Geoscience, 27 July 2007. *Ground Water Monitoring Report (July 2007 Event) for the Roblar Landfill, Sonoma County, California.*

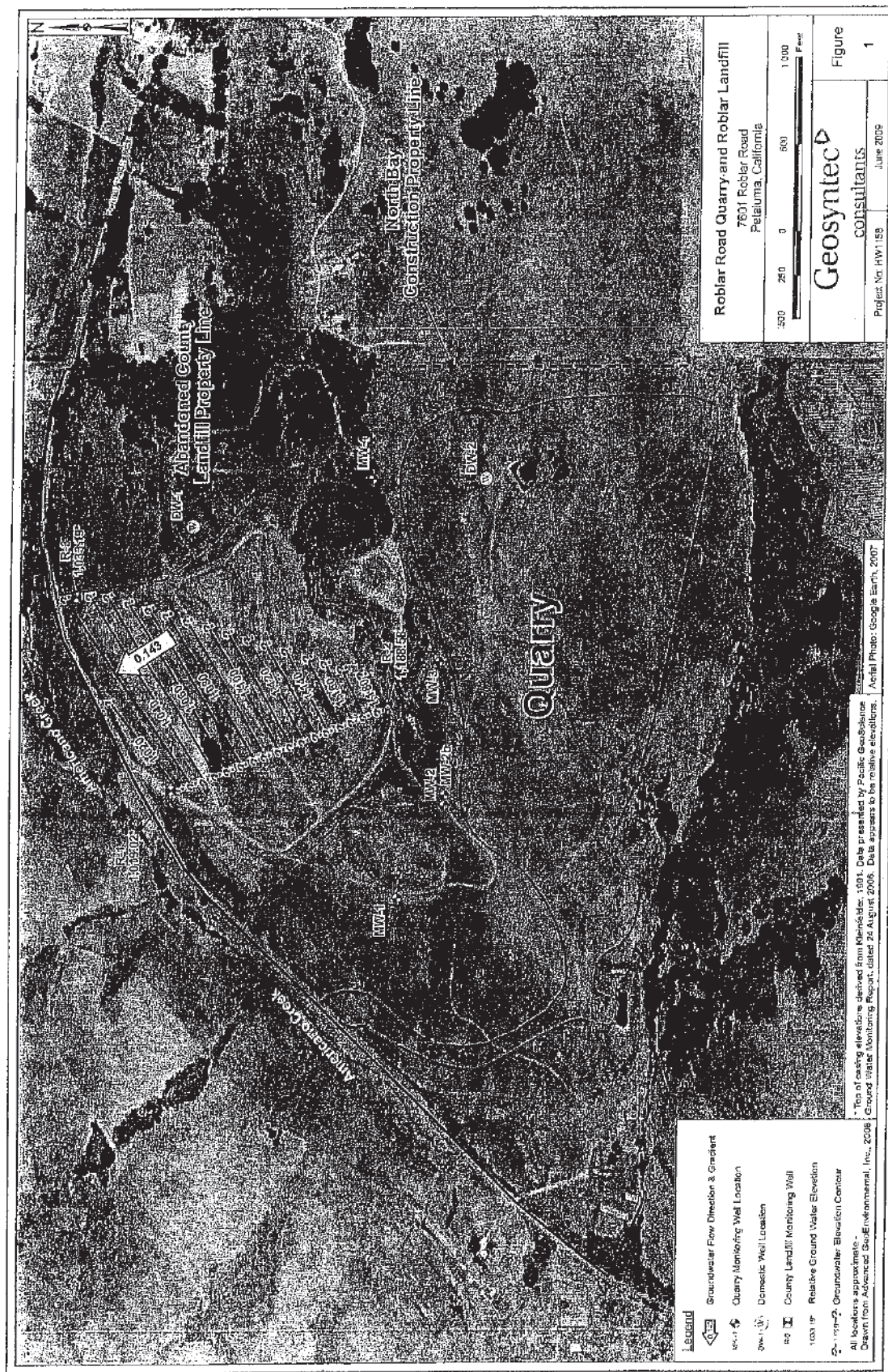
^b Field measurements from final well purge. Field equipment was calibrated prior to purging wells.

mg/L = milligrams per liter; ms/m = millisiemens per meter.

NA = Not Analyzed; NS = Not Sampled; NTU = Nephelometric Turbidity Units; TDS = Total Dissolved Solids.

Bold font = detection above laboratory reporting limit.

FIGURES



**Draft Conditions of Approval and Mitigation Monitoring Program
for the Roblar Road Quarry**

Date: April 1, 2010 **File No.:** PLP03-0094
Applicant: John Barella **Quarry APNs:** 027-080-009 and -010
Address: 7175 and 7601 Roblar Road, Sebastopol

Project Description: Request for (1) Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel, (2) Use Permit for Alternative 2 (Alternative Haul Route/Contracted Sales Only) to allow a 20-year mining permit with an annual production limit of 570,000 cubic yards per year, (3) Reclamation Plan to return the 70 acre mining area to a natural condition with native soil and vegetation, and (4) a Williamson Act easement exchange, rescinding the Type II Williamson Act contract on the 70 acre mining site, while simultaneously placing a permanent agricultural conservation easement on a 243 acre agricultural property near Petaluma.

The Permit and Resource Management Department (PRMD) is responsible for monitoring the compliance of aggregate operations with all permit conditions and ordinance requirements as part of the ongoing inspection, enforcement, mitigation and monitoring program established by the Aggregate Resources Management (ARM) Plan. In addition, the County conducts periodic inspections of every mining site to fulfill the requirement of the State Surface Mining and Reclamation Act (SMARA). Some of the monitoring for the following conditions of approval will be carried out concurrently through the above activities; in other cases more frequent monitoring or monitoring by a qualified professional or responsible agency has been deemed necessary and added to the on-going monitoring activities.

The monitoring activities planned for each condition of approval along with the responsible person or agency, and the frequency or schedule of monitoring are provided after each applicable condition in the following conditions of approval.

The requirements of this Use Permit run with the real property that is the subject of the project. Successive owners, heirs, and assigns of this real property are bound to comply with all the requirements of these conditions. Prior to any lease, sale, transfer, or conveyance of any portion of the real property that is the subject of the project, the owner shall provide a copy of the adopted conditions to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

Prior to issuance of any permits (grading, septic, building, etc.) or commencement of clearing or mining activity on parcels defined as APNs 027-080-009 and -010, all of the pre-operational conditions must be met and verified by PRMD staff pursuant to this Use Permit. Conditions relating to the Use Permit for mining are denoted with a "U." Conditions related to the Reclamation Plan are denoted with an "R." Operational conditions applicable to both the Use Permit and Reclamation Plan are denoted with "U/R."

BUILDING:

"The conditions below have been satisfied" BY _____ DATE _____

- U 1. The operator shall apply for and obtain building-related permits from PRMD. The necessary applications appear, but may not be limited to site review, grading, and building permits.
- U 2. Prior to initiation of the approved use, the project shall comply with the accessibility requirements set forth in the most recent California Building Code (CBC), as determined by the PRMD Building Division. Such accessibility requirements shall apply to all new construction.

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HEALTH:

"The conditions below have been satisfied" BY _____ DATE _____

Preoperational Health Conditions:

Water:

- U 3. Prior to building permit issuance, project operation and vesting the Use Permit, the applicant shall provide the Project Review Health Specialist with the bacteriological (E. Coli and total coliform) and nitrate analysis results of a sample of the well water tested by a California State-certified lab. If the analysis shows contamination, the applicant will be required to treat the well per County requirements and re-test the well. If the contamination cannot be cleared from the well, destruction under permit of this Department and an alternate on-site (or off-site easement to a) well or spring water source may be required. Copies of all laboratory results must be submitted to the Project Review Health Specialist. (Note: Arsenic analysis are already listed in the EIR, response to comments).
- U 4. Prior to the issuance of building permits, project operation and vesting the Use Permit, the applicant shall provide an engineered design of the water supply system, construct and/or develop the water sources (wells and/or springs), complete the appropriate water quality testing and apply for a water supply permit from the State Department of Public Health, Office of Drinking Water if more than 25 persons per day for 60 days within a year will be served by the water system. A copy of the Use Permit application and conditions must be provided to the State Department of Public Health in order to obtain appropriate raw water source sampling requirements. (This process should begin as soon as possible, as the application, plan check and sampling may take some time.) Prior to the issuance of building permits, copies of the clearance letter must be submitted to the Project Review Health Specialist, or the Office of Drinking Water may E-mail clearance directly to PRMD.
- U 5. If a water supply permit is required, then the water supply well is required to have a 50 foot annular seal prior to project operation and vesting the Use Permit. Annular seals are installed at the time of construction of the water well, and are very difficult (and sometimes impossible) to retro-fit in an economic manner. If documentation of a 50 foot annular seal cannot be obtained, then a new water well may be required.
- U 6. The applicant shall modify the existing supply well under permit for Phases I and II, and abandon the existing well under permit from the Well and Septic Section of PRMD for Phase III.
- U 7. Prior to the issuance of any building permit, project operation and vesting the Use Permit, an easement is required to be recorded for this project to provide Sonoma County personnel access to any on-site water well serving this project and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted Monday through Friday from 8:00 AM to 5:00 PM. All easement language is subject to review and approval by PRMD-Project Review and County Counsel prior to recordation.
- U 8. Prior to the issuance of any building permit, project operation and vesting the Use Permit, any new or existing water well serving this project shall be fitted with a water meter to measure all groundwater extracted for this use.
- U 9. Prior to the issuance of any building permit, project operation and vesting the Use Permit, a separate, dedicated groundwater supply monitoring well is required to be drilled for this project. The monitoring well is required to be drilled under permit of this Department and shall be of a depth, screening and development comparable to the supply well. The monitoring well shall be located as far away from other wells, ponds and wastewater disposal fields as is consistent with being in the same geologic formation as the primary well and being accessible by street vehicle. The monitoring well location shall be approved by PRMD in advance of construction. The monitoring well shall be marked with a water level measuring reference

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point, and the GPS coordinates (in NAD83 California State Plane II or WGS 84 lat./long.) of the monitoring well shall be submitted to PRMD.

Alternatively, PRMD will evaluate proposals to use existing nearby standby or auxiliary water wells as a substitute for the required monitoring well. Any proposal to use a substitute well must include at a minimum, a copy of the drillers log for both the production well and the substitute monitoring well, and a site plan with the GPS coordinates of both wells. The proposal must verify that the substitute well does not have a collapsed casing, and is suitable for groundwater level monitoring purposes.

Septic:

- U 10. Prior to building permit issuance, project operation and vesting the Use Permit, the applicant shall obtain a permit for the sewage disposal system. The system may require design by a Registered Civil Engineer or Registered Environmental Health Specialist and both soils analysis, percolation and wet weather testing may be required. Wet weather groundwater testing may also be required. The sewage system shall meet peak flow discharge of the wastewater from all sources granted in the Use Permit and any additional sources from the parcel plumbed to the disposal system, and shall include the required reserve area. If a permit for a standard, innovative or Experimental Sewage Disposal System sized to meet all peak flows cannot be issued, then the applicant shall revise the project (fees apply and a hearing may be required) to amend the Use Permit to a reduced size, not to exceed the on-site disposal capabilities of the project site and attendant easements. The Project Review Health Specialist shall receive a final clearance from the Well and Septic Division that all required septic system testing and design elements have been met.
- U 11. The use of portable toilets shall not substitute for required bathrooms and septic systems, but may be used to supplement the required restrooms and shall meet the following minimum requirements:
 - a. Portable hand washing facilities shall be provided with all portable toilets used for employees, serving visitors or the public.
 - b. Portable toilets shall be serviced as needed, but in no case less than once every seven days.
 - c. The applicant shall provide an accessible portable restroom on the job site where required by Federal, State or local law, including but not limited to, requirements imposed under OSHA, the Americans with Disabilities Act or Fair Employment and Housing Act.
 - d. If complaints are received that PRMD believes are valid complaints, the applicant or current operator of the Use Permit shall increase the number of portable toilets and/or increase the frequency of maintenance of the portable toilets as directed by PRMD. The property owner and his agent(s) are expected to maintain portable toilets and hand washing units so that:
 - i. The holding tank does not leak or overflow.
 - ii. Toilet paper is promptly replaced when the dispenser runs out.
 - iii. Water, paper towels and soap are promptly replaced when the hand washing units run out.
 - iv. The wait to use a portable toilet shall not be so long that people relieve themselves at other impromptu locations.
 - v. Reliance upon portable toilets shall not create a public nuisance.
- U 12. Toilet facilities shall be provided for patrons and employees prior to project operation and vesting the Use Permit. A copy of the floor plan showing the location of the restrooms shall be submitted to Project Review Health prior to issuance of building permits.

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Vector Control:

- U 13. A mosquito and vector control plan acceptable to the Marin-Sonoma Mosquito and Vector Control District (telephone 707-285-2200) shall be submitted prior to the construction of any ponds and prior to vesting the Use Permit. The Project Review Health Specialist shall receive a copy of the vector control plan and an acceptance letter from the Marin-Sonoma Mosquito and Vector Control District.

Hazardous Materials:

- U 14. The applicant shall prepare a Spill Prevention, Control and Counter Measure Plan (SPCCMP) in conformance with the requirements of the Code of Federal Regulations 40CFR112. A copy of the SPCCMP shall be submitted to the Sonoma County Department of Emergency Services (DES) to demonstrate completion of the mitigation. *Mitigation Measure H.1a*

Mitigation Monitoring: Prior to the storage or handling of petroleum products, PRMD staff will verify that a Spill Prevention, Control and Counter Measure Plan (SPCCMP) has been submitted to the DES for review and approval.

Noise:

- U 15. The applicant shall fund residential noise insulation upgrades, as agreed to by the property owners, on the two residences on Roblar Road between the project entrance and Valley Ford Road (APNs 022-290-001 and 027-080-005, sufficient to maintain existing interior noise levels with the increased truck traffic. The applicant shall contact the property owners in writing with an offer to perform noise insulation upgrades. If approved by the property owners, perform the upgrades prior to the commencement of mining.
Mitigation Measure G.2

Mitigation Monitoring: PRMD will verify that the applicant has made a written offer to the property owners and installed noise insulation upgrades prior to commencement of mining, if approved by the property owners.

Operational Health Conditions:

Water:

- U 16. A safe, potable water supply shall be provided and maintained.
- U/R 17. Production well DW-1 shall not be used for any quarry-related operations or reclamation. In the event operational constraints prevent production well DW-2 from being used throughout the project duration, well DW-2 shall be abandoned under permit and a new well drilled onsite within, or in proximity to, the quarry footprint (and no closer to the adjacent landfill property than existing Well DW-2).
Mitigation Measure C.4d

Mitigation Monitoring: PRMD ARM staff will verify during quarterly inspections that well DW-1 is not utilized for quarry operations. PRMD Planning will verify that any proposed new production well is located no closer to the landfill property than DW-2, should operational constraints be experienced with well DW-2. PRMD staff will also verify that well DW-2 is abandoned under permit, as necessary.

- U 18. The location of the wells, and groundwater elevations and quantities of groundwater extracted for this use shall be monitored monthly and reported to PRMD and the Local Enforcement Agency on a quarterly basis pursuant to section WR-2d of the Sonoma County General Plan and County policies. Annual monitoring fees shall be paid at the rate specified in the County Fee Ordinance. If the County determines that groundwater levels are declining in the basin,

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then the applicant shall submit and implement a water conservation plan, subject to review and approval by PRMD.

- U 19. Required water meters shall be calibrated, and copies of receipts and correction factors shall be submitted to PRMD-Project Review at least once every five years.
- U 20. In accordance with the Water Management Plan required under condition #108 (Mitigation Measure C.4e), a groundwater level monitoring and adaptive management program shall be implemented when the project begins to pump groundwater for quarry operations from Well DW 2. The applicant shall retain a California certified hydrogeologist to develop the monitoring program, subject to approval by the County. Groundwater levels in well DW-2 and the onsite monitoring wells (MW-1, MW-2b, MW 3, MW-4 and DW-1) shall be monitored on a weekly basis by quarry staff during the period of active pumping from Well DW-2. If pumping at Well DW-2 results in a measurable declining trend of static water levels, the applicant shall employ appropriate adaptive management strategies including short-term (e.g. alteration of pumping schedule, reduced pumping, decreased water use, changes in overall water management strategies or temporary cessation of pumping) or long-term corrective measures (e.g. permanent cessation of pumping at Well DW-2, installation of a higher producing well in an alternate onsite location) until the groundwater levels in onsite wells are shown to recover to pre-project pumping conditions.
- U/R 21. In conjunction with the groundwater sampling program required below, groundwater levels in the four monitoring wells (MW-1, MW-2b, and MW-3 and MW-4), two existing onsite production wells (well DW-1 and DW-2), as well as the adjacent landfill property wells (R-1, R-2 and R-3) shall be measured to allow continued monitoring of groundwater levels and potential localized changes in gradient in the site vicinity.

To ensure consistency in measured groundwater level data, prior to mining and as required, all the existing and proposed wells on the quarry and landfill properties to be used for monitoring shall be surveyed by a licensed surveyor for location and elevation, referenced to mean sea level, utilizing the North American Datum of 1988-GEOID 99 (NAVD88).
Mitigation Measure C.4c

Mitigation Monitoring: PRMD staff will verify that groundwater levels are surveyed prior to mining and review groundwater level data quarterly after mining has commenced to verify changes in groundwater levels.

- U 22. Split samples shall be collected under County supervision from the four on-site monitoring wells (MW-1, MW-2b, MW-3 and new MW-4) and two existing onsite production wells (wells DW-1 and DW-2) each quarter to continue to provide water quality data and provide an early warning of potential groundwater contamination, including any potential contamination that could be entering the quarry property from the Roblar Landfill property. The split samples shall go to different State-certified laboratories. Water samples shall be tested for the same suite of analytes used at the adjacent Roblar Landfill during the 2004 through 2008 monitoring events, and at the project site during the 2007/08 monitoring events. The QA/QC protocol for the sampling and analysis program shall be developed in consultation with, and approved by, the County and RWQCB as applicable. Quarterly water sample results shall be sent to and reviewed by Sonoma County PRMD, RWQCB, and the Local Enforcement Agency in Environmental Health.

Mitigation Measure C.4b

Mitigation Monitoring: PRMD Health, RWQCB, and the Local Enforcement Agency in Environmental Health will review groundwater sampling results each quarter to verify the results of groundwater monitoring.

- U 23. In the event that leachate and/or landfill materials are detected on site the Local Enforcement Agency in Environmental Health must be contact within 24 hours.

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- U 24. In addition to compliance with all of the procedures outlined in the Water Management Plan provided in the Final EIR, provide quarterly groundwater quality results to PRMD, RWQCB, and the Local Enforcement Agency in Environmental Health.
- U 25. In the event that destabilization of the Roblar Landfill occurs, operation shall cease in the areas adjacent to the landfill until the issue is adequately addressed/resolved according to CCR Title 27.

Septic:

- U 26. Maintain the annual operating permit for any Alternative (mound or pressure distribution) or Experimental Sewage Disposal System installed per Sonoma County Code 24-32, and all applicable Waste Discharge Requirements set by the Regional Water Quality Control Board.
- U 27. Use of the on-site wastewater disposal system shall be in accordance with the design and approval of the system.
- U 28. All future sewage disposal system repairs shall be completed in the designated reserve areas and shall meet Class I Standards. Alternate reserve areas may be designated if soil evaluation and testing demonstrate that the alternative reserve area meets or exceeds all of the requirements that would have been met by the original reserve area. If wastewater ponds or a package treatment plant are needed, then a modification of the Use Permit is required.

Noise:

- U 29. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

TABLE NE-2: Maximum Allowable Exterior Noise Exposures

Hourly Noise Metric ¹ , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60
¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.		

- U 30. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD's opinion, then the applicant shall hire a qualified acoustical consultant to conduct a noise study to determine if the current operations meet noise standards and identify any additional noise mitigation measures if necessary. A copy of the noise study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received. The owner/operator shall implement any additional mitigation measures needed to meet noise standards.
- U 31. At the initiation of each of the three project phases and at regular intervals within each phase, noise monitoring shall be conducted by a qualified acoustical consultant at fence line locations to the west and the northeast that are on the direct line between the path from the center of quarry operations and the nearest off-site sensitive receptor in that direction. Noise source levels of the specific equipment to be used shall be measured and specific sound levels at the residences predicted. The applicant shall submit the noise monitoring information to PRMD upon the initiation of site development, initiation of each phase of mining, and biannually.

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If no exceedances of the Table NE-2 daytime standards are predicted, operations may proceed. Should noise levels exceed the daytime limits in Table NE-2, the quarry operator shall take measures so that quarry operations are within the limits in Table NE-2. Measures could include any combination of the following: (1) additional soundproofing to equipment (2) soundberms or other noise barriers to attenuate equipment noise, (3) sound proofing to affected occupied residences, (4) restriction on duty cycles for noisy equipment, or other recommended measures. If the operator presents evidence to the County that demonstrates that the identified measures will reduce noise levels to meet Table NE-2 standards, then the measures shall be implemented and mining operations may proceed within the area included in the monitoring study. Once work begins, the noise level shall be monitored for a period long enough to validate the predicted levels. Upon request by the County, the applicant shall provide additional monitoring at later times to demonstrate compliance.

Mitigation Measure G.1a

Mitigation Monitoring: Prior to initial grading and at each phase of mining, PRMD Arm staff will verify that noise monitoring occurs at specified intervals through the submission of monitoring data and that noise reduction measures are implemented as necessary to meet Table NE-2 standards.

- U 32. To comply with the nighttime requirement in Table NE-2, loud operations capable of exceeding the nighttime standards in Table NE-2 shall not occur in the 6:00 to 7:00 a.m. time frame. This requirement shall be reviewed during the start up of noise testing described in *Mitigation Measure G.1b*

Mitigation Monitoring: PRMD will verify that noise monitoring occurs at specified intervals through the submission of monitoring data and that noise reduction measures are implemented to meet Table NE-2 standards as necessary.

- U 33. Consistent with ARM Plan operating standards, the applicant shall develop and implement a truck driver education program that informs drivers of procedures established to reduce public conflicts. This program shall stipulate the Alternative 2 haul route and include instructions to drivers to avoid the use of engine brakes on the quarry access road and local haul routes, as safety allows. The operator shall submit to PRMD a written list of employees/contractor haulers and the date of their participation in the required training. New employees shall also be provided with required training.

Mitigation Measure G.1c

Mitigation Monitoring: PRMD will monitor the mitigation by verifying that the operator has an education program for truck drivers and submits to PRMD a written list of employees and the date of their participation in the required training.

- U 34. The applicant shall require and verify that all quarry operator owned off-site-haul trucks, and off-site haul trucks that would be under contract with the quarry operator, use a properly functioning exhaust muffler (capable of meeting the federal passby standards) equivalent to the original factory installed muffler. Each quarry owned haul truck shall be re-verified by the applicant annually. Each haul truck that would be under contract with the quarry operator shall be inspected upon signing a hauling contract. The applicant shall submit written confirmation on an annual basis that his truck fleet meets this requirement. The applicant shall also provide evidence that this requirement is in the contract for non quarry owned trucks.

Mitigation Measure G.1d

Mitigation Monitoring: PRMD will verify this measure on an annual basis by verifying that the applicant submits written confirmation that trucks have been inspected for compliance with this requirement. PRMD will verify that this requirement is in the standard hauling contract.

- U 35. A blasting plan shall be provided that ensures that ground motions do not exceed 0.5 inches per second at the nearest residence. To ensure that the intensity of ground motion in this location would not exceed the 0.5 inch per second limit, all blasting in the eastern edge of the proposed quarry shall be designed to assure that charges are sized to maintain a scaled

scaled distance (Ds) of 65 or greater (see Appendix F-1 in the EIR) to avoid impacts to residential uses 600 feet away. With this limitation, maximum cumulative weight of any charges firing within any 8-milliseconds time period shall not exceed 85.2 pounds $[(600/65)^2]$. The applicant shall use delay-decked charges in 5 inch holes or reduced hole-size or the height of benches. For practical blasting purposes, the single charge in a 34-foot hole could be separated into two or three individually delayed charges, separated by stemming, to ensure the maximum charge weight-per-delay in 5-inch holes is appropriate for vibration control.

Mitigation Measure G.3a

Mitigation Monitoring for G.3a - G.3j: PRMD Project Review staff will review the Blasting Plan to insure that the above measures are included. PRMD ARM Staff will periodically monitor compliance with blasting mitigations during ongoing quarterly field inspections. PRMD Code Enforcement will investigate all noise complaints and will ensure compliance from the permit holder. All inspection reports will be placed in the project file.

The Blasting Plan shall specify the following:

- a. The applicant shall conduct monitoring of ground vibration and air-overpressure at a minimum of two locations to ensure these effects remain under threshold levels. One location should be close to the nearest residential property. The second monitoring point should be the adjacent landfill property. All monitoring equipment and practices shall conform with the standards developed by the Vibration Section of the International Society of Explosive Engineers (see Attachment 1 in Appendix F of this EIR).

Mitigation Measure G.3b

- b. Blasting shall be limited to daytime hours between 10:00 am. and 4:00 p.m.

Mitigation Measure G.3c

- c. A blasting permit shall be obtained from the Sonoma County Sheriff's Department prior to any blasting.

Mitigation Measure G.3d

- d. The blast monitoring program shall be discussed with the residents in the project area. Educate property owners as to what is being done and why. Obtain information on time periods that are sensitive to blast activity.

Mitigation Measure G.3e

- e. Conduct a pre-blast survey to determine the condition of existing structures, and to alert homeowners that some rattling may be expected but damage is not expected. Contacts should be provided so that damage claims and complaints can be monitored and responded to quickly.

Mitigation Measure G.3f

- f. Schedule blasts to occur at approximately the same time on each blast day. Include this information in public announcements.

Mitigation Measure G.3g

- g. Prior to any blast proposed within 1,500 feet of the Roblar landfill cells, the applicant shall test methane using methane detection devices at hole-collars of six holes drilled closest to the Roblar landfill property. Blasting shall only proceed if any detected methane is below the 0.1 percent minimum trace level established by the Bay Area Air Quality Management District.

Mitigation Measure G.3h

- h. The blasting plan shall include a procedure, acceptable to PRMD, for notifying nearby residents prior to each blasting event. This public notification process shall be fully explained in the blasting education program for area residents (Mitigation Measure G.3e), and shall include the list of residents to be notified, a standard time at which such

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pre-blast notification shall be made, and a telephone number area residents can call to hear a regularly-updated recording describing the next scheduled blasting activity.
Mitigation Measure G.3i

Mitigation Monitoring: for G.3a - G.3i: PRMD Project Review staff will review the Blasting Plan to insure that the above measures are included. PRMD ARM Staff will periodically monitor compliance with blasting mitigations during ongoing quarterly field inspections. PRMD Code Enforcement will investigate all noise complaints and shall ensure compliance from the permit holder. All inspection reports will be placed in the project file.

Hazardous Materials Program:

- U 36. Comply with applicable hazardous waste generator, underground storage tank, above ground storage tank and AB2185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Hazardous Materials Division of Sonoma County Department of Emergency Services. The applicant shall submit a copy of a current permit to the Permit and Resource Management Department Health Specialist to verify compliance.

Mitigation Measure H.1b

Mitigation Monitoring: Prior to the handling and storage of hazardous waste, PRMD will verify that appropriate approval is obtained for the generation or storage of hazardous waste.

- U 37. All hazardous waste materials shall be stored, handled and managed in accordance with the approved site plan and hazardous materials plan so as to reduce the potential for any spillage.

Mitigation Measure H.1c

Mitigation Monitoring: In conjunction with ongoing inspections, PRMD ARM and DES staff will verify compliance the hazardous materials management plan.

- U 38. No soil or other material containing hazardous or toxic waste shall be imported to the quarry.

Mitigation Measure H.1d

Mitigation Monitoring: In conjunction with ongoing inspections, PRMD ARM staff will verify compliance with this measure.

Solid Waste:

- U 39. All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of to a County Transfer Station or County Landfill before the end of the seventh day. Please note that the Local Enforcement Agency (at Environmental Health) bills at an hourly rate for enforcement of violations of the solid waste requirements.

TRANSPORTATION AND PUBLIC WORKS:

"The conditions below have been satisfied" BY _____ DATE _____

Integrated Waste Division:

- U/R 40. The project applicant shall accept responsibility for loss or damage to any person or entity, including the County and its Board of Supervisors, representatives, agents, employees, and consultants (hereinafter "County") and/or Applicant, that arises out of, pertains to, results from and/or relates to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project. The burden of proof shall be on the Project Applicant

to demonstrate that any contaminants found on the Quarry site are not the result of the Quarry Project.

- U/R 41. Prior to initial grading, the project applicant shall indemnify and hold harmless County, in a form acceptable to the County, from and against any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgements undertaken and/or asserted by any person or entity, including any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project in a form acceptable to the County. This includes all costs and expenses of any kind, including attorneys' fees and expenses, incurred by the County.
- U/R 42. Prior to initial grading, the project applicant shall release the County from any and all losses, costs and/or expenses of any kind Project Applicant incurs or may incur as a result of any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgements undertaken and/or asserted by any person or entity, including the Project Applicant or any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as result of the Quarry Project in a form acceptable to the County. This release shall be binding on all future owners/operators, successors and assigns of the Quarry site.

Roads Division Preoperational Conditions:

- U 43. Prior to the commencement of mining, the applicant shall install a signal at the Stony Point Road/Roblar Road intersection. The applicant shall have plans prepared for the work in conformance with the County's preliminary design plans, including widening all approaches to the intersection, including shoulders; lengthening the northbound left-turn lane; and adding a southbound left-turn lane (for access to the driveway across Roblar Road). The signal shall be designed in accordance with Caltrans guidelines, subject to review and approval by TPW. A reimbursement agreement and/or an offset of the payment of traffic mitigation fees may be *Mitigation Measure E.1*

Mitigation Monitoring: PRMD will verify that the funding agreement for signal installation is in place and the signal is installed prior to the commencement of mining.

- U 44. The signalization of the Stony Point Road and Roblar Road intersection shall also include a dedicated right-turn lane if feasible. The County's preliminary design for this intersection does not include a southbound right-turn lane. In conjunction with final design, the feasibility of a right turn lane shall be considered. Should it prove feasible, the design shall be modified to incorporate the change.
Mitigation Measure E.2a

Mitigation Monitoring: As the final design of intersection improvements progresses PRMD will consult with DTPW to verify whether a southbound right turn lane is feasible. Should feasibility be confirmed, PRMD will verify the plans include the right turn lane.

- U 45. Prior to the commencement of mining, the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of the future signalization of the Stony Point Road/West Railroad Avenue intersection. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and DTPW. The fair share is 5%. The DTPW will provide the cost estimate prior to commencement of mining.
Mitigation Measure E.2b

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to the commencement of mining.

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- U 46. Prior to the commencement of mining, the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of the future signal timing optimization of the Stony Point Road/SR 116 intersection. The fair share is 1%. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of Caltrans, PRMD and DTPW. The cost estimate shall be determined by a qualified consultant and approved by Caltrans.

Mitigation Measure E.2c

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to commencement of mining.

- U 47. Prior to the commencement of mining the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of future signal timing optimization of the Highway 116/Old Redwood Highway intersection. The fair share is 1 %. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and Caltrans. Caltrans or the City of Cotati shall perform signal optimization once signal warrants are met.

Mitigation Measure E.2d

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to the commencement of mining.

- U 48. Prior to the commencement of mining, improve Roblar Road (between Access Road 1 and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide shoulders with a traffic index of 10.5, and associated striping/signage to meet Class II bike facilities. These improvements shall be conducted prior to initiation of quarry mining. *Mitigation Measure E.3a*

Mitigation Monitoring: PRMD will verify that roadway improvements are completed prior to the commencement of mining.

- U 49. The applicant shall ensure that all loaded trucks are covered or maintain at least two feet of free board to prevent spillage of materials onto haul routes.

Mitigation Measure E.3b

Mitigation Monitoring: PRMD ARM plan staff will verify compliance with this mitigation measure during quarterly inspections.

- U 50. The applicant shall post warning signs on Roblar Road at key locations where sight distance may continue to be limited after implementation of Mitigation Measure E.3a. *Mitigation Measure E.4a.*

Mitigation Monitoring: PRMD and DTPW staff will review the Roblar Road public improvement plans to insure roadway warning signs are included on the plans as necessary.

- U 51. The applicant shall post warning signs on Roblar Road 250 feet ahead of the access driveway that cautions drivers about truck traffic entering and exiting the roadway, subject to County approval. The warning signs shall follow guidelines set forth in the California Manual on Uniform Traffic Control Devices (Caltrans, 2006c).

Mitigation Measure E.4b

Mitigation Monitoring: PRMD and DTPW staff will review the Roblar Road public improvement plans to insure that these roadway warning signs are included on the plans.

- U 52. Prior to grading permit issuance for quarry development, the applicant shall improve Roblar Road at the proposed access according to American Association of State Highway and

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Transportation Officials (AASHTO) design standards.

Mitigation Measure E.5a

Mitigation Monitoring: PRMD and DTPW will review the Roblar Road driveway access plans to insure that these improvements meet AASHTO standards.

- U 53. The design of the quarry access road (Access Road 1) to Roblar Road, shall be configured to prohibit truck turning movements to/from Roblar Road, east of the access road.

- U 54. Design the roadway cross-section to meet the design standards set forth by the American Association of State Highway and Transportation Officials (AASHTO) in A Policy on Geometric Design of Highways and Streets.

Mitigation Measure E.5b

Mitigation Monitoring: PRMD and DTPW will review the Roblar Road public improvement plans to insure that the design for Roblar Road meets AASHTO standards.

- U 55. Prior grading permit issuance, the project applicant shall have a qualified consultant conduct core sampling and associated testing on Pepper Road between Mechem Road and Valley Ford Road, and review as-builts if available, in order to determine the roadway thickness, and the condition of the base and subbase of the roadway. If such testing indicates the existing roadways are not designed, for and/or in a condition that would not accommodate, long-term project truck traffic, the roadways shall be improved as needed (e.g., overlays or reconstruction to meet a traffic index of 10.5) per Caltrans Design Manual standards. The project applicant shall pay the full cost of road improvements, including design and construction.

Mitigation Measure E.6a:

Mitigation Monitoring: The DTPW will verify the core test results and public improvement plans for roadway improvements as needed.

- U 56. Prior to the issuance of a grading permit, the project construction contractor(s) shall develop a construction management plan for review and approval by the Sonoma County Public Works Department. To minimize construction-related traffic congestion, the plan shall provide comprehensive traffic control measures including designated construction access routes and scheduling major deliveries to avoid peak traffic hours. Adjacent property owners and public safety agencies shall be notified prior to such major deliveries.

Mitigation Measure E.7

Mitigation Monitoring: PRMD not authorize grading until verifying that DTPW has reviewed and approved the construction management plan for conformance with this measure.

- U 57. The applicant shall offer right-of-way to the County of Sonoma, free of encumbrances, and of sufficient width:

a. To contain the public improvement of Roblar Road described herein. This right-of-way requirement shall be void if the existing right-of-way meets or exceeds the minimum requirements described above.

b. To contain all relocated overhead utilities.

- U 58. Right-of-way shall be dedicated as roadway easement. The applicant shall have prepared an easement deed, together with the required descriptions and shall submit them to the County Surveyor for review and approval. A copy of the recorded deed shall be submitted to the Land Development Section of the Permit and Resource Management Department prior to clearance of these conditions.

- U 59. The applicant shall construct or install improvements described as follows:

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- a. Widen, reconstruct and/or overlay, as necessary, Roblar Road between the entrances of Private Access Road 1 and Private Access Road 2 in order to create the improved roadway described below. Road width shall be measured from edge of pavement to edge of pavement, a width of 36 feet, and shall include:
 - 1) Two-twelve (12) foot wide paved travel lanes,
 - 2) Two six (6) foot wide paved shoulders,
 - 3) Two-foot wide shoulder backing at the edge of pavement,
 - 4) Construct left-turn channelization at the intersection with Access Road 2,
 - 5) The roadway alignment and channelization shall be designed in conformance to Caltrans standards for a design speed of 45 miles per hour.
 - 6) Depending on the existing conditions, the improvements may require overlay, re-stripping, metal beam guardrail, and overhead utilities relocation, as necessary.
 - 7) The Developer shall mill, repair and overlay the existing pavement as necessary to make a smooth transition between the existing pavement and the new pavement.
- U 60. The structural section of all road improvements shall be designed using a soils investigation which provides the basement soil's R-value and Expansion Pressure test results. A copy of the soils report shall be submitted with the first set of improvement plan check prints. The Traffic Index (TI) to be used for the pavement design of Roblar Road is 10.5.
- U 61. Storm drainage facilities shall be designed and constructed in accordance with Sonoma County Water Agency design standards. Drainage improvements shall be reviewed and cleared by the Grading & Storm Water Section of the Permit and Resource Management Department.
- U 62. Private access road intersections with Roblar Road and Valley Ford Road shall be constructed to meet the following criteria:
 - a. A minimum throat width of 28 feet,
 - b. To prevent right-turning trucks from crossing centerline on Valley Ford Road, the pavement curve returns shall have sufficient radius to accommodate the inside wheel path of the largest anticipated haul vehicle,
 - c. The driveway shall enter the public road as close to perpendicular as possible, but in no case shall the driveway enter the public road at more than 20 degrees from perpendicular,
 - d. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with AASHTO requirements for the speed traveled on the intersecting public road,
 - e. The entry shall be surfaced with asphalt concrete a minimum distance of 25 feet from the existing edge of pavement.
 - f. Refer to County of Sonoma Department of Transportation and Public Works Construction Standard Drawing 814, latest revision, for private road and driveway intersection details,
 - g. The entrance improvements shall be in place prior to commencement of mining activity.

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- U 63. The applicant shall install traffic control devices as required by the Department of Transportation and Public Works, including items such as traffic signs, roadway striping, pavement markers, etc.
- U 64. The applicant shall employ a Registered Civil Engineer, licensed in the State of California, to develop plans for the required improvements. The scale of these improvement plans shall be a minimum 1 inch equals 40 feet, and shall be submitted on 24-inch by 36-inch sheets for review. The Plans shall include roadway cross-sections, at a maximum interval between cross-sections of 50 feet.
- U 65. Plan checking fees and Inspection fees, including those involving off-site frontage improvements, shall be paid to the Permit and Resource Management Department, prior to signature of the Improvement Plans by the Director of the Department of Transportation and Public Works.
- U 66. A Traffic Mitigation Fee shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code, prior to expansion of clearing or mining activities. This fee is for indirect cumulative traffic impacts throughout the county. This permit shall not be vested until the traffic mitigation fees are paid in full.
- U 67. The applicant shall submit improvement plans for all required improvements to the Office of the County Surveyor in the Permit and Resource Management Department for review and approval and shall obtain signed approval from the Director of the Department of Transportation and Public Works prior to the issuance of a Grading, Building or Encroachment permit.
- U 68. The applicant shall obtain an Encroachment Permit from the Permit and Resource Management Department prior to constructing any improvements within County Road right-of-way.
- U 69. Prior to commencement of mining, the applicant shall complete construction of all the required public improvements.

Haul Route Secondary Impact Preoperational Conditions:

- U 70. As part of the grading and construction specifications for the roadway widening, implement best management practices (BMPs) to reduce or eliminate soil erosion during construction. The contractor shall implement these BMPs and be responsible for the inspection and maintenance of the BMPs during construction. These measures shall be incorporated into the Storm Water Pollution Prevention Plan (SWPPP) for the proposed roadway widening (see Mitigation Measure E.8c, below).

Mitigation Measure E.8a

Mitigation Monitoring: PRMD staff verify that roadway improvement plans for include appropriate erosion control measure prior to grading permit issuance.

- U 71. Prior to grading permit issuance, a design level geotechnical investigation shall be required to identify site specific geologic conditions and geotechnical constraints and develop adequate engineering design criteria and remedies to reduce the potential for slope instability from cutting and filling of adjacent slopes along the roadway alignments. Methods for reducing potential slope instability effects could include, but are not limited to, slope reconstruction, earth buttress construction, or retaining structures/walls. All recommendations identified by the licensed geotechnical engineer shall be included in the final design and be incorporated into the roadway widening project, subject to review and approval of DTPW.

Mitigation Measure E.8b

Mitigation Monitoring: PRMD will verify that road improvements are in conformance with the geotechnical report recommendations and approved by DTPW.

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- U 72. Prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) before commencing with roadway widening construction. As part of this process, a Notice of Intent shall be filed with the State Water Resources Regional Control Board, in compliance with the statewide NPDES General Permit for Discharges of Stormwater Runoff Associated with Construction Activity (General Construction Permit). The SWPPP shall specify Best Management Practices (BMPs) to control contamination of surface flows through measures to prevent the potential discharge of pollutants from the construction area.

The BMPs shall be designed to minimize erosion of disturbed soil areas. BMPs could include, without limitation, silt fences, gravel or sand bags, stormdrain inlet protection, soil stockpile protection, preservation of existing vegetation where feasible, use of straw mulch, dust control, and other measures. The SWPPP will also include protection and spill prevention measures for any temporary onsite storage of hazardous materials used during construction. The project applicant shall adhere to the identified BMPs as well as the waste discharge and stormwater requirements outlined in the permit.

Mitigation Measure E.8c

Mitigation Monitoring: PRMD will verify that a Notice of Intent to comply with the NPDES is filed with the RWQCB prior to grading permit issuance.

- U 73. The proposed storm drain system for the roadway widening improvements shall be designed in accordance with all applicable County and Sonoma County Water Agency (SCWA) drainage and flood control design standards. The drainage plan for the roadway widening improvements shall ensure the proposed drainage facilities are properly sized to accommodate projected stormflows and prevent any potential project flooding on-site and in downstream areas.

Mitigation Measure E.8d

Mitigation Monitoring: PRMD will verify that roadway storm drain systems are design to meet PRMD and Water Agency design standards.

- U 74. Prior to issuance of a grading permit for the Alternative 2 haulroute, the applicant shall:

- Conduct a formal wetland delineation in accordance with 1987 Corps of Engineers Wetlands Delineation Manual and have it verified by the U.S. Army Corps of Engineers (Corps). If the Corps and/or CDFG determine that the potentially affected water-associated features are jurisdictional, then the project proponent shall obtain appropriate wetland permits and implement all conditions contained in the Section 404 Clean Water Act permit (possibly an Nationwide permit) from the Corps, Section 1603 Streambed Alteration Agreement from CDFG, and/or Section 401 water quality certification from the Regional Water Quality Control Board.
- Compensate for the loss of jurisdictional wetlands at a 2:1 ratio (or as agreed to by the permitting agencies) within the project site boundary, or at a 3:1 ratio (or as agreed to by the permitting agencies) off-site within the local watershed, by creating, restoring or enhancing waters of the U.S., or contributing in-lieu funds to an existing or new restoration project preserved in perpetuity. The restoration effort shall require implementation of a five-year monitoring program with applicable performance standards, including but not limited to establishing: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.

Mitigation Measure E.8e

Mitigation Monitoring: PRMD will verify that wetland delineations, mitigation, and resource agency approval is obtained prior to grading permit issuance for road improvements.

- U/R 75. Avoid all potential jurisdictional wetlands and riparian habitat located along the roadway alignments, as feasible. Prior to construction activities, the project applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The

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following protection measures are to be included in the grading and Reclamation Plan:

- Installation of exclusionary construction fencing to protect these features from all project construction and operation activities; and
- Implementation of measures to control dust in adjacent work areas (please see comprehensive dust control program identified in Mitigation Measure F.4 in Section IV.F, Air Quality).

Mitigation Measure E.8f

Mitigation Monitoring: PRMD will verify that wetland delineations, mitigation, and resource agency approval is obtained and verify that protective measures are installed prior to grading permit issuance for road improvements.

- U 76. The contractor shall comply with all laws and regulations (Caltrans Standard Specifications, section 7-1.01). The contractor shall be made aware that, if there is removal of any trees on private property in conjunction with the roadway widening improvements, it must be in accordance with the following: 1) the County Tree Protection and Replacement Ordinance; 2) the Sonoma County Valley Oak Stewardship Guidelines for valley oak trees removed within the Valley Oak Habitat combining district; and 3) the Heritage or Landmark Tree Ordinance. Enforcement of this measure will be through a combination of the DTPW and PRMD staff.

Mitigation Measure E.8g

Mitigation Monitoring: PRMD will verify that tree protection and mitigation measures are provided on road construction plans.

- U 77. The project proponent shall implement measures to minimize and avoid take of California red-legged frog that would additionally benefit pond turtles and Foothill Yellow Legged Frog, if present. The following measures are derived from the Programmatic Biological Opinion (PBO) for impacts to California red-legged frog (United States Fish and Wildlife Service (USFWS, 1999)). Formal consultation with the United States Fish and Wildlife Service and issuance of a Biological Opinion is required for potential impacts to California red-legged frog. In addition, the following actions will minimize impacts to these species.

- A USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training will include a description of the California red-legged frog and their habitat, and the general measures that are being implemented to protect the California red-legged frog as they relate to the roadway widening improvements.
- A USFWS-approved biologist shall be present during initial grading activities to monitor roadway construction activities within 100 feet of creek corridors and aquatic habitat that could support California red-legged frog. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.

Mitigation Measure E.8h

Mitigation Monitoring: PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from the United States Fish and Wildlife Service and contracted with a qualified biologist prior to grading permit issuance.

- U 78. Implement Mitigation Measure D.4a and D.4b (Conditions #132 and #133) to reduce potential impacts to nesting raptors and other special-status birds.

Mitigation Measure E.8i

- U 79. Implement Mitigation Measure D.5 (Conditions #134) to reduce potential impacts to badgers.

Mitigation Measure E.8j

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- U 80. In conjunction with Mitigation Measure E.7 the project construction contractor(s) shall develop a construction management plan for review and approval by the Sonoma County Public Works Department and meet the following requirements:

- To the extent possible, the contractor shall schedule truck trips outside of peak commute hours.
- Lane closures on Roblar and Pepper Road shall occur only during the hours of 8:30 a.m. and 4:30 p.m. Outside of these hours on Monday through Friday, or on weekends, two lanes of traffic on both roads must be open.
- If lengthy delays are anticipated, signs shall be posted to notify motorists that traffic will be subject to delay.
- Traffic safety guidelines compatible with Section 12 of the Caltrans Standard Specifications, "Construction Area Traffic Control Devices" shall be followed during construction. Project plans and specifications shall also require that adequate signing and other precautions for public safety be provided during project construction.
- For highly sensitive land uses, such as schools, fire and police, the County shall require the construction contractor to develop access plans in consultation with facility owner or administrator. The contractor shall notify the facility owner in advance of the timing, location, and duration of construction activities and the locations of detours and lane closures.
- The contractor shall provide for passage of emergency vehicles through the project site at all times.
- The contractor shall maintain access to all parcels adjacent to the construction zone during construction.

Mitigation Measure E.8k

Mitigation Monitoring: PRMD not release grading permits until verifying that DTPW has reviewed and approved the construction management plan for conformance with this measure.

- U 81. Comply with Mitigation Measure E.8m and the following dust control measures will be included in the project:
- Water or dust palliative shall be sprayed on unpaved construction and staging areas during construction as directed by the County.
 - Trucks hauling soil, sand and other loose materials over public roads shall cover the loads, or keep the loads at least two feet below the level of the sides of the container, or shall wet the load sufficiently to prevent dust emissions.
 - Paved roads shall be swept as needed to remove soil that has been carried onto them from the project site.
 - Water or other dust palliative shall be applied to stockpiles of soil as needed to control dust.

Mitigation Measure E.8l

- U 82. Roadway widening construction activities for this project shall be restricted as follows:
- All internal combustion engines used during construction of this project shall be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code.

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- Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Only work that does not require motorized vehicles or power equipment shall be allowed on holidays. If work outside the times specified above becomes necessary, the resident engineer shall notify PRMD Project Review and Code Enforcement as soon as practical.

Mitigation Measure E.8m:

Mitigation Monitoring: PRMD project review will verify that road construction plans include the above requirements. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented. Code Enforcement will respond, should complaints be received for work conducted outside of approved hours.

- U 83. The applicant shall provide landscape improvements following roadway widening and creation of any cut slopes. Native shrubs and trees shall be planted to create a landscape that recalls the native landscape of the region. Plants shall be selected that require the least maintenance, and create a sustainable landscape.

- If retaining walls are required as part of the roadway widening, the use of natural finishes shall be incorporated.
- A maintenance program, including weeding and summer watering shall be followed until plants have become established (minimum of three years).

Mitigation Measure E.8n

Mitigation Monitoring: PRMD project review will verify that road construction plans include the above requirements. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented.

- U 84. If archaeological materials are discovered during project construction, construction shall cease in the immediate vicinity of the find until a qualified archaeologist is consulted to determine the significance of the find, and has recommended appropriate measures to protect the resource. Further disturbance of the resource will not be allowed until those recommendations deemed appropriate by the County have been implemented.

Mitigation Measure E.8o

Mitigation Monitoring: PRMD project review will verify that the above requirement is noted on the construction plans and verify that the above procedure is utilized should resources be discovered.

- U 85. If paleontological resources or unique geologic features are discovered during project construction, construction shall cease in the immediate vicinity of the find until a qualified paleontologist or geologist is consulted to determine the significance of the find and has recommended appropriate measures to protect the resource.

Mitigation Measure E.8p

Mitigation Monitoring: PRMD project review will verify that the above requirement is noted on the construction plans and verify that the above procedure is utilized should resources be discovered.

- U 86. Implement adopted mitigation measures contained in the Signalization of Stony Point Road at Roblar Road, Mitigated Negative Declaration and Mitigation Monitoring Program, Sonoma County PRMD, October 2005.

Mitigation Measure E.9

Mitigation Monitoring: DTPW will verify that the mitigation measures included in the Mitigated Negative Declaration approved for the Signalization of Stony Point Road at Roblar Road are implemented at the time of intersection design and signal construction.

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Roads Division Operational Conditions:

- U 87. The applicant shall install and use a tire wash and tire scraper to loosen dirt from the trucks and their tires. The applicant shall weekly sweep the paved shoulders and the traveled way as necessary, of Roblar Road and Valley Ford Road, in the vicinity of the private access road intersections. Sweeping shall be performed by mechanized sweeping equipment that can collect the sweepings and are equipped with devices/features to adequately control dust. Sweeping operations shall be performed under the appropriate traffic control contained in the California Manual of Uniform Traffic Control Devices (MUTCD) and for which the applicant will be required to obtain a blanket encroachment permit from the County's Permit and Resource Management Department.

Mitigation Measure E.3c

Mitigation Monitoring: PRMD ARM plan staff shall verify that this condition is being implemented during their quarterly inspections. PRMD Project Review will verify that the tire washer is installed prior to the commencement of mining.

- U 88. The applicant shall report annually to PRMD, all aggregate materials transported from the facility, including recycled aggregate materials. This information shall be deemed proprietary. The applicant shall pay annually the adopted per ton fee on aggregate materials, including recycled aggregate materials, transported from the facility as the applicant's share of the Aggregate Road Mitigation Fee.

Mitigation E.6b

Mitigation Monitoring: PRMD staff will review annual reports submitted by the operator and shall invoice the applicant annually.

Grading and Stormwater:

"The conditions below have been satisfied" BY _____ DATE _____

- U/R 89. Grading and/or building permits require review and approval by the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance.
- U/R 90. Separate grading permits shall be required for each phase of the proposed project including work for construction of roads/driveways, ponds and stockpiles.
- U/R 91. The applicant shall provide grading plans, prepared by a registered civil engineer, which clearly indicate the nature and extent of the work proposed. The grading plans shall conform to and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
- U/R 92. The applicant shall provide an erosion prevention/sediment control plan, prepared by a registered civil engineer, which clearly shows best management practices to be implemented, limits of disturbed areas, vegetated areas to be preserved, pertinent details, notes, and specifications to prevent damages and minimize adverse impacts to the environment. Tracking of soil or construction debris into the public right-of-way shall be prohibited. Runoff containing concrete waste or by-products shall not be allowed to drain to the storm drain system, waterway(s), or adjacent lands. The erosion prevention/sediment control plan shall conform to and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
- UR 93. A master drainage plan for the proposed project shall be prepared by a registered civil engineer in accordance with the Sonoma County Water Agency Flood Control Design Criteria and be submitted to the Grading & Stormwater Section of the Permit and Resource Management Department for review and approval. The master drainage plan shall include analyses and drainage reports for initial, interim and final drainage improvements and shall demonstrate no increase in storm water levels or polluted runoff from the proposed project at each phase of development. The master drainage plan must be approved prior to the

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issuance of any grading permits for quarry development. The drainage reports shall conform to and contain all applicable items in the Drainage Report Required Contents (DRN-006) handout. Drainage Facilities shall be operated and maintained in accordance with approved plans during operation of the quarry and post-reclamation.
Mitigation C.1d

Mitigation Monitoring: PRMD Grading and Stormwater will review storm drainage plans to verify they are designed by a registered engineer, meet Water Agency Flood Control Criteria, and are maintained through post-reclamation.

- UR 94. The applicant shall prepare, for review and approval by the Sonoma County PRMD, a design level drainage plan that addresses stormwater runoff from the proposed project during active mining and post reclamation. The stormwater drainage plan must ensure that the peak stormwater flows from outside the quarry footprint are managed to the extent that stormwater flow entering Americano Creek and Ranch Tributary from the project site does not exceed pre-project baseline flows during the 2, 10, 25-, 50- and 100-year storm events. The design level drainage plan shall include specific design criteria that ensure 1) the proposed sediment ponds operate as a stormwater runoff detention feature with the capacity to contain and manage at least a 25-year return storm and 2) alternative on-site stormwater detention strategies are implemented to ensure that stormwater flows are adequately detained so discharges to Americano Creek and Ranch Tributary do not exceed baseline discharge rates. Alternative detention strategies could include alternate detention basins, expanded use of the quarry floor for detention, or expanded use of infiltration areas for percolation and storage.
Mitigation Measure C.1c

Mitigation Monitoring: PRMD Grading and Drainage Review staff will review drainage plans to verify that storm drainage facilities are designed to detain flows so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.

- U/R 95. Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.
- U/R 96. Any bridge or stream crossing shall maintain at least one foot of freeboard from the 100-year water surface elevation and the lowest structural component of the crossing. Streams shall be adequately protected from erosion resulting from the installation and function of a stream crossing.
- U/R 97. Polluted runoff from waste receptacles or industrial areas/activities shall not be allowed to drain directly to the storm drain system or waterway(s).
- U/R 98. The project is subject to National Pollutant Discharge Elimination System (NPDES) requirements and must obtain coverage under the State Water Resource Control Board's General Construction Permit (General Permit). Documentation of coverage under the General Permit must be submitted to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 99. The applicant will be responsible to contact the Regional Water Quality Control Board and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 100. The applicant will be responsible to contact the California Department of Fish & Game and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 101. The applicant will be responsible to contact the U.S. Army Corps of Engineers and obtain

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any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.

- U/R 102. A roiling permit from the Permit and Resource Management Department shall be obtained prior to start of work within an active waterway.
- U/R 103. At project approval, the applicant shall implement a baseline flow and creek stage monitoring program for the Ranch Tributary and Americano Creek. This program shall continue the flow monitoring program currently underway through the project duration, and as determined by the SCWA and the Sonoma County PRMD, through post-reclamation. The required monitoring program should include two locations of Ranch Tributary (representative of upstream and downstream conditions) and three representative locations on Americano Creek (i.e., upstream location at east property boundary, and locations upstream and downstream of Ranch Tributary). Flow and creek stage monitoring shall be conducted quarterly and following winter storm events. The applicant shall apply the data to design of stormwater discharge facilities to ensure that stormwater discharges from the site do not exceed pre-project flows in Ranch Tributary and Americano Creek. The Applicant shall submit baseline flow monitoring data to the Sonoma County Water Agency and Sonoma County PRMD.
Mitigation Measure C.1a

Mitigation Monitoring: PRMD Grading and Drainage Review staff will review base line flow and creekstage monitoring data to verify that storm drainage facilities are designed to maintain baseline flows and that stormwater discharges from the site do not exceed pre-project flows in Ranch Tributary and Americano Creek.

- U/R 104. Only surface water runoff occurring on the project site outside the quarry footprint shall be discharged to Ranch Tributary and/or Americano Creek. No water collected within the quarry footprint and/or production Well DW-2 shall be discharged to surface waters, including Ranch Tributary or Americano Creek.
Mitigation Measure C.1b:

Mitigation Monitoring: PRMD will review grading and drainage plans. Grading and Drainage Review staff will review drainage plans to verify that storm drainage facilities are designed to detain flows so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.

- U/R 105. The applicant shall develop and implement a Water Quality Protection Program (WQPP) to control sediment and pollutant runoff from the quarry during its operational life and beyond through post reclamation. All structural elements and processes shall be designed and approved by a professional civil engineer experienced in stormwater management and sediment control. The design shall meet the standards of the Sonoma County SMARO. All hydrologic and engineering calculations, including sediment trap efficiency, shall be submitted to the County and the RWQCB for review and approval prior to commencement of project grading.

The WQPP consists of several elements, as discussed below, to control the source of sediment and the discharge of that sediment into the adjacent receiving waters of Americano Creek and Ranch Tributary.

The applicant shall submit a copy of the SWPPP that adequately addresses control and reduction of stormwater laden with sediment or other pollutants to the County PRMD. The applicant shall comply with requirements set forth by the RWQCB in the SWPPP Program for annual reporting and water quality sampling, which typically includes annual reports and reports of failed best management practices (BMPs). The SWPPP shall be regularly updated as BMPs are updated and new BMPs are constructed and/or the quarry operation changes. The SWPPP shall be implemented during the initial stage of quarry construction and stay in effect through the completion of reclamation.

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Aggressive Source Control. The WQPP shall outline and describe source control measures designed to prevent erosion. Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the California Stormwater Quality Association (CASQA). Equivalent measures deemed more effective by the North Coast RWQCB may be substituted.

- Reclamation or stabilization of all quarry slopes and the quarry floor (excluding the working/processing/stockpile/loading/access areas) shall be completed by October 1 of each year. Stabilization measures include hydraulic application of surface stabilizing compounds, hydroseeding, mulching, or other measures to prevent erosion. To insure accurate compliance with this condition, the applicant shall submit to the Sonoma County PRMD, a site plan or aerial photograph clearly depicting the extent of mining and reclamation on the site every five years during mining and reclamation and at the completion of reclamation;
- In areas not being actively mined, bare soil shall be protected from erosion with the application of hydraulic mulch or hydroseeded;
- In areas requiring temporary protection until a permanent vegetative cover can be established, bare soil shall be protected by the application of straw mulch, wood mulch, or mats;
- To the extent practical, benches should be back-sloped or provided with rock or straw bale checks so that sediment is trapped on the benches rather than washed into the sediment ponds; and
- Benches shall drain into adequately sized pipes or rock-lined channels that convey the runoff to the quarry floor. Outlets of pipes shall have appropriate energy dissipaters to prevent erosion at the outfall.

Sediment Retention Measures. The WQPP shall include specific measures to trap eroded sediment on site to prevent a discharge to receiving waters. Specific measures cited below shall be adapted from the most current edition of the CASQA Stormwater BMP handbook for construction. The applicant shall install sediment retention measures prior to winter (on or about October 15) or in areas receiving surface water runoff in the dry season (e.g. the areas receiving seepage from the quarry walls). Sediment retention measures shall be regularly inspected by quarry personnel and corrective action shall be conducted in the event that the measures fail. Inspection and performance of the sediment retention measures shall be included in the SWPPP and included in the required annual report. Equivalent measures deemed more effective by the North Coast RWQCB may be substituted.

- Silt fences, fiber rolls, and straw bale barriers shall be used on bare slopes not being actively mined to intercept and trap sediment carried by sheet flow;
- The program shall include a description of the construction method for the sediment ponds, including the design storm and spillways;
- The applicant shall design the proposed sediment ponds to the maximum size practical for the available space. The sediment control basin shall include a forebay to trap coarse soil particles. Recognizing that the sediment ponds may not be large enough to trap very fine particles such as clay, the design shall include supplemental treatment that can be used as needed to meet the water quality discharge criteria for this project. Supplemental treatment may be chemical treatment that promotes fine particle settlement, mechanical filters to remove fine particles, or other measures approved and required by the North Coast RWQCB for this particular project;
- All runoff from actively mined or reclaimed areas shall be directed through the

sediment control basins.

Implement Contaminant-Control BMPs. The applicant shall implement BMPs to reduce the potential for discharge of contaminants to storm water runoff. These BMPs shall be designed by a civil engineer and the design engineer shall oversee BMP installation. To minimize the introduction of contaminants which may degrade the quality of water discharged from the site, the following measures shall be taken:

- Fueling and maintenance of all rubber-tired loading, grading and support equipment shall be prohibited within 100 feet of drainage ways. Fueling and maintenance activities associated with other less mobile equipment shall be conducted with proper safeguards to prevent hazardous material releases. All refueling and maintenance of mobile vehicles and equipment shall take place in a designated area with an impervious surface and berms to contain any potential spills;
- The site shall be controlled by maintaining security fencing and locking gates and posted trespass signs at all vehicular access points to the site to prevent unauthorized entry;
- Runoff from the access roads shall be captured, retained and conveyed to the sediment control pond; and
- All chemical dust suppressants and slope stabilization chemicals or polymers, and sediment pond enhancement chemicals or polymers shall be EPA approved and shall be used strictly according with the manufacturer's directions. An accurate accounting of the kinds and quantities of these materials used on the site shall be maintained by the operator.

Mitigation Measure C.2a

Mitigation Monitoring: PRMD Grading and Stormwater, Sonoma County Water Agency, and RWQCB, as applicable, will review the WQPP to verify that the storm drain and sediment control ponds are designed to handle storm events and that best management practices are utilized for sediment, erosion, and contaminant control. The Regional Water Quality Control Board will also insure that the plan meets their requirements for stormwater pollution prevention. PRMD ARM staff will verify through quarterly inspections that reclamation and slope stabilization occurs to avoid excessive erosion.

- U/R 106. Maintain and repair storm damage to conveyance and water quality control systems, as necessary. The applicant shall maintain procedures to ensure prompt identification and repair of damage to the drainage and water quality control systems, especially after large storm events. The applicant shall conduct routine inspection and maintenance of the stormwater and sediment control facilities. Stormwater drainage conveyance and outfalls shall be inspected monthly during the dry season and after each rain storm between October and March. If inspections reveal that stormwater conveyance of water quality control facilities (e.g. sediment ponds, energy dissipation structures) are damaged, corrective actions shall be implemented immediately. The applicant shall immediately report, to the Sonoma County PRMD and RWQCB, any storm-related drainage or sediment control system failure that results in discharge of sediment to Ranch Tributary or Americano Creek. The applicant shall submit a written report within 72 hours and describe the occurrence, corrective action, and observed performance of the corrective action.

Mitigation Measure C.2b

Mitigation Monitoring: PRMD ARM staff and the RWQCB will inspect the site, as necessary, to verify that water conveyance and control systems are maintained.

- U/R 107. The drainage plan identified in Mitigation Measure C.1 shall account for additional flows created by groundwater seepage expected to occur through the quarry walls. The plan

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shall consider management of seepage during operation, as well as, in the long term following reclamation and be based on conservative estimates of seepage derived from measured hydraulic conductivities in the weathered and unweathered Wilson Grove Formation and the Tolay Volcanics. The drainage plan shall include measures to ensure that the quarry wall seepage can be managed by stormwater flow conveyance structures and that these structures would not be overwhelmed during the 2-, 10-, 25-, and 100-year storm events large storm events.

Mitigation Measure C.3

Mitigation Monitoring: PRMD Grading and Stormwater and will review drainage plans to verify that storm drainage facilities are designed to detain flows, including groundwater seepage, so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.

- U/R 108. The applicant shall fully incorporate and implement all measures specified in the approved Water Management Plan, including those reflected in this mitigation measure as follows:

The applicant shall regularly sample and analyze all water collected within the quarry footprint and in production well DW-2 for the same suite of analytes used at the adjacent Roblar Landfill during the 2004 through 2008 monitoring events, and at the project site during the 2007/08 monitoring events. The QA/QC protocol for the sampling and analysis program shall be completed by an environmental professional knowledgeable of current surface water/groundwater regulations and sampling procedures.

The sediment control basin sampling and analysis schedule shall be developed in conjunction with the basin management operations. Prior to the release of water from any sediment control basin, the quarry shall obtain representative samples of the water held in the basin and submit the samples for analysis of VOCs and metals by a California state certified analytical laboratory. Once samples and final analytical results are received, the quarry shall determine the appropriate routing of the water based on applicable water quality standards. Basin water quality sampling schedules, guidelines, protocols, and procedures required to collect and analyze representative samples from each basin will be provided in a detailed Sediment Control Basin Sampling and Analysis Plan, subject to review and approval by the County of Sonoma PRMD, and as applicable, the North Coast RWQCB, prior to commencement of operation of the treatment system.

Groundwater extracted from Well DW-2 shall be sampled and analyzed once every 24-hours during periods of sustained or cyclic pumping, and at the end of each pumping episode during times of intermittent use of the well (intermittent use means pumping episodes separated by more than 24 hours).

In the event that the monitoring of the water collected within the quarry footprint or production well DW-2 contains contaminants exceeding water quality standards, such water shall be treated on-site (e.g., use of granular activated carbon vessels to treat VOCs, and use of an ion-exchange resin system to treat metals) until concentrations meet acceptable water quality standards and subsequently be available only for either direct onsite reuse or temporary storage prior to onsite reuse.

In addition, in the event that VOCs and/or metals are detected in the water in the sediment control basins exceeding water quality standards, the sediment within the respective sediment control basin would also be sampled and analyzed for VOCs and/or metals prior to removal. In the event that VOCs and/or metals are detected in this sediment at concentrations above applicable standards, the sediment shall be removed, transported and disposed of off-site at an appropriate licensed facility in accordance with all applicable state and federal regulations."

Mitigation Measure C.4e:

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Mitigation Monitoring: Prior to issuance of a grading permit, PRMD staff will verify that a detailed Sediment Control Basin Sampling and Analysis Plan is submitted in conformance with the above requirements for review and approval by PRMD and RWQCB, as applicable.

- U/R 109. The applicant shall incorporate into the final project drainage plan a hydrologic strategy that replaces potential baseflow lost due to the quarry operation. This mitigation measures requires a) continuation of the baseflow monitoring program that commenced in Spring 2007, and b) determining from that data whether substantial changes in baseflow is occurring during the operation of the quarry. If a reduction in baseflow due to project activities becomes evident through long term monitoring, the applicant shall adapt their on-site surface water discharge program as needed to provide additional infiltration (e.g. recharge basins, additional infiltration trenches to replicate pre-project base flows. Sonoma County PRMD shall review and approve the monitoring plan and on-site surface water discharge system prior to implementation. The applicant shall continue to monitor the flows in Ranch Tributary to ensure consistent replacement of baseflow. The applicant shall submit quarterly reports to the Sonoma County PRMD that details system monitoring and performance.

Mitigation Measure C.5a

Mitigation Monitoring: Prior to issuance of a grading permit for work that would disrupt base flows, PRMD Project Review and Drainage Review staff will review the monitoring program as well as grading and drainage plans to verify that they include the infiltration system design to address the retention of base flow conditions in Ranch Tributary. PRMD ARM Plan staff in conjunction with Drainage Review will review the quarterly monitoring reports to verify the performance and require adaptive measures as necessary.

PLANNING:

"The conditions below have been satisfied" BY _____ DATE _____

- U/R 110. This permit authorizes a (1) Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel, (2) Use Permit for Alternative 2 (Alternative Haul Route/Contracted Sales Only) to allow a 20-year mining permit with an annual production limit of 570,000 cubic yards per year, (3) Reclamation Plan to return the 70 acre mining area to a natural condition with native soil and vegetation suitable for agriculture and open space use, and (4) a Williamson Act easement exchange, rescinding the Type II Williamson Act contract on the 70 acre mining site, while simultaneously placing a permanent agricultural conservation easement on a 243 acre agricultural property near Petaluma.

- U/R 111. This permit incorporates the Revised Water Management Plan and Revised Master Response HYD-1 into the FEIR.

Pre-operational Conditions:

- U/R 112. Prior to grading permit issuance for development of the haul road or commencement of initial grading on the mining site, a comprehensive mining Operation and Management Plan shall be prepared to address all operational conditions, including but not limited to erosion and sediment control, stormwater management, water quality and groundwater monitoring, wind monitoring and dust control, noise monitoring, blasting, hazardous materials management, sediment pond operation and maintenance, and slope stability and vegetation management, as detailed in these conditions.

- U 113. The applicant shall submit an application for the easement exchange. Grading of the mining site shall not commence until the Williamson Act contract # 2-387-72 covering the 70-acre portion of the project site is rescinded in accordance with Government Code Sections 51256, 51256.1 and 512892, and transfer of a permanent conservation

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easement on the 243+ acre exchange site for future stewardship to an appropriate private land trust or government conservation agency is simultaneously completed.
Mitigation A.4

Mitigation Monitoring: PRMD Project Review will authorize grading to begin on the mining site until the above measure is implemented.

- U 114. Prior to issuance of a grading permit for the haul road, the applicant shall obtain approval from Agricultural and Open Space District through an agreement where by the District would temporarily release its conservation easement on approximately four acres (encompassing the extent of Access Road 1 and adjacent area to the north on the Wilson property that would be cut off and isolated by Access Road 1), in exchange for a permanent open space conservation easement and offer of dedication of the entire project site (198 acres).
- U/R 115. The applicant shall submit a revised Reclamation Plan for review and approval by PRMD. The final Reclamation Plan shall meet all County and State requirements. This permit shall not be vested or effective until the revised Reclamation Plan has been approved by PRMD.
- U/R 116. The Reclamation Plan shall be updated annually to incorporate a detailed cost estimate for reclamation and incorporate provisions for reclamation plan monitoring and maintenance. All descriptions, terminology, and procedures shall be consistent with the EIR, including the Water Management Plan. In addition the Reclamation Plan shall include the following:
 - a) Property owner signature acknowledging responsibility for reclamation.
 - b) Reclamation planting plan indicating the size and locations of planting areas on cut slopes, benches, berms, and the quarry floor.
 - c) Sediment ponds to be converted to permanent ponds and riparian habitat.
 - d) Reclamation of Access Roads 1 and 2 upon completion of mining.
 - e) To ensure accurate compliance with this condition the operator shall submit a site plan or aerial photograph clearly depicting the extent of mining and reclamation on the site every year during mining and reclamation and at the completion of reclamation. The operator must provide annual documentation to PRMD that they are up to date with all required reporting forms and fees, and have no outstanding water quality-related violations anywhere on the project site.
- U 117. Prior to grading permit issuance for the haul road or commencement of initial grading on the mining site, a site landscape/irrigation plan shall be submitted consistent with the project description. Landscaping shall consist of a mixture native trees, shrubs, and groundcover. Trees shall be planted in natural groupings along Roblar Road, along the access road, and around the parking lot and quarry office. All landscaping shall be automatically irrigated.
- U/R 118. A Water Conservation Plan shall be submitted for all landscaping prior to building permit issuance, subject to PRMD review and approval. The Water Conservation Plan shall comply with all provisions of the County Landscape Water Efficiency Ordinance as applicable. Verification, from a qualified irrigation specialist, that landscaping complies with the County Landscape Water Efficiency Ordinance shall be provided prior to building permit issuance. The measures in the plan shall be implemented and verified by PRMD staff prior to Certificate of Occupancy.
- U 119. A Water Conservation Plan shall be submitted for all buildings prior to building permit issuance. The Water Conservation Plan shall include, at a minimum, proposals for low-flow fixtures.

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- U/R 120. Prior to issuance of building permits, an exterior lighting plan shall be submitted for administrative design review. Exterior lighting shall be low mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. All parking lot shall be full cut-off fixtures. Lighting shall shut off automatically after closing and security lighting shall be motion-sensor activated.
- U/R 121. The operator shall submit to the Sonoma County Permit and Resource Management Department financial assurance(s) payable to the County of Sonoma and, in the alternative, the State Department of Conservation, in an amount and format to be reviewed and approved by PRMD and State Department of Conservation - Mines and Geology Division, to assure compliance with the approved Reclamation Plan and conditions thereof for the entire area of the quarry. A valid financial assurance shall be maintained on file until PRMD determines that all reclamation has been successfully carried out in compliance with the reclamation and final conditions. Financial assurance shall renew automatically and shall not expire without 90-days advance written notice being provided to PRMD. A Continuation Certificate or other proof of extended coverage shall be forwarded to PRMD no less than 30 days prior to the expiration date of the financial assurance. PRMD may adjust the amount of the security on an annual basis to account for additional lands disturbed or reclaimed, inflation, or revised cost estimates. The financial assurance shall reference the name of the mining site, the resolution number of the County approval, and PRMD file number.
- The County may pursue redemption of the securities if: 1) the final reclamation does not meet the performance standards, 2) satisfactory progress is not made towards completing the reclamation in a timely manner, or 3) The operator is financially incapable of carrying out the reclamation.
- U 122. The operator shall pay all applicable development and processing fees prior initial grading, unless otherwise specified in this permit.
- U/R 123. Within 30 days of approval of the project, the applicant shall submit to PRMD a Condition Compliance Review Fee deposit (amount to be determined consistent with the ordinance in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based on hours of staff time worked).
- U/R 124. This "At Cost" entitlement is not vested until all permit processing costs are paid in full. No clearing or mining activities in the expansion area shall be authorized until all permit processing costs are paid in full.
- U/R 125. Mining, and reclamation is subject to Sonoma County Fire Safe Standards and the mining plan shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: 1) emergency vehicle access and turn-around at the site(s), 2) addressing, and 3) water storage for fire fighting and fire break maintenance around all structures. Prior to the commencement of mining, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
- U/R 126. Within five working days after project approval, the applicant shall pay a mandatory Notice of Determination filing fee of \$50.00 (or latest fee in effect at time of payment) for County Clerk processing, and \$1,993.00 (or latest fee in effect at time of payment) because a Negative Declaration was prepared, for a total of \$2,043.00 made payable to Sonoma County Clerk and submitted to PRMD. If the required filing fee is not paid for a project, the project will not be operative, vested, or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code.) NOTE: If the fee is not paid within five days after approval of the project, it will extend time frames for CEQA legal challenges.

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- U/R 127. To mitigate the filling or excavating of potentially jurisdictional wetlands within the proposed project area, the project proponent shall:
- Conduct a formal wetland delineation in accordance with 1987 Corps of Engineers Wetlands Delineation Manual and have it verified by the U.S. Army Corps of Engineers (Corps). If the Corps and/or CDFG determine that the potentially affected water-associated features are jurisdictional, then the project proponent shall obtain appropriate wetland permits and implement all conditions contained in the Section 404 Clean Water Act permit (possibly an Nationwide permit) from the Corps, Section 1603 Streambed Alteration Agreement from CDFG, and/or Section 401 water quality certification from the Regional Water Quality Control Board.
 - Compensate for the loss of jurisdictional wetlands at a 2:1 ratio (or as agreed to by the permitting agencies) within the project site boundary, or at a 3:1 ratio (or as agreed to by the permitting agencies) off-site within the local watershed, by creating, restoring or enhancing waters of the U.S., or contributing in-lieu funds to an existing or new restoration project preserved in perpetuity. The restoration effort shall require implementation of a five-year monitoring program with applicable performance standards, including but not limited to establishing: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.

Mitigation Measure D.1a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that wetlands have been formally delineated and wetlands are created and/or mitigation fees paid in accordance with resource agency approvals.

- U/R 128. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property. Prior to construction activities, the project applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:
- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on Figure IV.D-1 to protect these features from all project construction and operation activities;
 - Implementation of measures to control dust in adjacent work areas (see comprehensive dust control program identified in Mitigation Measure F.4 in Section IV.F, Air Quality);
 - Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property (see Mitigation Measure C.5); and
 - The project applicant shall maintain the minimum allowed 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code).

Mitigation Measure D.1b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that plans provide the above protection measures.

- U 129. In accordance with Sonoma County Ordinance No. 4014, prior to the start of any clearing, stockpiling, excavation, grading, compaction, paving, change in ground elevation, or construction, the project applicant shall obtain a certified arborist to identify trees proposed for preservation (saved) and trees proposed for removal at the project site on a map. The map shall indicate the size and species of trees proposed for removal and

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preservation. The project applicant shall save trees identified for preservation on the project site and clearly delineate such trees by constructing short post and plank walls, or other protective fencing material, at the dripline of each tree to hold back fill. The delineation markers shall remain in place for the duration of the work. The placement of the fencing material at the dripline shall be coordinated with a certified arborist.

Mitigation Measure D.2a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that an arborist report is provided showing trees to be removed and preserved and that plans include tree protection fencing at the dripline of trees to be saved that could be impacted by construction.

- U 130. Where proposed development or other site work must encroach upon the dripline of a tree identified to be saved (see Mitigation Measure D.2a, above), special construction techniques will be required to allow the roots of remaining trees within the project site to breathe and obtain water (examples include, but are not limited to, use of hand equipment for tunnels and trenching, installation of protective fencing, allowance of only one pass through a tree's dripline). Tree wells or other techniques may be used where advisable. Permission from, and inspection by, the PRMD will be required prior to backfilling, if applicable. No burning or use of equipment with an open flame shall occur near or within the dripline (except for authorized controlled burns) of a tree identified for preservation. No parking; storage of vehicles, equipment, machinery, stockpiles of excavated soils, or construction materials; or dumping of oils or chemicals shall be allowed within the dripline of preserved trees.

Mitigation Measure D.2b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will review arborist report and tree protection measures to ensure compliance with this condition.

- U 131. In coordination with a landscape architect, certified arborist or qualified biologist, the project proponent shall replace all removed protected trees in accordance with the Sonoma County Tree Protection and Replacement Ordinance No. 4014 and incorporate these trees into the tree replacement, reclamation and erosion control plans. Arboreal Value Chart #1 shall be used to determine the number of replaced trees or amount of in-lieu fees.

Mitigation Measure D.2c

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will review arborist report, tree protection measures, and tree replacement/replanting plan to ensure compliance with this condition.

- U/R 132. In coordination with a landscape architect, certified arborist or qualified biologist, the project applicant shall develop and implement a five-year tree monitoring program for all replaced trees. Appropriate performance standards may include, but are not limited to establishing: a 80 percent survival rate of tree plantings and the ability to be self-sustaining at the end of five years. Additional monitoring periods may be required until the trees successfully establish.

Mitigation Measure D.2e

- U 133. The project applicant shall implement measures to minimize and avoid take of California Red-legged Frog (CRLF) that would additionally benefit pond turtles and foothill yellow-legged frog, if present. The following measures are derived from the Programmatic Biological Opinion (PBO) for impacts to California red-legged frog (United States Fish and Wildlife Service (USFWS, 1999)). The applicant shall obtain formal consultation with the USFWS and issuance of a project specific Biological Opinion. The following actions will minimize impacts to these species.

Construction-Related Measures

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- "A USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training will include a description of the CRLF and their habitat, and the general measures that are being implemented to protect the CRLF as they relate to the project.
- The mitigation pond shall be created and suitable for receiving relocated CRLF prior to the removal of Center Pond and surrounding upland habitat.
- Following construction of the mitigation pond and no more than 14 days prior to the initiation of grading activities near Center Pond, a USFWS-approved wildlife biologist shall capture all CRLF and other special-status aquatic species and relocate them to the mitigation pond.
- A USFWS-approved biologist shall be present during initial grading activities in and surrounding Center Pond until CRLF have been removed. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.
- During all phases of project operations, all trash that may attract CRLF predators shall be properly contained and removed from the site.
- The fueling and maintenance of vehicles and other equipment shall occur at least 20 meters from any riparian habitat or water body.

Pond Design, Management, and Monitoring

- The project proponent shall coordinate with the USFWS to select a suitable site for a new mitigation stockpond of equal or greater size to Center Pond within the property boundaries. The location and design of the new pond shall conform to guidelines of the USFWS Recovery Plan for CRLF (USFWS, 2002) and shall also include a permanent upland habitat buffer of no less than 250 feet around the pond. The final pond design shall be approved by the USFWS as a requirement of the project Biological Opinion. The mitigation pond should be created and functioning prior to the initiation of ground disturbing activities within 250 feet of Center Pond.
- The mitigation pond shall be designed to provide CRLF breeding habitat and shall include areas with deep-water cover for adult, juvenile and metamorphic red-legged frogs and shallow areas to provide for tadpole and juvenile rearing. The pond shall be designed to pool to a depth of between 3 to 4 feet and to maintain at least 1.0 foot of standing water through September 15 during years with average rainfall. To ensure sufficient water is available to support CRLF breeding, a qualified hydrologist shall be consulted to assess the amount of water that will be available at the selected site during dry, average, and wet years. A design plan shall be prepared to include a grading plan and cross-section plan indicating pond depth and dimensions. The basin shall be contoured based on the above design, and lined with clay or a similar impervious substrate to ensure water holding capacity that meets minimum performance standards and specifications.
- The mitigation pond shall be vegetated in accordance with the guidelines set forth in the Red-legged Frog Recovery Plan. Relocated vegetation shall salvage and utilize native emergent and aquatic vegetation from Center Pond whenever possible. Upland habitat surrounding the pond should be seeded with native grassland cover species.
- An adaptive management plan shall be developed for the mitigation pond consistent with the USFWS Recovery Plan for CRLF (USFWS, 2002) and project Biological Opinion. The plan shall include a program to monitor pond performance over time and discourage the presence of non-native vegetation and bullfrogs. During the initial five year monitoring period, annual hydrologic, vegetation and wildlife surveys shall

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be performed to document ponding conditions, the establishment of aquatic vegetation and to monitor California red-legged frog use of the pond.

- The adaptive management plan shall provide provisions to quantify site conditions relative to performance standards for a period of five years, to include:
 1. Ability to maintain standing water at a depth of at least 1.0 foot within at least 50 percent of the pond area through September 15 during a year with average rainfall.
 2. Presence of CRLF in any life history stage, to be determined by egg mass surveys and focused nighttime surveys for adults and juveniles.
 3. The presence of native emergent or aquatic vegetation covering at least 10 percent of the pond edge.
 4. Absence of persistent, self-sustaining populations of non-native CRLF predators, particularly bullfrogs.

The adaptive management plan shall include contingency measures to respond to inadequate hydrologic conditions (if later identified) and provide for control of non-native vegetation and CRLF predators, if identified in the mitigation pond. If bullfrogs are identified, the preferred management method shall be manual (hand) removal using a gig or other means. This method maintains the availability of aquatic habitat for red-legged frogs and sustains aquatic vegetation. If hand removal of bullfrogs proves ineffective, the pond shall be drained and dried between October 1 and November 15 (following metamorphosis of red-legged frog tadpoles) to break the bullfrog life cycle.

An invasive plant species management plan shall be incorporated into the adaptive management plan to provide for the management and removal of invasive aquatic vegetation, if present. The preferred management method shall be for manual (i.e., non-chemical) removal of invasive species, whenever possible.

Pond management shall continue for the duration of the proposed project, or as required by the Biological Opinion.

Mitigation Measure D.3

Mitigation Monitoring: PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from USFWS for establishment of the mitigation pond, relocation of any red-legged frogs, and an adaptive management plan.

- U 134. Avoid disturbing active nests of raptors and other special-status birds through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase. If site preparation activities (i.e., ground clearing and grading, including removal of trees or shrubs) are scheduled to occur during the non-breeding season (September 1 through January 31), no mitigation is required.

If site preparation activities are scheduled to occur during the breeding season (February 1 through August 31), the following measures shall be implemented to avoid potential adverse effects to nesting raptors and other special-status birds:

- A qualified wildlife biologist shall conduct preconstruction surveys of all potential nesting habitat within 500 feet of construction activities where access is available.
- If active nests are found during preconstruction surveys, a no-disturbance buffer acceptable in size to CDFG shall be created around active raptor nests and nests of other special-status birds during the breeding season or until it is determined that all young have fledged. Typical buffers include 500 feet for raptors and 250 feet for other nesting special-status birds. The size of these buffer zones and types of construction activities restricted in these areas may be further modified through coordination with CDFG and will be based on existing noise and human disturbance levels at each project site. Nests initiated during construction are presumed to be

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unaffected and no buffer is necessary. The "take" of any individuals is prohibited.

- If preconstruction surveys indicate that nests are inactive or potential habitat is unoccupied during the construction period, no further mitigation is required. Trees and shrubs within the project footprint that have been determined to be unoccupied by special-status birds or that are located outside the no-disturbance buffer for active nests may be removed.

Mitigation D.4a

Mitigation Monitoring: If site preparation activities are scheduled to occur during the breeding season (February 1 through August 31), PRMD will verify that preconstruction surveys are completed and buffer areas established, as necessary.

- U/R 135. The applicant shall avoid disturbing potential burrowing owl burrows through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase.
- No more than 2 weeks before grading and ground-clearing activities begin prior to each of the three mining phases, a survey for burrowing owls shall be conducted by a qualified biologist within 500 feet of the earthmoving activities. The survey shall conform to the most current protocol described by the California Burrowing Owl Consortium (presently the 1993 protocol). If burrowing owl habitat is identified during the initial survey, a complete owl survey consisting of four site visits shall be performed as detailed in the Consortium guidelines.
 - If occupied owl burrows are found during the surveys, a determination shall be made by a qualified burrowing owl biologist as to whether or not proposed project activities would affect the occupied burrows or disrupt reproductive behavior. If it is determined that the project would not adversely affect occupied burrows or disrupt breeding behavior, project implementation may proceed without any restriction or mitigation measures. If it is determined that the project could adversely affect occupied burrows during the August 31 through February 1 non-breeding season, the subject owls may be passively relocated from the occupied burrow(s) using one-way doors. There shall be at least two unoccupied burrows suitable for burrowing owls within 300 feet of the occupied burrow before one-way doors are installed. The unoccupied burrows shall be located 160 feet from construction activities and can be natural burrows or artificial burrows constructed according to current design specifications. Artificial burrows shall be in place at least one-week before one-way doors are installed on occupied burrows. One-way doors would be in place for a minimum of 48 hours before burrows are excavated.
 - If it is determined that the project would physically affect occupied burrows or disrupt reproductive behavior during the nesting season (February 1 through August 31) then avoidance is the only mitigation available (California Burrowing Owl Consortium 1993; CDFG 1995). Implementation of ground-clearing and grading activities shall be delayed within 250 feet of occupied burrows until it is determined that the subject owls are not nesting or until a qualified biologist determines that juvenile owls are self-sufficient or are no longer using the natal burrow as their primary source of shelter.

Mitigation Measure D.4b

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed for burrowing owl and buffer areas established, as necessary for initial grading and each phase of mining.

- U 136. Avoid and minimize impacts to badgers through preconstruction surveys prior to ground clearing and grading in annual grasslands habitat or areas that are known or suspected to support badger.

Within 30-days prior to initiation of each mining phase, a qualified biologist shall survey for

badgers within 100-feet of project activities. If no evidence of badger presence is detected, no further mitigation is required. If evidence of badgers is identified, the following measures are required to avoid potential impacts to this species:

- Use exclusion techniques to passively relocate any badgers that are present in project areas or within 50 feet of project activities. When outside the project area, but within 50 feet of activities, vacated dens shall be temporarily covered using plywood sheets or similar materials.
- To reduce the risk of badger mortality from vehicles, the use of private (non-county operated) haul roads shall be limited to daylight hours during the March to June badger pupping season with gated access.
- A 25 mile-per-hour speed limit shall be posted for roads on the site.

Mitigation Measure D.5

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed for badgers and relocation accomplished, as necessary, for initial grading and each phase of mining.

- U 137. Avoid disturbing active roosts of special-status bats through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase, as well as during project activities related to remodeling and/or renewed use of the existing buildings.

Prior to construction activities (i.e., ground-clearing and grading, including removal of trees or shrubs, building remodeling, renewed building use) within 200 feet of trees or buildings potentially supporting special-status bats, a qualified bat biologist will survey for special-status bats. If no evidence of bats (i.e., direct observation, guano, staining, strong odors) is present, no further mitigation is required.

If evidence of bats in trees on the property is observed, the following measures are required to avoid potential adverse effects special-status bats:

- A no-disturbance buffer of 100-feet, or other suitable distance determined in coordination with CDFG, will be created around active bat roosts during the breeding season (April 15 through August 15). Bat roosts initiated during construction are presumed to be unaffected, and no buffer is necessary. However, the "take" of individuals is prohibited.
- Removal of trees showing evidence of bat activity will occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 if winter hibernacula are observed or between August 15 and April 15 if maternity roosts are present). If known bat roosting habitat is destroyed during tree removal activities, artificial bat roosts shall be constructed in an undisturbed area of the property, at least 200 feet from any project activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

If evidence of bats in existing buildings on the property is observed, the following measures are required to avoid potential adverse effects special-status bats:

- Prior to any remodeling activities and/or renewed use of existing buildings with observed bat activity, a qualified bat biologist shall review design drawings and use plans for the building(s). The biologist shall then make a determination, in coordination with CDFG, whether the bats would need to be evicted in order to implement the remodeling/new use of the structures, or if the bats would not be affected and should remain in the structure. If eviction is deemed necessary, the bats shall be transferred to an artificial roosting site. The artificial roost shall be constructed in an undisturbed area of the property, at least 200 feet from any project

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activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

Mitigation Measure D.6

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed, buffer areas established, and relocation of bats occurs, as necessary, prior to tree removal, building modification, initial grading, and each phase of mining.

- U 138. All employees on site shall undergo a cultural resources orientation and awareness training prior to commencing work activities on site. Such training shall include familiarization with the stop work restrictions if buried archaeological remains or artifacts are uncovered. The operator shall provide Permit and Resource Management Department with a verification list of the employees completing the orientation. The training and list shall be updated by the operator as new employees are added.

Mitigation Measure K.1a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD will verify that employee orientation has been provided.

- U/R 139. Prior to the initiation of quarry activities, a qualified paleontologist shall be retained to conduct a preliminary survey and surface salvage in an effort to recover, as is feasible, surface deposits (if present) in their original context. The preliminary survey shall identify and map areas of high-potential rock units, as well as low and undetermined-potential rock-units within the quarry site area-if such distinctions can be established on a micro-topographic scale versus existing geologic surveys of the area. The paleontologist shall focus the field survey in exposures of sensitive stratigraphic units within the quarry site that would be disturbed.

Mitigation Measure K.2b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD will verify that the survey has been conducted in accordance with the above criteria.

- U/R 140. Prior to the initiation of quarry activities, the consulting paleontologist shall both prepare a monitoring and mitigation program and implement the program during the excavation phase at the quarry site and for all other project-related ground disturbance. The paleontologic resource monitoring and mitigation program shall include, but not limited to, as outlined by the Society of Vertebrate Paleontology (1995):

- preconstruction coordination;
- guidelines for excavation monitoring;
- emergency discovery procedures;
- procedures to permit the stabilization of large remains to allow for identification and permanent preservation. This includes stabilization of large remains and screen washing of fossiliferous sediments to recover significant microfossil remains;
- discusses how recovered fossils would be analyzed, including (but not limited to): identification to genus/species, element, etc.; interpretation of species abundance and diversity; determination of sex ratios and the relative abundance of ontogenetic age groups; dating of remains as appropriate; evaluation of potential taphonomic factors; and comparison with other vertebrate faunas from the Sonoma County region.
- Discusses how recovered significant fossils would be preserved and curated, including all associated contextual data, at a Federally recognized, accredited repository with long-term retrievable storage.

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- Defines a framework for regularly scheduled reporting on the project.

Mitigation Measure K.2c

Mitigation Monitoring: Prior to grading permit issuance, PRMD will verify that a monitoring and mitigation program is prepared by a paleontologist.

Operational Conditions:

- U 141. If any protected tree (as defined in County of Sonoma Ordinance No. 4014) proposed for preservation is damaged or stressed and results in mortality due to mining operations (including changes to shallow groundwater flows), then the project proponent shall replace the protected tree in accordance with the Arboreal Value Chart. If on-site replacement is not feasible, the proponent shall pay in-lieu fees into the County of Sonoma tree replacement fund. Should pruning be required, this will be performed by a certified arborist. No more than 25 percent of a tree's canopy will be removed during the pruning of preserved trees.
Mitigation Measure D.2d
- Mitigation Monitoring: PRMD ARM staff will periodically monitor the health of trees affected by quarry development and require replacement as necessary.
- U/R 142. The applicant shall utilize PG&E electricity to power the mobile processing plant instead of using diesel-powered generator.
- The specific electrical loading and requirements of the proposed project shall be determined by PG&E after the project applicant submits a formal application for electrical service. At that time, PG&E would review the proposed project and identify what additional on- and/or off-site electrical requirements would be needed to deliver electrical service to the site.
Mitigation Measure F.1a
- Mitigation Monitoring: PRMD will verify that electrical service is provided prior to issuance of a building permit for the quarry office.
- U 143. The approved haul route consisting of new Access Road 1, a mile-long section of improved Roblar Road, new Access Road 2, Valley Ford Road, Pepper Road (west of Mechem Road), Mechem Road, and a combination of Stony Point Road, SR 116, Railroad Avenue, and/or Old Redwood Highway to/from U.S. 101 shall be stipulated in all aggregate sales contracts.
- U/R 144. The project applicant shall utilize 2007 model engines or newer on-site loaders, dozers, rock trucks, and water truck. The applicant shall provide on annual basis, a written inventory of the model year of on site mobile equipment.
Mitigation Measure F.1b
- Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through quarterly inspections and through written documentation provided by the applicant.
- U/R 145. The project applicant shall require that all quarry operator owned off-site-haul trucks and, to the degree feasible, all off-site haul trucks that would be under contract with the quarry operator use 2003 model or newer trucks. The applicant shall provide on annual basis, a written inventory of the model year of haul trucks, including haulers under contract.
Mitigation Measure F.1c
- Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through on site inspections and through written documentation provided by the applicant.
- U/R 146. Implement the following combustion equipment emissions measures:

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- Use alternative powered equipment (i.e., hybrid, CNG, biodiesel, electric), where feasible. Feasibility shall be determined by market availability and cost considerations. The applicant shall provide an annual report to PRMD explaining what alternative powered equipment has been brought online and what efforts were made in the previous 12 months to modify the composition of applicant's equipment. Such report shall include information on market availability and cost in sufficient detail for PRMD to determine whether additional equipment can feasibly be brought online;
- Use equipment which uses add-on control devices, such as diesel oxidation catalysts, as required by CARB's In-Use Off-Road Diesel Vehicle Regulation and On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation;
- Limit the hours of operation of heavy duty equipment where feasible;
- The project applicant shall keep all equipment well-tuned and regularly serviced to minimize exhaust emissions, and shall establish a regular and frequent check-up and service/maintenance program for all operating equipment at the quarry; and
- Minimize idling time of diesel powered equipment to five minutes, as required by regulation, or less where feasible.

Mitigation Measure F.1e

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through on site inspections and through written documentation provided by the applicant.

- U/R 147. The applicant shall use commercially feasible efforts to pursue an offsite mitigation program to achieve contemporaneous emission reductions from sources off-site. Such efforts shall include pursuit of State, Bay Area, and grant funds (e.g., the Carl Moyer Fund, Transportation Fund for Clean Air, etc.) for improved trucks and retrofits such as diesel particulate filters for use in reducing emission sources within the vicinity of the project, such as school bus conversion. Such efforts shall also include incentives to vendees to induce them to achieve greater air quality efficiencies. Applicant shall submit an annual report to PRMD detailing the efforts made during the previous 12 months to achieve off-site mitigation.

Mitigation Measure F.1f

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through an annual report provided by the applicant.

- U/R 148. A comprehensive dust control program shall be implemented by project applicant that would include the quarry's proposed dust control measures to maintain minimal fugitive dust impacts from the project.

Elements of the dust control program (especially during the dry season) for project components include, but are not necessarily limited to, the following:

- Water all active unpaved vehicle circulation areas daily, using reclaimed water whenever possible. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency whenever wind speeds exceed 15 miles per hour during dry conditions.
- Suspend excavation activity when winds (instantaneous gusts) exceed 25 miles per hour during dry conditions.
- Cover all quarry-operated trucks hauling soil, sand, and other loose materials, or require all quarry-operated trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer) or CHP standards.

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- Sweep paved roadways (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- Hydroseed or apply soil stabilizers to inactive exposed soil areas (as presented in the quarry's reclamation and water quality control plan).
- Exposed soil stockpiles shall be enclosed, covered, watered daily or treated with a (non-toxic) soil stabilizer.
- Limit traffic speeds on unpaved roads and circulation areas to 15 miles per hour.
- Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. The operator shall have at least one employee who is a certified visual emissions evaluator.
- Install wheel washers or other washing method (e.g., water sprayers or use of a water depression crossing) so that that tires or tracks of all exiting trucks leaving the site are cleaned of dirt and gravel to minimize tracking these materials onto public roads.
- Conduct blasting activities by using water injection when drilling to control drilling dust, using sequential delay timing schemes to generate effective rock fragmentation and vibration control to minimize blasting dust, remove loose overburden to prevent dilution of mined rock, which lessens the amount of fine material that can become airborne by blasting, and as needed, during dry summer periods, water onto blast areas to further mitigate dust.
- Ensure covers over the quarry's crushers (e.g., baghouses or sheds) are in place to minimize fugitive dust during crushing operations. With certain equipment, the use of water or foam spray may be the most effective method to be used, as determined in consultation with the Air District.
- The applicant shall retain a qualified meteorological consultant to design and implement a wind monitoring program at the quarry site during project construction and operations. The monitoring program shall be limited to providing wind speed and direction information sufficient to implement these specific dust mitigation measures. The meteorological consultant shall conduct an initial field meteorological study to select the equipment and establish onsite locations for wind speed monitoring; the meteorological consultant shall use that information to develop an operating plan for the on-going meteorological monitoring program. The meteorological consultant shall prepare a design and operating plan for the meteorological monitoring (subject to the approval of the County). The meteorological consultant shall supervise the long-term operation of the meteorological monitoring program, regularly preparing and submitting to the County a report summarizing the results of the wind monitoring program. (For the first year, quarterly reports shall be required; yearly meteorological monitoring reports may be more appropriate after the first year's experience.) The long-term meteorological monitoring program shall be reviewed periodically by the meteorological consultant and, subject to the approval of the County, adjustments made to reflect the experience and understanding of wind conditions and the related experience with dust generation and control at the quarry.

The meteorological monitoring plan shall include the basic elements in Attachment AQ-1, General Meteorological Monitoring Guidelines for Roblar Road Quarry, which generally discusses aspects of a well-designed and -operated meteorological monitoring system. These elements include use of suitable equipment, proper instrument siting and maintenance practices, electronic data recording and preservation, periodic quality control audits of the station equipment and operating practices, and frequent review of the resulting data. The meteorological consultant shall consider each element in developing a plan that addresses plan objectives.

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On-going wind monitoring shall be conducted at the project site during the quarry construction and long-term operation, especially during any dry periods of the year when winds are anticipated to exceed 15 mph at the quarry. As part of the wind monitoring program, suitable anemometry shall be employed to regularly monitor winds at locations within the project site subject to fugitive dust, including quarry slopes being actively mined, stockpiles, unpaved travel paths being used for mobile equipment, and where processing operations are occurring. The wind monitoring shall measure and report, at a minimum, average wind speeds and wind gust speeds during the operating hours of the quarry. The measurement intervals for average wind speed (initially anticipated to be one- or two-minute measurements that are made up of 60 consecutive 1- or 2-second samples, taken once every 15-minutes) and wind gust duration (initially anticipated to be a five- to ten-second gust, extracted as the highest 5 consecutive samples among the 60 samples that make up an average wind speed reading) shall be reviewed and modified, as appropriate, by the meteorological consultant as a part of the development of an operating plan for the on-going meteorological monitoring.

All applicable electronic and manually measured wind data shall be time-stamped and recorded, so that it can be cross-referenced or linked to time-stamped entries in a (manual or electronic) log book that describe the specific dust control measures or changes in operations made in response to attaining the identified wind speed criteria.

- If, based on the wind monitoring, wind speeds at an active quarry area are found to exceed 15 miles per hour, watering frequency shall be increased and/or other appropriate dust control methods of equal or better effectiveness shall be implemented within the area of effect. Quarry personnel shall put into action and shall document the specific dust control measures or changes in operations that were implemented when the identified 15 miles per hour wind speed was exceeded. These measures shall continue until wind speeds decrease to less than 15 miles per hour, as recorded on two successive regular measurements.
 - If wind gusts during quarry operations are determined to exceed 25 miles per hour at any active quarry area of the quarry and those quarry operations generate any visible dust, that dust-generating activity in the area of effect shall be suspended until such time wind gust speeds in that area clearly subside. Quarry personnel shall put into action and document the change in operations that were implemented when the identified 25 miles per hour wind speed was exceeded. These measures shall continue until wind gust speeds decrease to less than 25 miles per hour, as recorded on two successive regular measurements.
 - Automated dust control systems shall be used (e.g. automated sprinkler systems) to maintain proper surface moisture in the stockpiles before sufficient vegetative cover in the stockpiles has been established.
 - If determined to be needed by the meteorological consultant, the applicant shall plant native evergreen trees along the perimeter of the quarry footprint to further minimize wind from entering the active quarry area. (This would be in addition to the trees already proposed to be planted in the vicinity of the proposed office, equipment storage area and parking lot, and along the proposed access road.) The specific tree type, location, and number of rows and spacing of trees shall be determined by the meteorological consultant.
 - The quarry's dust control monitor shall provide nearby landowners (within a radius of potential effect as determined by the meteorological consultant) with a contact phone number for the quarry's dust control monitor for off-site dust complaints that may arise associated with the quarry. The dust control monitor shall determine the cause of the complaint and ensure that measures are implemented to correct the problem.
- Mitigation Measure F.4:

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Mitigation Monitoring: PRMD will review the applicant's comprehensive dust control and meteorological monitoring program to insure it includes the above measures. PRMD will review the applicant wind monitoring data documenting the changes in dust control measures that were implemented when winds exceeded 15 mph and changes in operations that were implemented when winds exceeded 25 mph.

- U 149. Prior to the issuance of a building permit for the quarry office the plans shall be reviewed by Department of Emergency Services and the Gold Ridge Fire Department, as necessary to ensure compliance with Fire Safe Standards.
Mitigation Measure J.1

Mitigation Monitoring: PRMD will verify that the building plans are reviewed for compliance with Fire Safe Standards.

- U 150. During quarry operations, particularly initial grading and on-going clearing operations, should any undiscovered evidence of archaeological materials be encountered, work at the place of discovery shall be halted, and a qualified archaeologist shall be consulted to assess the significance of the finds. Prompt evaluations could then be made regarding the finds, and management plan consistent with CEQA and Sonoma County cultural resources management requirements could be adopted. This mitigation shall appear as a note on the grading plans.
Mitigation Measure K.1b

Mitigation Monitoring: PRMD will coordinate with the qualified archaeologist and ensure that work is halted if archaeological resources are uncovered.

- U/R 151. If prehistoric Native American burials are encountered, a qualified archaeologist, the Sonoma County Coroner, the California Native American Heritage Commission and local Native American Heritage Commission shall be consulted in accordance with established requirements.
Mitigation Measure K.1c

Mitigation Monitoring: PRMD will coordinate with the qualified archaeologist, the Sonoma County Coroner, the California Native American Heritage Commission and local Native American Heritage Commission should Native American burials be discovered.

- U/R 152. Prior to the start of construction, construction personnel involved with earth-moving activities will be informed on the appearance of fossils and the proper notification procedures. This worker training will be prepared and presented by a qualified paleontologist.
Mitigation Measure K.2a

Mitigation Monitoring: PRMD will monitor the mitigation by requiring the operator to submit to PRMD a written list of the employees and the date of their participation in the required training sessions prior to authorizing clearing or mining and periodically when new employees are hired.

- U/R 153. Earth-moving quarry activities shall be monitored by the mining personnel under the direction of the project paleontologist where this activity will disturb previously undisturbed sediment. Monitoring will not be conducted in areas where exposed sediment will be buried, but not otherwise disturbed. If high-potential and undetermined-potential areas within the quarry can be distinguished, full-time monitoring shall take place in rock units that have high paleontologic sensitivity, e.g. Wilson Grove Formation, while units of undetermined sensitivity shall be spot-checked monitored. In lieu of any rock-unit distinction on the site, the frequency and duration of the monitoring conducted shall be under the discretion of the project paleontologist.
Mitigation Measure K.2d

Mitigation Monitoring: PRMD staff will coordinate with the qualified paleontologist and

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 December 17, 2009
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ensure that a monitoring plan is developed in accordance with the above condition.

- U/R 154. Significant fossils discovered shall be salvaged. Salvage would include recovery of exposed significant paleontologic resources, removal and/or molding of exposed trackways and sampling where necessary to recover microfossil remains.
Mitigation Measure K.2e:

Mitigation Monitoring: If fossils are discovered, PRMD ARM staff will coordinate with the qualified paleontologist to ensure that they are salvaged in accordance with the above condition.

- U/R 155. Upon completion of a 50% threshold of quarry excavation, as determined by Roblar Quarry managers, the project paleontologist shall prepare a progress report including a summary of the field and laboratory methods, site geology and stratigraphy, faunal list, and a brief statement of significance and relationship of the site to similar fossil localities. A similar final report shall be prepared at the 100% threshold of quarry excavation. These reports shall be distributed to the appropriate lead and cooperating agencies and any relevant scholarly publications.
Mitigation Measure K.2f:

Mitigation Monitoring: PRMD ARM staff will verify that a progress report and a final report are submitted as required.

- U/R 156. This Use Permit allows mining/rock extraction, processing, rock crushing, screening and stockpiling, and concrete/asphalt recycling supported by an office, a scale, and on-site fueling/shop operations, with up to 10 employees on APN 028-080-009 as described in the Roblar Road surface mining Draft EIR dated May 2008, as modified by these conditions. In no case shall the amount of material sold or exported in any one year from the entire quarry operation exceed the 570,000 cubic yard limit, including recycled materials, unless a modification to this Use Permit is first obtained.

Permitted hours of operation are 7:00 a.m. to 5:00 p.m. weekdays and 7:00 a.m. to 4:00 p.m. on Saturdays. Extended evening hours (until 10:00 p.m.) as needed, consistent with the County Surface Mining and Reclamation Ordinance (SMARO) and the Aggregate Resources Mining (ARM) plan may be permitted with prior written County authorization. Blasting shall be limited to day time hours from 10:00 a.m. to 4:00 p.m., Monday through Friday. There shall be no clearing or mining operations on Sundays or federal holidays. The approved mining area shall not encroach within 25 feet of the boundary of the Mineral Resources Zoning District. The boundaries of the approved mining area shall be surveyed and staked prior to the commencement of clearing or mining in the expansion area.

As a condition of exercising this Use Permit, the applicant agrees that for as long as the Use Permit remains in effect, all conditions set forth herein shall be applicable to both mining and processing within the parcel APN 028-080-009.

- U/R 157. The operator and subsequent owners or operators of the above-referenced project shall complete mining and reclamation activities in accordance with the Roblar Road surface mining application materials and Reclamation Plan dated December 2009 as revised by these Conditions of Approval and subject to the revised Reclamation Plan requirements herein. Owners shall maintain the site in perpetuity in accordance with the Reclamation Plan, including but not limited to the drainage improvements, slopes and vegetation. Prior to the lease, sale or other conveyance of any portion of the real property subject to this approval, the owner shall provide a copy of the Use Permit and Reclamation Plan approval along with this exhibit to the prospective lessee, buyer or other recipient of such conveyance. The County has the power to modify or revoke a permit, entitlement, or project approval if the conditions are not met. The mining operator must also notify the State Division of Mines and Geology and PRMD of any changes in ownership/operator and a new performance bond may be required.

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U/R 158. When mining encroaches within 200 feet of the property line of APN 028-080-010, the approved top of final reclamation slope in that area shall be clearly marked in the field by brightly colored stakes projecting at least 4 feet above ground level spaced every 200 feet. When mining encroaches within 100 feet of the approved toe of final reclamation slope in any area, the toe shall be clearly marked in the field by brightly colored stakes projecting at least 4 feet above ground level spaced every 200 feet. The operator shall be responsible for submitting a site plan or aerial photograph showing the extent of existing mining in relationship to all property lines if requested by PRMD to verify the need for, or location of, the required stakes.

U/R 159. Payment of ARM Plan Fees for Monitoring, Administration, and Other Mitigation:

The operator shall contribute to ARM Plan Monitoring and Administration funds established by the County pursuant to the ARM Plan and shall otherwise mitigate identified impacts as follows:

Inspection Enforcement and Monitoring Fees:

Annual inspection, enforcement and monitoring fees shall be paid by the operator in order to cover all actual costs incurred by the County for the inspection, monitoring, and enforcement of the applicable Use Permit and reclamation plan conditions in accordance with the ARM Plan. Where the monitoring service of a qualified professional is required by the Mitigation Monitoring Program, additional monitoring fees may be levied on the operator to cover such costs. *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff shall be responsible for determining compliance with this condition. PRMD staff shall also be responsible for billing the operator for all monitoring work done in compliance with ARM Plan and County ordinance requirements. Violations of the condition may result in proceedings to revoke the Use Permit for mining.

U/R 160. The Use Permit and Reclamation Plan shall be subject to the provisions of the 1994 ARM Plan, Chapter 26A of the Sonoma County Code, and other County ordinances, local, state and federal regulations, rules, orders and requirements regulating surface mining and reclamation in existence or hereafter adopted pursuant to the 1994 ARM Plan.

R 161. The operator shall notify PRMD in writing at least fifteen (15) days before the conclusion of each phase of reclamation to request a site inspection. *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff shall inspect the site periodically in accordance with the inspection, enforcement, monitoring, and mitigation program of the ARM Plan and also within thirty (30) days of receiving the operator's notification of completion of each phase of reclamation. A written inspection report on each site visit shall be placed in the project file, which shall be used to determine the official start date of reclamation effort time frames for each area as established in these Conditions of Approval.

U/R 162. To the extent required by applicable law, the operator and all successors in interest shall obtain any and all permits or approvals required by other agencies having jurisdiction over the project and shall provide copies of same to PRMD. This permit is subject to the conditions of said permits and any violation of other such permits shall constitute a violation of this Use Permit. If there are conflicts between the conditions of any permits, the more restrictive shall apply. PRMD Project Review staff will work with the agencies and the operator to help achieve solutions. A modification to this Use Permit may be required. Such agencies may include, but are not limited to:

- a) Sonoma County Water Agency
- b) Sonoma County Department of Health Services
- c) Bay Area Air Quality Management District

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- d) California Department of Fish and Game
- e) California Water Resources Control Board
- f) North Coast Regional Water Quality Control Board
- g) Army Corps of Engineers
- h) U.S. Fish and Wildlife Service
- i) U.S. Environmental Protection Agency
- j) California Department of Transportation (Caltrans)
- k) NOAA Fisheries

- U/R 163. Grading of slopes, replacement of soil, and replanting shall be completed concurrently with mining activities where possible rather than be delayed until after the completion of all mining. In no case shall the planting of vegetation and final reclamation of slopes last more than two years past cessation of mining in that area unless weather or other conditions beyond the control of the operator make performance within this time period unreasonable. To ensure accurate monitoring of this condition, the operator shall be responsible for submitting a site plan or aerial photograph by October 1st of every second year (after mining in the expansion area has begun) that clearly depicts the total extent of the mining and reclamation areas on the property. Failure to comply with this condition shall require the immediate cessation of all mining, processing, and sales of material (reclamation work may continue). *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff review the reports and will periodically monitor compliance with the condition during ongoing quarterly field inspections and will respond to all complaints. All inspection reports will be placed in the project file.

- U/R 164. The operator shall continue to provide the California Department of Conservation and PRMD, in the manner specified by said agencies, annual reports on mining and reclamation activities on the site until the project is completed and the site is taken off the state's mining list. *ARM PEIR*

Mitigation Monitoring: PRMD will review reports for compliance with permit requirements and make available to the public.

- U/R 165. The operator shall require all truck drivers using the quarry to utilize the designated haul route and avoid the use of Roblar Road, east of the project site and Pepper Road, east of Mecham Road. This requirement shall be specified in all aggregate sales contracts.

- U/R 166. The operator shall require all aggregate haulers to participate in a truck driver education/safety orientation which familiarizes them with the approved haul route, speed limit zones, school bus stops, weight and load height limits, and established procedures to reduce public conflicts and ensure traffic safety. Truck drivers shall be informed that Roblar Road, east of the quarry and Pepper Road, east of Mecham Road are not approved haul routes and shall not be used. A list of employees and independent haulers undergoing the orientation shall be submitted to PRMD on an annual basis.

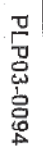
- U/R 167. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Planning Commission, as appropriate. Such changes may require a new or modified Use Permit and additional environmental review.

The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The operator must submit a

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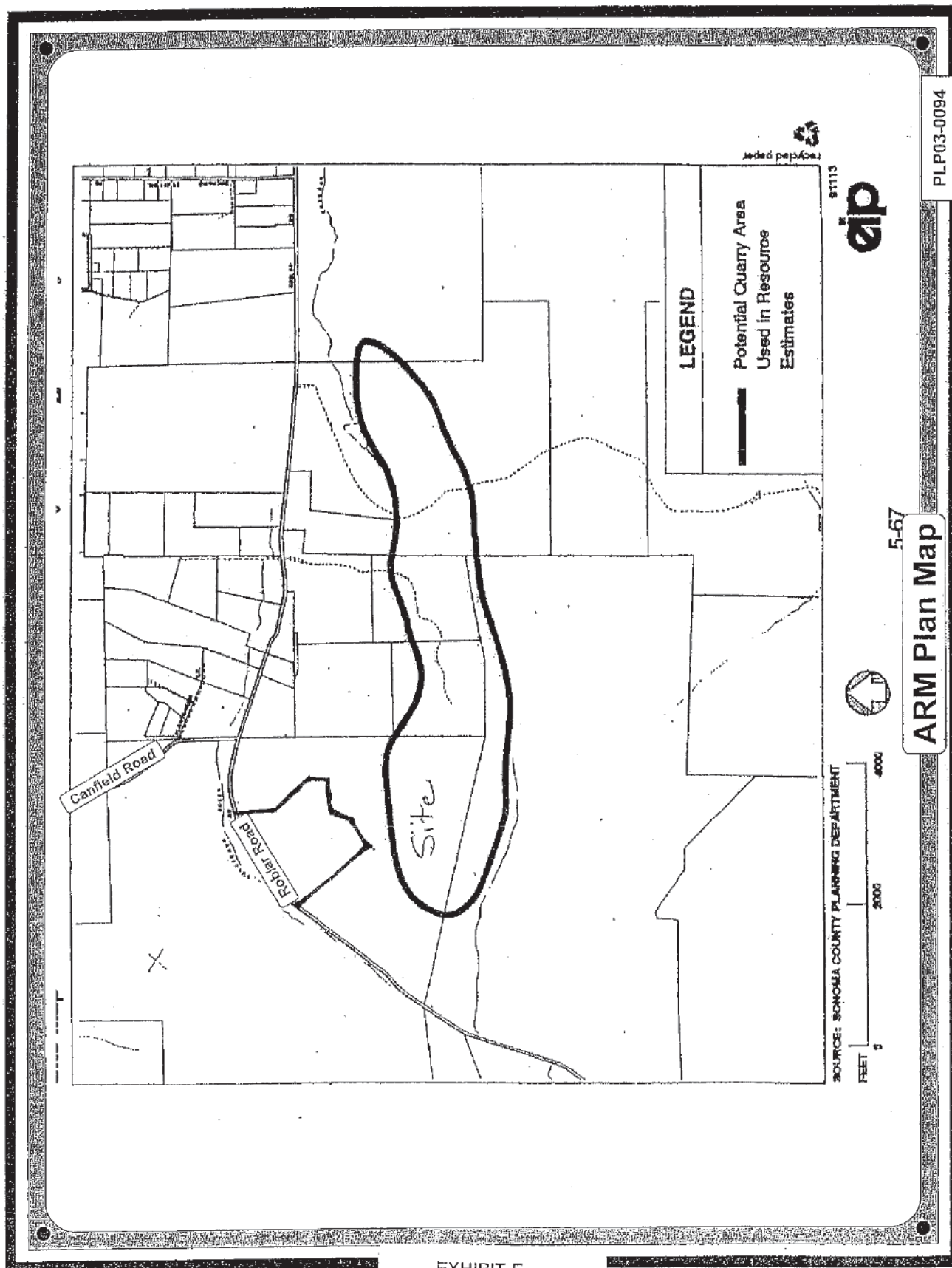
written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. The Director of PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by the Director of PRMD are limited to those items that were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from the Director, and shall not affect the original permit approval date or the term for expiration of the permit.

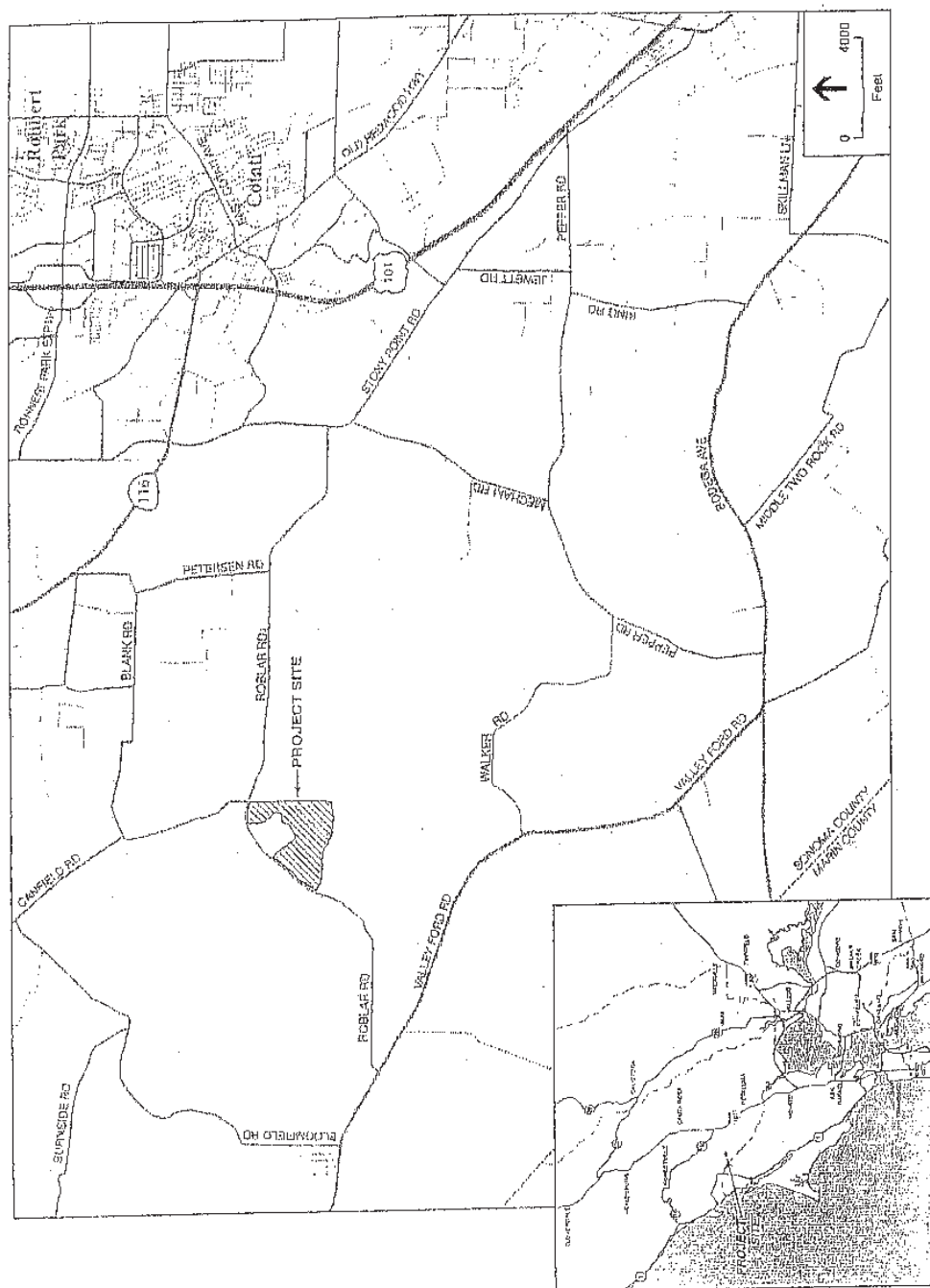
- U/R 168. This permit shall be subject to revocation or modification by the Planning Commission if: (a) the Commission finds that there has been a violation or noncompliance with any of the conditions, (b) the use for which this permit is hereby granted constitutes a nuisance, or (c) the Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use, recognizing that the project as approved may result in some unavoidable environmental impacts. Any such revocation shall be preceded by a public hearing pursuant to Section 26-92-120, except that the Planning Commission shall be the hearing body, and noticed pursuant to 26-92-140 of the Sonoma County Code.
- U/R 169. The applicant shall notify PRMD in writing 30 days before implementation/activation of the use permit. Implementation/activation of the use permit shall consist of mining or clearing on the mining parcel or implementation of major conditions of approval as determined by PRMD. If the Use Permit has not been implemented/activated within five (5) years after the date of the granting thereof, the permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the five year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code. This Use Permit shall expire when the mining area and Access Roads 1 and 2 have been reclaimed as approved by PRMD, or 20 years from the date of permit implementation/activation, whichever occurs first. Upon the completion of mining, all processing equipment used for mining and other materials, equipment and vehicles shall be removed from the site so that reclamation can be completed.











Roblar Road Quarry - 204334
Figure III-1
Regional Map

PLP03-0094

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cont.
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Roblar Road Quarry - 204334
Figure II-2
Site Location Map

SOURCE: USGS

PLP03-0094

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Aerial View

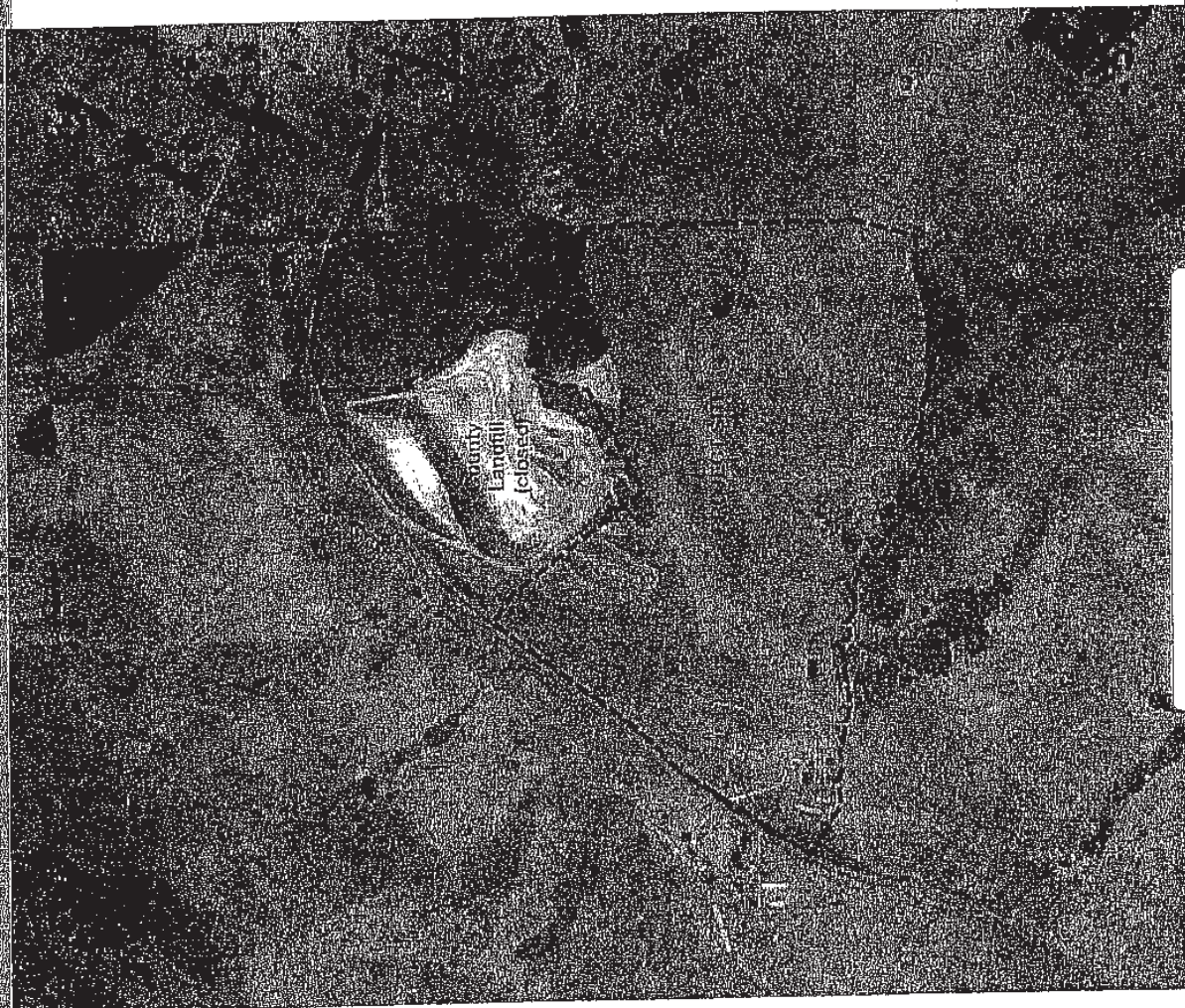


EXHIBIT H

Resolution Number 10-

County of Sonoma
Santa Rosa, California

April 1, 2010
PLP03-0094 Blake Hillegas

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF SONOMA, STATE OF CALIFORNIA, RECOMMENDING TO THE BOARD OF SUPERVISORS CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS AND APPROVAL OF (1) A ZONE CHANGE TO ADD THE MR (MINERAL RESOURCES) OVERLAY ZONE TO THE PROPOSED 70 ACRE MINING SITE (APN 027-080-009) AND A 25 FOOT PERIMETER SETBACK AREA AROUND THE PARCEL, (2) MINING USE PERMIT FOR ALTERNATIVE 2 (ALTERNATIVE HAUL ROUTE/CONTRACTED SALES ONLY) WITH A PRODUCTION LIMIT OF 570,000 CUBIC YARDS PER YEAR FOR 20 YEARS, (3) RECLAMATION PLAN TO RETURN THE SITE TO AGRICULTURE AND OPEN SPACE USE, AND (4) A WILLIAMSON ACT AGRICULTURAL PRESERVE EASEMENT EXCHANGE, RESCINDING THE AGRICULTURAL PRESERVE CONTRACT ON THE 70 ACRE MINING SITE, WHILE SIMULTANEOUSLY PLACING AN AGRICULTURAL PRESERVATION EASEMENT ON A 243+ ACRE AGRICULTURAL PROPERTY NEAR PETALUMA; LOCATED AT 7175 AND 7601 ROBLAR ROAD, PETALUMA; APNS 027-080-009 and -010; SUPERVISORIAL DISTRICT NO. 2.

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cont.

WHEREAS, the applicant, John Barella filed application PLP03-0094 with the County and its Permit and Resource Management Department requesting approval of a Zone Change to add the MR (Mineral Resource combining district) on the mining site, a Mining Use Permit with a production limit of 570,000 cubic yards per year for 20 years, a Reclamation Plan to return the site to agriculture and open space, and a Williamson Act agricultural preserve easement exchange, rescinding the agricultural preserve contract on the 70 acre mining site, while simultaneously placing an agricultural preservation easement on a 243+ acre agricultural property near Petaluma; located at 7175 and 7605 Roblar Road; APNs 027-080-009 and -010; Supervisorial District 2; and

WHEREAS, on August 4, 2004, the Permit and Resource Management Department issued a Notice of Preparation that an Environmental Impact Report (EIR) would be prepared for the proposed project.

WHEREAS, on September 1, 2004, a public scoping meeting was held; and

WHEREAS, the Draft EIR was duly noticed and made available for public review and circulated to public agencies for comment from May 20, 2008 to July 5, 2008; and

WHEREAS, the Draft EIR identifies Alternative 2 (Alternative Haul Route/Contracted Sales) as the Environmentally Superior Alternative. The alternative haul route would initiate within the project site and extend southwesterly through the adjacent private property (Wilson property

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Access Road 1) and connect to Roblar Road. The alternative haul route would then extend westward along an improved and widened Roblar Road for a length of approximately one mile. The alternative haul route would then proceed through private property (Neve property Access Road 2) and connect to Valley Ford Road. Under Alternative 2, the permitted production rate, mining technique, and design would be identical to that proposed with the project (570,000 CY per year) for 20 years. However, under Alternative 2, 100 percent of materials produced at the quarry would be either directly used by the applicant or sold under contract. Accordingly, the applicant would control the haul route for his truck fleet and stipulate the haul route in all sales contracts, thereby avoiding schools and residential areas on Roblar Road, east of the project and Pepper Road, east of Mecham Road; and

WHEREAS, Alternative 2 necessitates the need for Open Space District approval, whereby the applicant proposes to use approximately 4 acres of adjacent land (currently encumbered by an Open Space District Easement) for access to the quarry during the 20-year life of the project in exchange for placing a permanent conservation easement over the entire 198 acre project site and making an irrevocable offer of dedication of the land for potential future public use; and

WHEREAS, compared to the Project, Alternative 2 would avoid potentially significant and unavoidable impacts related to roadway design standards, pedestrian and bicycle safety, sight distance, site access, and pavement degradation; and

WHEREAS, Alternative 2 would avoid schools and residential areas located on Roblar Road, east of the project and Pepper Road, east of Mecham Road; and

WHEREAS, on June 19, 2008, the Sonoma County Planning Commission conducted a public hearing to take testimony and receive evidence on the adequacy of the Draft EIR from both Planning Commissioners and the public; and

WHEREAS, on November 11, 2009 a Final Environmental Impact Report (Final EIR) for the project was made available to the public and forwarded to responsible agencies; and

WHEREAS, on December 17, 2009, the Planning Commission conducted a public hearing to receive testimony and consider the Final EIR and the project; and

WHEREAS, the Planning Commission continued the public hearing for a response to water quality concerns, including a December 15, 2009 letter from the Regional Water Quality Control Board (RWQCB) and Planning Commission comments; and

WHEREAS, on April 1, 2010, the Planning Commission conducted a public hearing to consider the project and Final EIR, including responses and public testimony regarding water quality issues, and responses to Commissioner comments; and

WHEREAS, the Planning Commission finds that the Final EIR, including revisions to the Water Management Plan and Master Response HYD-1 have been prepared and completed in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County's CEQA Ordinance; and

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WHEREAS, based on the information contained in the Final EIR prepared for this project, the Planning Commission has determined that, despite mitigation, there will be significant environmental impacts as identified below; all other environmental impacts can be mitigated to a less than significant level. The significant and unavoidable impacts of the project under Alternative 2 (Alternative Haul Route/Contracted Sales) are:

- a. Effect of change in land use (introduction of active mining operations) on compatibility with residential land uses in the project vicinity.
- b. Project emissions of Nitrogen Oxide (NOx).
- c. Project contribution to cumulative regional criteria pollutants and Toxic Air Contaminants (TACs).
- d. Substantial alteration in the visual character of the project site and adverse effect on views of the site from both public and private vantage points.

The following adverse impacts would be significant and unavoidable if mitigation measures identified in the Draft EIR were found to be infeasible:

- e. Project contribution to Near Term traffic LOS at the intersection of Stony Point Road and Railroad Avenue (This impact would occur only until intersection signalization is completed, and applicant shall pay fair share contribution to this improvement).
- f. Project contribution to Long-Term Cumulative traffic volume at certain study intersections during the weekday a.m. or p.m. peak hour, or Saturday peak hour:
 - Stony Point Road and Roblar Road (south bound right turn lane)
 - Stony Point Road and Railroad Avenue (signalization)

(These impacts would occur only until intersection signalization is completed and applicant shall pay fair share contribution to this improvement).
- g. Project increase in ambient noise levels at certain sensitive receptors on roadways used to access the quarry (two houses on Roblar Road, west of the quarry). (These impacts would occur if the property owners elect not to implement proposed noise insulation upgrades).
- h. Project contribution to increase in cumulative noise levels at certain sensitive receptors on roadways used to access the quarry (two houses on Roblar Road, west of the quarry).

WHEREAS, the Planning Commission determines that the project will provide important public benefits that outweigh the unavoidable impacts based on the following findings:

- 1. According to the Sonoma County General Plan 2020, approximately 75 to 112 million

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tons of construction aggregate are likely to be needed over the next 20 years to meet local needs and a share of the North Bay regional needs.¹

The State Geologist has classified certain mineral resource areas within Sonoma County as mineral bearing areas of regional significance. As a result, Sonoma County is required, by state law, to adopt mineral management policies that:

- Recognize mineral information provided by the State,
- Assist in the management of land use that affect areas of statewide and regional significance, and
- Emphasizes the conservation and development of identified mineral deposits.

In response to the state's mandate, Sonoma County adopted resource management goals and policies in the General Plan and the Aggregate Resources Management (ARM) Plan.

General Plan Goal OSRC-13 requires the County to "provide for production of aggregates to meet local needs and contribute the County's share of demand in the North Bay production-consumption region." (Goal OSRC-13, in part). An implementing General Plan objective is to "use the ARM Plan to establish priority areas for aggregate production and to establish detailed policies, procedures, and standards for mineral extraction." (OSRC-13.1). General Plan Policy OSRC-13a was adopted to achieve this objective. The policy states:

Policy OSRC-13a: Consider lands designated in the ARM Plan as priority sites for aggregate production and mineral extraction and review requests for additional designations for conformity with the General Plan and the ARM Plan.

The ARM Plan has designated the Roblar Road Quarry as a priority site and the Department of Conservation has classified the site as Mineral Resource Zone 2b for Portland Cement Concrete (PCC), Asphalt Concrete (AC) and Class II Base-grade aggregate.

Through the adoption of the ARM Plan, the Board of Supervisors declared that it is the policy of the County of Sonoma to prohibit mining in the river terraces and limit in-stream mining to bar skimming. The Board of Supervisors further declared that in order to comply with the County's adopted goal to provide for the production of aggregates to meet local needs and contribute the County's share of demand in the North Bay production-consumption region, aggregates would be produced from hard rock quarries.

Construction grade aggregates (PCC and AC) is not often found in hard rock quarries within Sonoma County. Drilling logs confirm that the Roblar Quarry contains PCC- and AC-grade hard rock.

Sonoma County's residential, business and industrial construction, particularly road

¹ Sonoma County General Plan 2020: Open Space and Resource Conservation Element

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construction and re-construction, depends on a good quality, local source of construction grade aggregates. Roblar Road Quarry will help fulfill the demand. A local source of PCC- and AC-grade aggregate is critical to maintaining stable construction costs. This is borne out in a letter from a construction materials provider to their customers announcing significant price increases due to the plan to import aggregate.²

The quarry would provide a convenient, local source of aggregate for planned roadway and highway improvements funded by Measure M over the next 15 years. Most of the Measure M funded improvements are located within central and southern Sonoma County. The Roblar Road Quarry could conveniently supply materials to these areas.

2. According to an economic assessment of aggregate supply entitled "Construction Aggregate Supply Limitations: Some Estimates of Economic Impact" prepared by the Division of Transportation Planning's Office of Transportation Economics, September 2008, (separate attachment), there are a number of positive economic benefits in permitting rock quarries in proximity to the work needed to be performed. They include:
 - A reduction in emissions from trucks with a reduction in truck miles of travel for hauling aggregates.
 - A shorter hauling distance, which would reduce aggregate-truck miles of travel and the cost of the materials.
 - A reduction of pavement deterioration from fewer truck miles traveled, which would allow rehabilitation resources to be available for other critical maintenance improvements.
 - A reduction in project delays due to lack of aggregate supply in the area, which leads to increased project costs.
 - A reduction in aggregate-related truck miles of travel would also reduce traffic congestion and traffic accidents on roads.
3. Economic recessions are cyclical in nature. Despite the current economic downturn, there remains a steady demand for a local source of hard rock, primarily as a result of on-going roadway and highway infrastructure improvements. As the economy improves, as indicators have recently shown, the demand for rock for all types of construction projects is expected to increase. Because of the prohibition on terrace mining and the limitations on in-stream mining to bar skimming, most of the local supply of aggregate is expected to come from hard rock quarries. However, given the level of production and the quality/type of mined materials, existing local quarries are not expected to be able to meet the demand for PCC- and AC-grade aggregate. Therefore, the project's accessible supply of PCC- and AC-grade aggregates is vital to the local economy and implements the ARM Plan and General Plan policies.
4. There will be economic benefits to Sonoma County from the project including, but not limited to, job creation, increased property taxes, sales taxes, vehicle license fees, and employee income taxes. In this time of dwindling state and local government revenues, it is especially important that the County continues to support the creation of jobs and

² Shanrock Materials Inc. "Important Announcement," November 2002

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- the establishment of independent revenue sources to help fund needed County services.
5. Under the environmentally superior Alternative 2 haul route, haul trucks would avoid the schools and residential areas on Roblar Road east of the project and on Pepper Road east of Mecham Road, thereby avoiding localized truck noise and air quality impacts to sensitive receptors on these road segments. Similarly, road construction impacts would be avoided on these segments.
 6. The installation of a signal at Stony Point Road/Roblar Road would occur much sooner as a result of the project's contribution to this improvement, thereby addressing a current need for improved level of service and safety at this intersection. A mile long section of Roblar Road used by haul truck traffic would be fully reconstructed, including roadway shoulders to improve bicycle and pedestrian safety along this roadway segment. The project would contribute its fair share toward the future signalization at Stony Point Road/Railroad Avenue, and signal timing improvements at Stony Point Road/Highway 116 and Highway 116/Old Redwood Highway. With the project's fair share contributions towards these projects, it makes it more feasible for the state and county to fund the work. Recent shortfalls in state and county budgets have resulted in extended delays in funding road improvements, resulting in a backlog of projects waiting for funding.
 7. In exchange for the removal of a 70-acre portion (mining site) of a 198 acre property from a Williamson Act Contract, the applicant would place a permanent agricultural conservation easement on a 243+acre agricultural property near Petaluma. This property is currently without any form of contract or easement protection, is biologically sensitive, ecologically diverse and classified as farmland of local importance in the California Department of Conservation Farmland Mapping and Monitoring Program. Furthermore, this 243+acre property adjoins lands currently protected by either an agricultural conservation easement held by the Sonoma County Agricultural Preservation and Open Space District (SCAPOS) or an agricultural conservation easement held by the Sonoma Land Trust. The resource characteristics of the property as well as its adjacency to other protected land would cause the property to be looked upon favorably for easement acquisition. The agricultural conservation easement over this exchange property results in protection of a high priority property without cost to the taxpayers of Sonoma County. In addition, in exchange for the Open Space District's permission to temporarily use approximately 4 acres of land encumbered by an open space easement for quarry access under the environmentally superior Alternative 2, the applicant proposes to place a permanent conservation easement over the entire 198-acre project site and make an irrevocable offer of dedication of the land for potential future public use upon completion of mining.
 8. The Board of Supervisors adopted a Statement of Overriding Considerations for the ARM Plan indicating that the benefits of the aggregate industry outweigh the adverse unavoidable noise and visual impacts. These findings are contained in Resolution No. 94-1569 and are incorporated herein by reference.

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WHEREAS, the Planning Commission also makes the following findings:

1. The proposed project is consistent with the 1994 Aggregate Resources Management (ARM) Plan and its Final Program Environmental Impact Report (Program EIR). The Board of Supervisors, in certifying the ARM Plan Program EIR, adopted a statement of overriding considerations in which the Board of Supervisors found that certain unavoidable adverse impacts to land use and agricultural soils, aesthetic and noise impacts were acceptable for the economic and social reasons stated therein, and that these reasons applied with equal force to projects. The project is governed by the ARM Plan and conditions of approval are required of the project that will implement the requirements and mitigation measures described therein.
2. The proposed project is found to be in harmony with the goals, objectives, and policies of the General Plan and therefore, consistent with the General Plan.
3. The proposed addition of the MR (Mineral Resource) overlay to the Zoning Map on APN 027-080-009 and on a 25 foot setback area around the parcel on a portion of APN 027-080-010 is found to be consistent with the policies for the designation of lands as mineral resources in the LEA (Land Extensive Agriculture) zoning district.
4. The Revised Water Management Plan (WMP) prepared for the project assures that the project will not result in the degradation of groundwater and surface water quality, by eliminating point source discharge from the quarry pit, by monitoring seepage, precipitation, and production water within the quarry and treating water, as necessary, for VOCs and metals. In addition, the Revised WMP addresses the maintenance of baseflows in Ranch Tributary.
5. The development of aggregate resources on the site over the 20 year term of the Use Permit is appropriate. The Environmentally Superior Alternative 2 avoids potentially significant and unavoidable impacts related to roadway design standards, pedestrian and bicycle safety, sight distance, site access, and pavement degradation; substantially reduces secondary impacts associated with reconstruction of all of Roblar Road by utilizing more suitable public roads and reducing road widening and reconstruction from 9.75 miles to 2 miles; and avoids schools and residential areas along Roblar Road, east of the project and Pepper Road, east of Mecham Road.
6. Native landscaping is proposed to provide screening of the development. Detailed landscape plans will be reviewed by PRMD to ensure that they provide adequate screening.
7. The project meets the findings required to complete a Williamson Act Easement Exchange in that 1) rescission is for an alternative use which is consistent with the General Plan and notice of nonrenewal has been served; 2) the proposed easement exchange site is expected to continue to be utilized for dryland oat hay production, is large enough to continue in commercial agriculture production, and the applicant has demonstrated an ability to carry out the proposal through the purchase of the easement exchange site; and 3) the easement exchange site is over three times the size of the

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quarry site and the value of the proposed conservation easement is equal to or greater than the cancellation valuation of the land subject to the contract to be rescinded.

8. The acreage of off site Williamson Act lands affected by the Alternative 2 haul route and the Project haul route is approximately the same. Under Alternative 2, approximately 8 acres of land under 3 separate Williamson Act contracts (2 acres under a Type I and 6 acres under Type II contracts) would be affected by haul route construction.

Haul route construction is consistent with the Williamson Act's "principles of compatibility" listed in Government Code §51238.1, subdivision (a) in that the haul route would not significantly compromise the long-term productive agricultural capability of the contracted parcels or other contracted lands; it would not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted parcels or other contracted lands; and it would not result in the significant removal of adjacent contracted land from agricultural or open-space use. Continued grazing on the Wilson Properties (through which Access Road 1 would extend and where Roblar Road would be widened) would not be hindered. The Neve property (through which Access Road 2 would extend) is utilized as a plant nursery. However, the development and operation of Access Road 2 would not disrupt or hinder continued agricultural operation of those facilities.

The haul routes are considered incidental to and compatible with the existing contracted agricultural operations under County Rules in that Access Roads 1 and 2 are accessory to mining and mining is listed as allowable and compatible use; the affected lands are currently in compliance with the agricultural production requirements of their respective Williamson Act contracts; the haul routes would not occupy or isolate more than 5 acres of land on any separate contracted land; and they would not significantly displace land in agricultural production or cause significant loss of prime agricultural soils.

9. The Planning Commission, in consideration of the whole record relating to the Roblar Road Quarry project, finds that the establishment, maintenance and operation of the uses and facilities included in Alternative 2, as conditioned, will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood or to the general welfare of the area. The circumstances of this particular case are:

- a. The uses proposed by this project were anticipated by the ARM Plan and General Plan, and policy and land use designations allow mining in this area.
- b. The Use Permit requested for this project, as conditioned, will provide for comprehensive control of the uses of the property and incorporate all of the mitigation measures identified in the Final EIR in order to ensure that environmental quality is maintained. These conditions include hours of operation, production limits, haul route stipulations, limits on blasting and noise generation, groundwater and surface water monitoring and treatment, wind monitoring and a comprehensive dust control program, traffic mitigation measures, mitigation of biological impacts, and landscape screening.

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10. Mitigation measures identified in the EIR to avoid or substantially reduce significant impacts, to the extent feasible, and a mitigation monitoring program have been incorporated as Conditions of Approval.
11. The Planning Commission finds that the Final EIR describes a range of reasonable alternatives. However, the No Project Alternatives 1A and 1B would not attain any of the project objectives. Alternative 3 (reduced production capacity) would not meet the basic project objectives, as the demand for high quality aggregate is expected to increase and would likely exceed local supply (as terrace pits have been phased out), and reduced production would not avoid any of the direct significant environmental impacts of the project.

NOW THEREFORE BE IT RESOLVED that the Planning Commission recommends to the Board of Supervisors as follows:

1. The Board of Supervisors adopt the Final EIR.
 - a. The Final EIR has been prepared in compliance with CEQA.
 - b. The Final EIR was presented to the Planning Commission and the Planning Commission reviewed and considered the information contained in the Final EIR prior to making its recommendation on the project.
 - c. The Final EIR reflects the independent judgement and analysis of the County.
2. The Board of Supervisors adopt a Statement of Overriding Considerations for the project.
3. The Board of Supervisors approve a Use Permit for the Roblar Road Quarry Alternative 2 at an annual production rate of 570,000 cubic yards per year for 20 years, and a Reclamation Plan to return the site to agriculture and open space, subject to conditions as shown in Exhibit "A."
4. The Board of Supervisors adopt the Conditions of Approval and mitigation monitoring program for the project set forth in Exhibit "A."
5. The Board of Supervisors approve rezoning to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel on a portion of APN 027-080-010.
6. The Board of Supervisors authorize a Williamson Act agricultural preserve easement exchange, rescinding the Williamson Act contract on the 70 acre mining site, while simultaneously placing an agricultural preservation easement in perpetuity on a 243+ acre agricultural property near Petaluma.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the documents and other material which constitute the record of proceedings upon

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which the decision herein is based. These documents may be found at the office of the Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, California 95403.

THE FOREGOING RESOLUTION was introduced by Commissioner , who moved its adoption seconded by Commissioner , and adopted on roll call by the following vote:

Commissioner
Commissioner
Commissioner
Commissioner
Commissioner

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chairman declared the above and foregoing resolution duly adopted; and

SO ORDERED.



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403
 (707) 565-1900 FAX (707) 565-1103

DATE: October 19, 2010 at 2:30

TO: Board of Supervisors

FROM: Blake Hillegas, Project Planner

SUBJECT: PLP03-0094; Roblar Road Quarry at 7601 and 7175 Roblar Road, John and Andrea Barella

Action of the Planning Commission:

At its regularly scheduled meeting on December 17, 2009, the Planning Commission held a public hearing to consider a Draft EIR, associated Response to Comments Document, and the Roblar Road Quarry project. The Planning Commission continued the public hearing due to a December 15, 2009 letter from the Regional Water Quality Control Board (RWQCB).

At its regularly scheduled meeting on April 1, 2010, the Planning Commission held a public hearing to consider the Draft EIR, associated Response to Comments Document, and a Revised Master Response HYD-1, including a revised Water Management Plan. The Planning Commission voted (5-0) to recommend certification of the FEIR, adoption of a Statement of Overriding Considerations, and approval of the project.

Subsequent to the Planning Commission's April 1, 2010 recommendation, the applicant's biologist reported the discovery of California tiger salamander (CTS) larvae in two ponds on the project site. Therefore, the analysis of CTS impacts and mitigation measures were revised in a Recirculated Draft EIR. In addition, because a significance determination for greenhouse gas emissions (GHG's) had not previously been made due to lack of significance criteria, the Recirculated Portions of the DEIR also included an updated analysis of GHG emissions and mitigation measures addressing thresholds of significance recently adopted by the Bay Area Air Quality Management District (BAAQMD).

On July 15, 2010, the Planning Commission held a public hearing on the Recirculated Portions of the Draft EIR and on September 16, 2010, held a public hearing to consider the associated Responses to Comments (Final EIR) and the project. The Planning Commission again recommended (5-0) that the Board of Supervisors certify the Final EIR, adopt a Statement of Overriding Considerations, and approve the project. The Final EIR includes the Draft EIR and associated Response to Comments Document, the Revised Response to Comment HYD-1 and Revised Water Management Plan, and the Recirculated Portions of the Draft EIR and associated Response to Comments Document.

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The Planning Commission's recommendation on the project includes Board of Supervisors approval of (1) a Zone Change to add the MR (Mineral Resources) overlay district to the 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel; (2) a Use Permit and Mining and Reclamation Plan for the Environmentally Superior Alternative 2 (Alternative Haul Route/Contracted sales only) with a production limit of 570,000 cubic yards per year for 20 years; and (3) Agricultural Preservation and Open Space District Board of Directors approval of an easement exchange allowing the temporary use of approximately 4 acres of property on APN 027-210-006 for Access Road 1 in exchange for the establishment of a permanent conservation easement on the 198 acre project site; Zoning LEA (Land Extensive Agriculture) B6 - 160 acre density, Z (Second Unit Exclusion), VOH (Valley Oak Habitat); Supervisorial District No. 2.

ISSUES DISCUSSED AT THE PUBLIC HEARINGS

Issue #1: General Plan Consistency

The Planning Commission (5-0) recommended the Environmentally Superior Project Alternative 2 (Alternative Haul Route/Contracted Sales) as consistent with the General Plan because it would establish a local source of aggregate for Portland Cement Concrete (PCC), asphaltic concrete (AC) and Class II base rock on a site designated for aggregate production, thereby helping to meet the local demand for aggregate resources over the next 20 years. The Planning Commission determined that there will continue to be a local demand for high quality aggregate based on state and local aggregate demand projections, City and County growth projections, the County's annual production reports, planned infrastructure improvements, and the reduction in terrace pit mining. The Planning Commission also determined that Project Alternative 2 (Alternative 2 Haul Route/Contracted Sales) conforms with General Plan Policies encouraging the minimization of environmental impacts in that mitigation measures would be implemented to reduce impacts to less than significant, where feasible, and impacts associated with the Alternative 2 haul route are substantially less than the proposed Project haul route.

Issue #2: ARM Plan Consistency/Quality of Rock

Discussion

The Planning Commission asked how long the site had been designated by the County as an aggregate resource site and where the rock would be utilized. Designation of the project site as an aggregate resource priority site occurred with the adoption of the 1994 Aggregate Resources Management Plan. In 2005, the Department of Conservation Geological Survey Mineral Land Classification of Aggregate Materials in Sonoma County (2005) classified the site as MRZ-2b for PCC-Grade Aggregate (areas where geologic data and testing indicate that significant Inferred mineral resources are present) based on site specific drilling records produced by Miller Pacific Engineering Group, September 24, 2004 (Exhibit KK). The borings conducted by the applicant's consultants estimate that 5,100,000 cubic yards of "Good" rock and 2,725,000 cubic yards of "Moderately Good" rock are available within the test area (Phase I

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and II mining areas). It is anticipated that additional high quality rock is available in the Phase III mining area. It is noted that the property adjoining the project site to the east was designated as an aggregate resource site as early as 1981 and the designation was revised in the 1994 ARM Plan to include the project site.

Resolution

The Planning Commission (5-0) recommended that Environmentally Superior Alternative 2 (Alternative 2 Haul Route/Contracted Sales) meets ARM Plan goals encouraging local quarry production of aggregate to meet a greater market share of demand due to the reduction in terrace pit mining. The Planning Commission determined that the production of a local source of high quality PCC grade aggregate should reduce construction costs and minimize environmental impacts associated with mining rock from terrace pits and transporting rock from more distant locations. In addition, the Planning Commission determined that the project incorporated all feasible mitigation measures to minimize project impacts.

Issue #3: Zoning and Mining Ordinance Consistency

The Planning Commission (5-0) recommended that Environmentally Superior Project Alternative 2 (Alternative Haul Route/Contracted Sales) as conditioned complies with the County's Surface Mining and Reclamation Ordinance (SMARO) and would not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or to the general welfare of the area. The circumstances in the particular case are: (1) there are few residences located within immediate proximity to the quarry and Alternative 2 would avoid haul trucks through the residential communities situated on Roblar Road, east of the quarry, and Pepper Road, east of Mechem Road; (2) visual screening would be provided; (3) hours of operation would be limited to 7:00 a.m. to 5:00 p.m. Monday - Friday and 7:00 a.m. to 4:00 p.m. on Saturdays; (4) noise monitoring and mitigation would be provided; (5) advance notice of blasting activities would be provided and blasting would only be done under the supervision of a licensed blasting professional to minimize noise and vibration impacts; (6) site access and haul routes would be improved to meet County road design standards; (7) signalization of the Stony Point Road/Roblar Road intersection would occur; (8) traffic impact, roadway wear, and fair share improvement fees would be paid; (9) wind monitoring and dust control would be provided; and (10) water quality, air quality, and biological impacts would be mitigated to less than significant.

Issue #4: Anticipated aggregate Distribution/Demand

Discussion

Distribution - The Planning Commission inquired about how much rock would be utilized in Sonoma County and Marin County. Historically, about 10-20 percent of aggregate produced in Sonoma County has been exported to Napa and Marin Counties on an annual basis. The applicant anticipates approximately 10% of the aggregate produced at the proposed quarry would be utilized in Marin County. The primary demand for aggregate in the County has

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historically come from the more urban areas of central and southern Sonoma County. This trend has continued over the years and will likely continue over the 20 year life of the quarry based on existing population centers, City and County growth projections and planned infrastructure improvements. For example, the Measure M strategic plan includes major Highway 101 projects extending from Rohnert Park to Novato. In addition, 9 of the 11 local priority road projects to receive funding from Measure M over the next 15 years are located in either central or southern Sonoma County.

Aggregate Supply and Demand - Considering the Moderate Demand Projections in the ARM Plan, annual demand was anticipated to decrease gradually from 6 million tons in 1994 to 5 millions tons in 2010. The Department of Conservation California Geologic Survey (CGS) Special Report 175, 2005 (Exhibit JJ), however, provides a 50-year forecast of 8 million tons a year in Sonoma County. Due to the wide range in demand projections provided in the ARM Plan and the CGS report, the County's 2006 Annual Aggregate Production Report (Exhibit NN) included a comparison of 3 aggregate demand scenarios, including the ARM Plan Moderate Demand Projections and CGS projections as noted above, and a Mid-Range projection based on current General Plan growth projections and an average per capita demand of aggregate. Under the Mid Range Demand scenario the average annual demand is anticipated to gradually increase from the approximately 4 million tons of aggregate in 2005 to 6.8 million tons a year in 2055.

However, due to the downturn in the economy and reduction in construction, the actual aggregate production/demand in the County has declined over the last several years from 4 million tons in 2004 to 3.7 million tons in 2005, 3.6 million tons in 2006, 2.8 million tons in 2007, and 2.3 million tons in 2008, and 2.1 million tons in 2009. Despite the downturn in the economy, it is expected that the long-term demand for aggregate will remain steady given planned infrastructure improvements and limited growth, and will increase as the economy recovers and growth occurs in conformance with the County and City General Plans.

In 2008, the Director of Caltrans addressed a letter to all Counties in the state (Exhibit MM) expressing their interest in a continued supply of aggregate throughout the state to maintain more favorable construction costs and reduced truck miles traveled, air emissions, and road maintenance costs (*Office of Transportation Economics, 2008*). Truck transport costs for aggregate are approximately 10 cents per ton per mile, which equates to \$2.50 for a 25 ton truck load per mile. According to drilling records and state designation of MRZ2-b, the Roblar Road quarry would provide a local source of PCC and AC grade aggregate, which would help replace the loss of PCC grade aggregate formerly supplied by terrace pits to comply with General Plan and ARM Plan policies.

Historically, terrace pits have provided a large percentage of the overall aggregate supply in the county and most of the PCC grade aggregate. Over the last decade, terrace pit mining has steadily declined from a 70% market share in 1995 to zero in 2007. No terrace pit mining has occurred in the past several years and thus far existing local quarries have not replaced former terrace pit supplies of PCC grade aggregate. Despite the approval of the Syar Phase VI terrace pit project in 2009, this reserve (1.4 million tons of aggregate) is currently unavailable

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due to litigation and would not meet the county's long term aggregate demands in any case. In addition, anticipated instream production and reserves do not appear adequate to meet short or long term demand. The shortage of a local supply of PCC grade aggregate was expressed as early as 2002 in a letter from Shamrock Materials to its customers (Exhibit LL). The letter specifically addresses the decrease in local supplies of PCC grade aggregate and the associated increased imports/costs associated with importing rock. Further evidence that the County is not meeting local demand for PCC grade aggregate is the disproportionate decline in supply of PCC grade rock (71% since 2000), while overall supply/demand is down 60% during the same time period. Similarly the percentage of local supply of PCC production, as a portion of overall production, has declined from 32% in 2000 to 9% in 2009. As noted above, the increased local production of PCC grade aggregate to meet local demand would decrease local construction costs, truck miles traveled, air emissions, and roadway wear associated with hauling aggregate from more distant locations and implement General Plan and Arm Plan policies.

Issue #5: Potential groundwater and surface water degradation

Discussion

The adjacent closed landfill, which is unlined, is currently owned by the County and was operated as a municipal solid waste landfill between approximately 1956 and 1973. Given the date the landfill ceased operating, there was no formal regulatory agency approved closure, and there is no impermeable cap associated with the landfill.

The EIR recognizes that it is not possible to know with absolute certainty the effect of quarrying operations on groundwater flow in fractured bedrock until the quarry is excavated. Therefore, the EIR took a conservative approach and recognized the potential that quarry activity could induce the migration of groundwater contaminants from the landfill to the quarry pit and identified mitigation measures to reduce the impact to less than significant.

On December 15, 2009, the North Coast Regional Water Quality Control Board (RWQCB) submitted a letter suggesting that the groundwater conditions at the adjacent closed landfill had not been adequately characterized and expressed concern that the project could result in a shift in groundwater flow and the migration and/or seepage of contaminants (Exhibit GG). The RWQCB asked that the surface water filter system required by Mitigation Measure C.4e include the treatment of metals as necessary and emphasized that any water discharge would be required to meet all water quality objectives, including the protection of aquatic life. In the RWQCB's December 15, 2009 letter, they suggested that the FEIR falls short of outlining a clear path to avoid groundwater impacts to receiving waters. It was further suggested that the project be redefined to avoid potential water quality impacts and it was noted that the RWQCB could find the project proponent and the County of Sonoma, Department of Transportation and Public Works responsible for discharges of waste to waters of the State. The Planning Commission continued the December 18, 2009 hearing for a response to the RWQCB's letter.

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Resolution

Both County staff and the applicant met with the RWQCB to summarize conclusions in the EIR and address their concerns regarding potential surface water discharge and water treatment, should ground water contaminants be detected in the quarry pit.

As noted in the EIR, the results of substantial groundwater monitoring data collected in the landfill and quarry monitoring wells indicates that there is no evidence of any groundwater-borne contamination migrating from the closed landfill to the quarry property. Moreover, the applicant's expert, Geomega, has submitted evidence demonstrating that such a migration is unlikely to occur even with the development of the proposed quarry (Geomega, March 2010). In addition, an independent analysis prepared by the Department of Transportation and Public Work's consultant, Geosyntec, concluded that constituents found in the quarry monitoring wells were not a result of groundwater migration from the landfill. Nonetheless, Mitigation Measure C.4 calls for the on-going monitoring of production and monitoring wells for potential contamination and requires any contaminated water that may enter the quarry walls as seepage and/or contaminated supply water from the on-site production wells be contained and treated as necessary to reduce potential contamination impacts to less than significant.

Revised Master Response HYD-1 (Exhibit CC of April 1, 2010 staff report) incorporates changes in the applicant's revised Water Management Plan (Exhibit DD of April 1, 2010 staff report). The Water Management Plan was expanded and refined such that precipitation, seepage, and process water from the quarry pit would no longer be discharged to surface waters, but would continue to be captured within interceptor trenches and conveyed to sediment control basins where the water would be tested, treated as necessary, and reused for processing and dust control. The design of the on-site treatment system was also modified to address the treatment of metals, as necessary, in accordance with RWQCB requirements. Sediment control basins within the quarry were enlarged to provide primary storage capacity and the sediment basin situated outside of the quarry remains for back-up storage capacity. Irrigation fields were included in the plan to handle any excess water and several infiltration trenches were added to replace base flows in Ranch Tributary and Americano Creek.

The Planning Commission determined that the EIR, as revised, adequately characterizes existing groundwater flow and groundwater quality on the landfill and quarry sites, appropriately and conservatively assesses potential water quality impacts associated with quarry development, and prescribes adequate mitigation to reduce potential impacts to less than significant.

The applicant is continuing to work with the RWQCB on a plan to install additional ground water monitoring wells. RWQCB staff has indicated to PRMD that the installation of the additional monitoring wells would further address their concerns. The applicant and/or staff will report further at or before the October 19, 2010 public hearing.

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Issue #6: Airborne Particular Matter/Wind

Discussion

The Planning Commission continued the December 18, 2009 hearing for clarification regarding potential airborne particulate matter, including dust, diesel exhaust, and the potential for respiratory health impacts associated with asbestos-containing rock and silica.

Resolution

Airborne particulate matter impacts were addressed in the Draft EIR and expanded in the Response to Comments Document by collecting five years of wind data from the closest weather station in Valley Ford and by significantly enhancing the Draft EIR's dust control program (See Master Response AQ-1, Wind Data/Dust Abatement). The dust control program required in Mitigation Measure F.4 was expanded in Master Response AQ-1 to incorporate an ongoing wind monitoring program, require automatic sprinkler systems for unvegetated stockpiles, ensure increased watering when winds exceed 15 mph, and cessation of active quarry operations when winds exceed 25 mph.

The EIR analysis also considered impacts to sensitive receptors in close proximity to the site and along haul routes, including health risk associated with Diesel Particulate Matter. Even with highly conservative assumptions, the EIR concludes that project impacts would be less than significant. The EIR noted that Mitigation Measures F.1a through F.1c would substantially reduce levels of exposure to Diesel Particulate Matter.

Master Response AQ-2 in the Final EIR describes the results of geologic investigations indicating that the Tolay Volcanics that will be quarried are not an asbestos-bearing type of rock. With respect to silica, the discussion under Impact F.5 in the Draft EIR and in Responses to Comments O-10 and O-12 in the Final EIR describes the likely silica content of rock that will be encountered on site and concludes no significant adverse health risk.

The Planning Commission determined that Master Response to Comments AQ-1 and AQ-2, Mitigation Measures F.1-F.5, and Response to Comments O-10 and O-12, as noted above, adequately mitigate potential airborne particulate matter to less than significant.

Issue #7: Traffic and Circulation

Discussion

The Planning Commission continued the December 18, 2009 hearing for clarification regarding how truck traffic will be controlled on Roblar Road (east of the project) and on Pepper Road (east of Mecham Road) under recommended Project Alternative 2 (Alternative Haul Route/Contracted Sales only). The Project Alternative 2 haul route consists of a new Access Road 1 (overland route); a mile-long segment of improved Roblar Road; a new Access Road 2 (overland route) to Valley Ford Road, Pepper Road (west of Mecham Road), Mecham Road,

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and a combination of Stony Point Road, Highway 116, Railroad Avenue, and/or Old Redwood Highway to/from U.S. 101. This haul route would avoid Roblar Road (east of the project) and Pepper Road (east of Mecham Road), thereby avoiding a school and rural residential areas on those road segments (Exhibit K).

The Planning Commission also asked for clarification on whether seasonal flooding on Roblar Road would affect the recommended Project Alternative 2 haul route.

Resolution

Under the Planning Commission recommended Alternative 2 (Alternative Haul Route/Contracted Sales), 100 percent of materials produced at the quarry would be sold under contract, i.e. the quarry would not be open for sales to the general public. As such the permitted haul route would be stipulated in the contract. A preliminary design of the quarry access driveway at Roblar Road has been configured (Exhibit T) to limit the ability of haul trucks to enter or exit the driveway to and from the east.

The Planning Commission required that the truck driver education program required by Mitigation Measure G.1c (condition #33) be strengthened to require that the haul route stipulation be included in the training. The Planning Commission also required that the Alternative 2 haul route be stipulated in all sales contracts (Condition #143). It was noted that the use of Roblar Road east of the quarry would be a violation of the Use Permit subject to enforcement and potential penalties.

Seasonal flooding has been experienced during wet winters on a portion of Roblar Road (approximately 1 mile to the west of the project site) where Americano Creek crosses under the road. As noted in Response to Comment BB-3, it is not likely the quarry would be hauling rock on days when the approved haul route is flooded. It is also noted that Roblar Road would be reconstructed as a condition of approval where seasonal flooding occurs, and stormwater conveyance under the reconstructed road would help reduce existing seasonal flooding conditions.

Finally, the Alternative Haul Route recommended by the Planning Commission is not permitted by the conservation easement held by the Sonoma County Agricultural Preservation and Open Space District. The applicant has therefore requested an exchange of real property under Public Resources Code § 5540, so as to release the Alternative Haul Route from the conservation easement. This issue is discussed separately below.

Issue #8: Agricultural Preservation and Open Space District Easement Exchange - Alternative 2 Haul Route (Access Road 1)

Discussion:

As described under Alternative 2 (Alternative 2 Haul Route/Contracted Sales only) the land comprising Access Road 1 is currently encumbered by a County Agricultural Preserve and

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Open Space District conservation easement (part of the 757-acre Roblar Ranch owned by Wilson). The conservation easement does not permit construction of any new roads to serve off-site uses.

Under this alternative, the applicant, with the permission of the adjacent property owner (Wilson), proposes an exchange of property pursuant to Public Resources Code § 5540.5 (January 9, 2008 letter; Exhibit PP). Under the proposed exchange, the County Agricultural Preservation and Open Space District would temporarily, for a period of twenty years, release its conservation easement on approximately four (4) acres of the 757 acre easement property to accommodate Access Road 1. In exchange, the applicant would convey to the District the following: (a) a permanent conservation easement over the entire project site (198 acres), (b) an irrevocable offer of dedication of fee title to the entire project site to the District or the County (fee to be conveyed at the conclusion of quarrying activities and reclamation), and (c) a permanent conservation easement over 244 acres of land currently in agricultural use on Lakeville Highway along the Petaluma River. The proposed 198 acre conservation easement on the project site would allow mining, stockpiling, and related activities on 70 acres for 20 years, consistent with the project description, but would ultimately provide for the permanent conservation of the entire property. The proposed 244 acre conservation easement on the Lakeville Highway property would permanently preserve that property for agricultural use and/or natural resource preservation. The proposed easement exchange is subject to review and approval of the Board of Directors of the Agricultural Preservation and Open Space District, and requires a unanimous vote for approval.

At the conclusion of quarrying activities, and as part of the reclamation of the quarry site, the applicant would restore Access Road 1 to grazing land. By agreement, the applicant would release its road easement over the four (4) acres on the Wilson property (Access Road 1) and the property owner would reconvey without compensation a conservation easement over the four (4) acres back to the District.

Resolution:

The Agricultural Preservation and Open Space District has not completed a formal response to the proposed easement exchange at this time, but is continuing to consult with the applicant and consider the request. The District will provide a progress report in their staff report and further respond to the request at the October 19, 2010 meeting.

If the easement exchange is not approved, the Board of Supervisors could consider a modification of Alternative 2 (Alternative Haul Route/Contracted Sales Only) where the adjacent Wilson property encumbered by the Open Space District easement would not be utilized for Alternative 2 Access Road 1. Instead, rather than building segment 1 of the haul road on the Wilson property, the applicant would be required to improve Roblar Road to County Standards from the proposed quarry entrance shown for the proposed project (DEIR Figure III-6) westward to the point where the Alternative 2 haul road turns overland off Roblar Road onto Access Road 2 (which is not on land subject to an Open Space District easement). The on-site project access road and quarry entrance would be constructed substantially as described for

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the proposed project and analyzed and mitigated in the DEIR, i.e., it would connect to Roblar Road approximately 1200 feet east of the existing vehicular access point. All Alternative 2 haul route restrictions (e.g., contract sales only; no trucks east of the quarry access road, etc.) and mitigation measures would be implemented to reduce impacts to less than significant.

Issue #9: Haul route conflicts with Williamson Act contracted lands

Haul route improvements associated with Project Alternative 2 (Alternative Haul Route/Contracted Sales, as recommended by the Planning Commission, would affect Williamson Act contracted lands (3 contracts) along Access Road 1, a mile long segment of Roblar Road, and Access Road 2 located on the Neve property (Exhibit X). Affected lands amount to approximately 2 acres (Neve property) under a Type I contract and 6 acres under Type II contracts (Wilson).

For nonagricultural uses to be allowed on Williamson Act contracted lands the use must be listed as a "compatible use" in the County's "Rules and Regulations for Administration of Agricultural Preserves" and be consistent with the Williamson Act's "principles of compatibility" in accordance with Government Code §51238.1, subdivision (a).

The Planning Commission recommended that the improvement of the Alternative 2 haul route is consistent with the Williamson Act's principles of compatibility in that the haul route would not significantly compromise the long-term productive agricultural capability of the contracted parcels or other contracted lands; it would not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted parcels or other contracted lands; and it would not result in the significant removal of adjacent contracted land from agricultural or open-space use. In addition, the extent of grazing on the Wilson properties (through which Access Road 1 would extend) and (through which Roblar Road would be widened) would not be substantially changed. The Neve property (through which Access Road 2 would extend) is utilized as a plant nursery. However, the development and operation of Access Road 2 would not disrupt or hinder this agricultural use.

In addition, the Planning Commission determined that the temporary access roads and the widening of a 1 mile section of Roblar Road, under Alternative 2, are consistent with County rules in that the affected lands are currently in compliance with the agricultural production requirements of their respective Williamson Act contracts and the roads would be subordinate to and compatible with existing agricultural operations; would not occupy or isolate more than 5 acres of land on any separate contracted land; or significantly displace land in agricultural production or result in the significant removal of adjacent contracted land.

Issue #10: Termination of Williamson Act Contract

Since the proposed quarry is inconsistent with the Williamson Act contract, the applicant must wait until the Type II Williamson Act contract restricting the 70 acre quarry area has terminated before commencing the project. A Williamson Act contract may terminate at the natural end of its 10-year term following non-renewal and phase out; or it may terminate immediately upon

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cancellation; or upon rescission in exchange for an agricultural easement. The applicant has already begun phase out of the existing Type II Williamson Act contract as to the 70 acre quarry. This portion of the contract will expire on January 1, 2015. Previously, the applicant discussed the possibility of completing an easement exchange. However, at this time, it is not expected that the applicant will pursue cancellation or an easement exchange to terminate the Williamson Act contract prior to January 1, 2015.

Resolution

The Planning Commission's recommended Condition of Approval #112 restricts quarry development until such time as the Williamson Act Easement exchange process is completed. As previously noted, the applicant must wait to develop the quarry until such time as the Williamson Act Contract has terminated as to the quarry area, by any legal means. It is recommended that condition #112 be adjusted to allow the applicant to wait for the contract to terminate naturally at the end of the phase out period or pursue an easement exchange to secure an earlier termination date.

Issue #11: Noise

Discussion

The Planning Commission asked for clarification regarding potential noise impacts and mitigation. The EIR identifies on site noise sources such as mobile and stationary equipment and occasional blasting that could affect the closest sensitive residential receptors. Residential receptors on adjacent properties include several residences situated over the ridgeline, 600 feet to the northeast and two ranch houses situated northwest of Roblar Road. None of these residences are within the anticipated Noise Threshold Zone as shown on Figure IV.3 of the Draft EIR due to distance and topographic features. Therefore, the project is not expected to exceed daytime noise standards of the General Plan at these residences. However, given differences in actual equipment, site characteristics, and meteorology at the site, the Draft EIR conservatively concludes that there is still the potential that on site noise levels could exceed General Plan standards.

Resolution

Under Mitigation Measure G.1, noise monitoring is required at the start of each mining phase and at regular intervals during mining for areas between the quarry and the adjacent off-site residential uses. Noise levels of specific equipment to be used must be measured. If these calculations indicate that noise will exceed General Plan standards, the applicant must modify operations to ensure compliance. Noise reduction options include sound proofing equipment, the installation of sound attenuating berms, and/or a restriction on equipment use. EIR mitigation also prohibits the use of loud equipment before 7:00 a.m.

EIR mitigation measures G.3a -G.3g restrict blasting hours from 10:00 a.m. to 4:00 p.m., include the development of a detailed blasting and monitoring program requiring limits to the size and delay of charges, and require residents be notified prior to blasting.

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Regarding haul truck noise, a potentially significant noise impact was identified for two residences that exist along Roblar Road west of the proposed quarry. Noise mitigation includes an offer to provide dual pane windows and other noise insulation measures to these homeowners. No significant increases in traffic noise levels were identified on any other haul route segments.

Issue #12: Recirculated Portions of Draft EIR and Associated Response to Comments regarding GHG Emissions and CTS Impacts

California Tiger Salamander

Mitigation Measure D.11a. requires the applicant to comply with the federal and state Endangered Species Acts through consultation with the USFWS. Through this consultation process, the USFWS will determine the necessary habitat mitigation plan based on its findings issued in a project specific Biological Opinion. As noted in Response to Comment D.31 of the Recirculated DEIR, the mitigation plan will address pond location, pond size, and hydrology. As noted in Response to Comment N-2 the area that is being discussed with USFWS for a replacement pond is located on a low-lying portion of the site that is subject to overflow from seasonal seeps in the area. As noted in Response to Comment D.32, the entire project site showed similar habitat resources in terms of extensive small mammal activity and high quality annual grassland habitat quality. Therefore, it is presumed that CTS presently use the 128.76 acre portion of the site outside the quarry footprint as upland estivation habitat and it is reasonable to conclude that these areas would continue to provide high quality upland habitat for salamanders following project implementation. As previously noted, proposed mitigation requires the applicant to compensate for the loss of CTS breeding and upland habitat in accordance with federal and state regulations to reduce impacts to less than significant.

Green house Gas Emissions

Mitigation Measure F.6b requires the applicant to reduce GHG emissions to no more than 1,100 metric tons of CO₂e a year by utilizing alternative fuels, such as biodiesel for on- and off-road equipment and by utilizing electricity and limiting the use of diesel powered equipment as required by Mitigations Measures F.1a and F.1e. If the applicant is unable to reduce emissions to below 1,100 MT CO₂e per year using the above measures, the applicant shall offset all remaining project emissions above that threshold. Any offset of project emissions shall be demonstrated to be real, permanent, verifiable, enforceable, and additional, as determined by PRMD. Offsets shall be implemented locally to the maximum extent feasible. With the implementation of these mitigation measures, the Recirculated Draft EIR concludes that project GHG emissions would be less than significant.

Resolution

The Planning Commission determined that the Recirculated Portions of the Draft EIR and associated Response to Comments adequately disclosed impacts and appropriately prescribed mitigation measures for impacts related to CTS and GHG emissions.

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Issue #13: Indemnification

Discussion

Because the potential for contaminants to be drawn over to the quarry property from the former landfill raises a liability concern even if the environmental impacts are reduced to less than significant with mitigation, the Department of Transportation and Public Works recommended that conditions of approval #40-42 be imposed which require the project applicant to: (i) accept responsibility for loss or damage to any person or entity, including the County, that arises out of a migration or threat of migration of contaminants from the former landfill as a result of quarry operations; (ii) indemnify and hold the County harmless from any claims relating to the migration or threat of migration of contaminants from the landfill as a result of quarry operations, in a form acceptable to the County; and (iii) release the County from any losses that the applicant incurs that arise out of the migration or threat of migration of contaminants from the former landfill as a result of quarry operations, in a form acceptable to the County. The Planning Commission, as advised by County Counsel, recommended that the indemnification agreement include appropriate security mechanisms, such as an irrevocable letter of credit, bonding, or insurance to secure the applicant's obligations under the agreement. Additionally, the County recently received a letter from the city attorneys representing all of the cities in the County requesting that the indemnification agreement cover the cities as well as the County given that the cities and the County are in settlement discussions over landfill liabilities for the Roblar landfill as well as the other closed landfills in the county (Exhibit HH).

Resolution

A draft indemnity agreement has been prepared, which requires the applicant to procure a pollution liability insurance policy in the amount of \$7.5 million to secure the applicant's obligations under the agreement (Exhibit II). The proposed agreement includes provisions for the applicant to indemnify the County on behalf of the cities as the "claims administrator" under the terms of a future settlement agreement between the County and the cities.

Issue #14: Sale of North Bay Construction

At the Planning Commission, some commenters questioned whether the applicant's pending sale of North Bay Construction is "significant new information" that requires recirculation of the DEIR.

"Significant new information" for purposes of recirculating an EIR is information that discloses a new or substantially more severe adverse environmental impact or a feasible way to mitigate or avoid such an effect that the project's proponent declines to adopt. (State CEQA Guidelines, § 15088.5(a).) The sale of the applicant's construction business does not meet any of these criteria.

The applicant/owner for this project is and always has been John E. Barella Trust and Andrea M. Barella Trust, c/o North Bay Construction. Regardless of the sale of Northbay Construction, John E. Barella Tr. and Andrea M. Barella Tr. remain the applicant/owners of the quarry project.

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John Barella is committed to selling aggregate resources from the quarry project site by contract sales only, consistent with the assumptions made in the EIR (August 31, 2010 letter; Exhibit SS). The applicant has further committed to including in all sales contracts a requirement that haul trucks comply with all applicable mitigation measures and conditions of approval regarding truck emissions and direction of travel (Ibid). Conditions #165 and #166 require that all aggregate sales be under contract and that the contract specify compliance with project mitigation measures, including but not limited to the implementation of a truck driver education program, muffler specifications/inspections, haul route restrictions, haul truck age limitations, recycling limitations and incentives to reduce air emissions. The sale of the applicant's construction business thus would not result, even indirectly, in a new or substantially more severe adverse environmental impact or disclose a feasible way to mitigate or avoid such an effect that the project's proponent declines to adopt. Recirculation of the EIR on this issue is therefore not required.

Issue #15: Recycling Operations

Discussion

Questions were raised at the Planning Commission as to whether recycling operations were addressed in the EIR, including air quality considerations. It was suggested that the project should be conditioned to limit recycling to no more than 10%.

Details on proposed concrete and recycling operations were described in the May 2008 Draft EIR Project Description. The EIR assumes the maximum daily and annual production in its analysis of potential environmental impacts, and the processing of up to 10% of imported recyclables is a component of the total materials that would be produced each year. Consequently, all potential impacts of the processing of recycled materials, including contribution to greenhouse gases are accounted for in the EIR analyses. Furthermore, as described in the Draft EIR and in an August 31, 2010 letter from the applicant, the applicant would control recycling operations by contract such that recycling would only be allowed in conjunction with aggregate sales. Thus the inbound truck trip associated with importing material, including recycled materials would be coordinated with the outbound leg off-hauling of aggregate materials from the quarry. Consequently, no increase in truck haul trips (and any associated GHGs) beyond that associated with the proposed hauling of aggregate materials is anticipated.

Resolution

The Planning Commission added Condition of Approval #156 to limit imports, including recycled materials, to no more than 10% of the daily/annual maximum permitted quarry production. This condition requires that the maximum allowed daily/annual production be reduced by an amount equal to the amount of import, except where it is documented that the sale of aggregate has been coordinated with import, such that the inbound truck trip for imported material is coordinated with the outbound truck trip distributing rock.

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Issue #16: Statement of Overriding Considerations

Certain impacts to Land Use, Traffic, Air Quality, and Aesthetics were found to be significant and unavoidable despite the implementation of mitigation measures. In order to approve a project with significant unavoidable impacts, the Board must adopt a Statement of Overriding Considerations that sets forth the "specific economic, legal, social, technological or other benefits of the proposed project" (CEQA Guidelines 15093(a)) that outweigh the unavoidable impacts. The Statement of Overriding Considerations must be supported by substantial evidence. The Planning Commission recommended approval of the project based on the following draft Statement of Overriding Considerations.

1. According to the Sonoma County General Plan 2020, approximately 75 to 112 million tons of construction aggregate are likely to be needed over the next 20 years to meet local needs and a share of the North Bay regional needs.

The State Geologist has classified certain mineral resource areas within Sonoma County as mineral bearing areas of regional significance. As a result, Sonoma County is required, by state law, to adopt mineral management policies that:

- Recognize mineral information provided by the State,
- Assist in the management of land use that affect areas of statewide and regional significance, and
- Emphasizes the conservation and development of identified mineral deposits.

In response to the state's mandate, Sonoma County adopted resource management goals and policies in the General Plan and the Aggregate Resources Management (ARM) Plan.

General Plan Goal OSRC-13 requires the County to "provide for production of aggregates to meet local needs and contribute the County's share of demand in the North Bay production-consumption region." (Goal OSRC-13, in part). An implementing General Plan objective is to "use the ARM Plan to establish priority areas for aggregate production and to establish detailed policies, procedures, and standards for mineral extraction." (OSRC-13.1). General Plan Policy OSRC-13a was adopted to achieve this objective. The policy states:

Policy OSRC-13a: Consider lands designated in the ARM Plan as priority sites for aggregate production and mineral extraction and review requests for additional designations for conformity with the General Plan and the ARM Plan.

The ARM Plan has designated the Roblar Road Quarry as a priority site and the Department of Conservation has classified the site as Mineral Resource Zone 2b for Portland Cement Concrete (PCC), Asphalt Concrete (AC) and Class II Base-grade aggregate.

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Through the adoption of the ARM Plan, the Board of Supervisors declared that it is the policy of the County of Sonoma to prohibit mining in the river terraces and limit in-stream mining to bar skimming. The Board of Supervisors further declared that in order to comply with the County's adopted goal to provide for the production of aggregates to meet local needs and contribute the County's share of demand in the North Bay production-consumption region, aggregates would be produced from hard rock quarries.

Construction grade aggregates (PCC and AC) is not often found in hard rock quarries within Sonoma County. Drilling logs confirm that the Roblar Quarry contains PCC- and AC-grade hard rock.

Sonoma County's residential, business and industrial construction, particularly road construction and re-construction, depends on a good quality, local source of construction grade aggregates. Roblar Road Quarry will help fulfill the demand. A local source of PCC- and AC-grade aggregate is critical to maintaining stable construction costs. This is borne out in a letter from a construction materials provider to their customers announcing significant price increases due to the plan to import aggregate (Exhibit LL).

The quarry would provide a convenient, local source of aggregate for planned roadway and highway improvements, including projects funded by Measure M over the next 15 years. Most of the Measure M funded improvements are located within central and southern Sonoma County. The Roblar Road Quarry could conveniently supply materials to these areas.

2. According to an economic assessment of aggregate supply entitled "Construction Aggregate Supply Limitations: Some Estimates of Economic Impact" prepared by Caltrans Division of Transportation Planning's Office of Transportation Economics, September 2008, (Exhibit MM), there are a number of positive economic benefits in permitting rock quarries in proximity to the work needed to be performed. They include:
 - A reduction in emissions from trucks with a reduction in truck miles of travel for hauling aggregates.
 - A shorter hauling distance, which would reduce aggregate-truck miles of travel and the cost of the materials.
 - A reduction of pavement deterioration from fewer truck miles traveled, which would allow rehabilitation resources to be available for other critical maintenance improvements.
 - A reduction in project delays due to lack of aggregate supply in the area, which leads to increased project costs.
 - A reduction in aggregate-related truck miles of travel would also reduce traffic congestion and traffic accidents on roads.
3. Economic recessions are cyclical in nature. Despite the current economic downturn, there remains a steady demand for a local source of hard rock, primarily as a result of on-going roadway and highway infrastructure

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improvements. As the economy improves the demand for rock for all types of construction projects is expected to increase. Because of the prohibition on terrace mining and the limitations on in-stream mining to bar skimming, most of the local supply of aggregate is expected to come from hard rock quarries. However, given the level of production and the quality/type of mined materials, existing local quarries are not expected to be able to meet the demand for PCC- and AC-grade aggregate. Therefore, the project's accessible supply of PCC- and AC-grade aggregates is vital to the local economy and implements the ARM Plan and General Plan policies.

4. There will be economic benefits to Sonoma County from the project including, but not limited to, job creation, increased property taxes, sales taxes, vehicle license fees, and employee income taxes. In this time of dwindling state and local government revenues, it is especially important that the County continues to aide in the creation of jobs and the establishment of independent revenue sources to help fund needed County services.
5. Under the environmentally superior Alternative 2 haul route, haul trucks would avoid the schools and residential areas on Roblar Road east of the project and on Pepper Road east of Mecham Road, thereby avoiding localized truck noise and air quality impacts to sensitive receptors on these road segments. Similarly, road construction impacts would be avoided on these segments.
6. The installation of a signal at Stony Point Road/Roblar Road would occur much sooner as a result of the project's contribution to this Improvement, thereby addressing a current need for improved level of service and safety at this intersection. A mile long section of Roblar Road used by haul truck traffic would be fully reconstructed, including roadway shoulders to improve bicycle and pedestrian safety along this roadway segment. The project would contribute its fair share toward the future signalization at Stony Point Road/Railroad Avenue, and signal timing improvements at Stony Point Road/Highway 116 and Highway 116/Old Redwood Highway. With the project's fair share contributions towards these projects, it is more feasible for the state and county to fund the work. Recent shortfalls in state and county budgets have resulted in extended delays in funding road improvements, resulting in a backlog of projects waiting for funding.
7. The applicant would place a permanent agricultural conservation easement on a 243+acre agricultural property near Petaluma. This property is currently without any form of contract or easement protection, is biologically sensitive, ecologically diverse and classified as farmland of local importance in the California Department of Conservation Farmland Mapping and Monitoring Program. Furthermore, this 243+acre property adjoins lands currently protected by either an agricultural conservation easement held by the Sonoma County Agricultural Preservation and Open Space District or an agricultural conservation easement held by the Sonoma Land Trust. The resource characteristics of the property as well as its adjacency to other protected land would cause the property to be looked upon favorably for easement acquisition. The conservation easement

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over this property results in protection of a high priority property without cost to the taxpayers of Sonoma County. In addition, the applicant proposes to place a permanent conservation easement over the entire 198-acre project site and make an irrevocable offer of dedication of the land for potential future public use upon completion of mining.

8. The Board of Supervisors adopted a Statement of Overriding Considerations for the ARM Plan indicating that the benefits of the aggregate industry outweigh the adverse unavoidable noise and visual impacts. These findings are contained in Resolution No. 94-1569 and are incorporated herein by reference.

If the Board of Supervisors supports the Environmentally Superior Project Alternative 2 (Alternative Haul Route/Contracted Sales Only) these findings will be further developed and augmented with additional substantial evidence and incorporated into a resolution prior to final approval.

RECOMMENDATION

The Planning Commission recommends that the Board of Supervisors:

1. Certify the Final Environmental Impact Report (Final EIR) and adopt a Statement of Overriding Considerations subject to findings;
2. Approve a Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel; and
3. Approve the Use Permit and Mining and Reclamation Plan for Alternative 2 (Alternative Haul Route/Contracted sales only) with a production limit of 570,000 cubic yards per year, subject to the conditions provided in Exhibit A.

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LIST OF ATTACHMENTS

Board of Supervisors Resolutions (to be submitted after straw vote)
 EXHIBIT A: Draft Conditions of Approval/Mitigation Monitoring Program
 EXHIBIT B: Draft Ordinance
 EXHIBIT C: Draft Sectional District Map
 EXHIBIT D: Vicinity Map
 EXHIBIT E: General Plan Lane Use Map
 EXHIBIT F: Zoning Map
 EXHIBIT G: ARM Plan Map
 EXHIBIT H: Regional Map
 EXHIBIT I: Existing Quarries in South/Central Sonoma County
 EXHIBIT J: Aerial Map
 EXHIBIT K: Aerial Showing Location of Existing Residences

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EXHIBIT L: Phase I Initial Grading and Drainage
EXHIBIT M: Phase I Grading
EXHIBIT N: Phase II Grading
EXHIBIT O: Phase III Grading
EXHIBIT P: Site Sections
EXHIBIT Q: Roadway Network and Study Intersections
EXHIBIT R: Alternative 2: Alternative Haul Route/Contracted Sales
EXHIBIT S: Water Management Site Plan showing Alternative Access Driveway
EXHIBIT T: Preliminary Design (Access Road 1 at Roblar Road)
EXHIBIT U: Location of Groundwater wells
EXHIBIT V: Estimated Ground Water Contours
EXHIBIT W: Williamson Act Easement Exchange Site
EXHIBIT X: Williamson Act Contracted Lands
EXHIBIT Y: Quarry Noise Threshold Zone
EXHIBIT Z: Location of Center Pond and North Pond
EXHIBIT AA: Proposed USFWS CTS Critical Habitat
EXHIBIT BB: Maximum Project- Related Greenhouse Gas Emissions, Table IV.F-9
EXHIBIT CC: Snapshot Example of Mitigation of GHG emissions, Table IV.F-10
EXHIBIT DD: Maximum Project - Related Greenhouse Gas Emissions (Alternative 2), Table V-5A
EXHIBIT EE: Visual Simulations
EXHIBIT FF: Site Photos
EXHIBIT GG: Regional Water Quality Control Board Letter (December 15, 2009)
EXHIBIT HH: Letter from Cities; September 20, 2010
EXHIBIT II: Draft Indemnity Agreement
EXHIBIT JJ: California Geologic Survey Special Report 175, 2005
EXHIBIT KK: Miller Pacific drilling evaluation, 2004
EXHIBIT LL: November 2002 Shamrock Letter; estimating price increase associated with reduced local supply of PCC grade aggregate and increased importation.
EXHIBIT MM: September 2008 Caltrans Letter; Estimates of Economic Impacts
EXHIBIT NN: Sonoma County Aggregate Production Report, 2006
EXHIBIT OO: Sonoma County Aggregate Production Report, 2007
EXHIBIT PP: Request for Easement exchange; January, 2008
EXHIBIT QQ: Request for Easement exchange; July, 2010
EXHIBIT RR: Request for Easement exchange; September, 2010
EXHIBIT SS: Correspondence from Stephen Butler regarding the sale of North Bay Construction; August 31, 2010
EXHIBIT TT: August 11, 2010 Superior Court decision on Citizens Against Roblar Rock Quarry v. County of Sonoma
EXHIBIT UU: Additional Correspondence

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Prior Separate Attachments Received by the Board of Supervisors and On-File with Clerk:

Draft Environmental Impact Report and Technical Appendices
Responses to Comments on the Draft EIR and Appendix C
Revised Response to Comments HYD-1 and Water Management Plan
Recirculated Portions of Draft Environmental Impact Report (California Tiger Salamander and Greenhouse Gas Emissions)
Responses to Comments on Recirculated Portions of Draft EIR
Reclamation Plan dated May 2010

Other Separate Attachments for Board of Supervisors:

June 19, 2008: Planning Commission Staff Report and Planning Commission Minutes
December 17, 2009: Planning Commission Staff Report and Planning Commission Minutes
April 1, 2010: Planning Commission Staff Report (includes Geomega Report and Applicant's correspondence) (**Copy of Geomega Report On file with Clerk of the Board**), Planning Commission Minutes, Planning Commission Resolution 10-009
July 15, 2010: Planning Commission Staff Report, Planning Commission Minutes
September 16, 2010: Planning Commission Staff Report including CARRQ letter (**attachments On File with Clerk of the Board**), Planning Commission Minutes, Planning Commission Resolution 10-021

EXHIBIT A

Board Draft Conditions of Approval and Mitigation Monitoring Program
for the Roblar Road Quarry

Date: October 19, 2010

File No.: PLP03-0094

Applicant: John Barella Tr. And Andrea Barella Tr. Quarry APNs: 027-080-009 and -010

Address: 7175 and 7601 Roblar Road, Sebastopol

Project Description: Request for (1) Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel, (2) Use Permit for Alternative 2 (Alternative Haul Route/Contracted Sales Only) to allow a 20-year mining permit with an annual production limit of 570,000 cubic yards per year, (3) Reclamation Plan to return the 70 acre mining area to a natural condition with native soil and vegetation suitable for agriculture and open space and (4) Agricultural Preservation and Open Space District easement exchange allowing the use of approximately 4 acres of property on APN 027-210-006, currently encumbered by conservation easement, for Access Road 1 in exchange for the establishment of a permanent Agriculture and Open Space District conservation easement on the 198 acre project site.

The Permit and Resource Management Department (PRMD) is responsible for monitoring the compliance of aggregate operations with all permit conditions and ordinance requirements as part of the ongoing inspection, enforcement, mitigation and monitoring program established by the Aggregate Resources Management (ARM) Plan. In addition, the County conducts periodic inspections of every mining site to fulfill the requirement of the State Surface Mining and Reclamation Act (SMARA). Some of the monitoring for the following conditions of approval will be carried out concurrently through the above activities; in other cases more frequent monitoring or monitoring by a qualified professional or responsible agency has been deemed necessary and added to the on-going monitoring activities.

The monitoring activities planned for each condition of approval along with the responsible person or agency, and the frequency or schedule of monitoring are provided after each applicable condition in the following conditions of approval.

The requirements of this Use Permit run with the real property that is the subject of the project. Successive owners, heirs, and assigns of this real property are bound to comply with all the requirements of these conditions. Prior to any lease, sale, transfer, or conveyance of any portion of the real property that is the subject of the project, the owner shall provide a copy of the adopted conditions to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

Prior to issuance of any permits (grading, septic, building, etc.) or commencement of clearing or mining activity on parcels defined as APNs 027-080-009 and -010, all of the pre-operational conditions must be met and verified by PRMD staff pursuant to this Use Permit. Conditions relating to the Use Permit for mining are denoted with a "U." Conditions related to the Reclamation Plan are denoted with an "R." Operational conditions applicable to both the Use Permit and Reclamation Plan are denoted with "U/R."

BUILDING:

"The conditions below have been satisfied" BY _____ DATE _____

- U 1. The operator shall apply for and obtain building-related permits from PRMD. The necessary applications appear, but may not be limited to site review, grading, and building permits.
- U 2. Prior to initiation of the approved use, the project shall comply with the accessibility requirements set forth in the most recent California Building Code (CBC), as determined by the PRMD Building Division. Such accessibility requirements shall apply to all new construction.

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HEALTH:

"The conditions below have been satisfied" BY _____ DATE _____

Preoperational Health Conditions:

Water:

- U 3. Prior to building permit issuance, project operation and vesting the Use Permit, the applicant shall provide the Project Review Health Specialist with the bacteriological (E. Coli and total coliform) and nitrate analysis results of a sample of the well water tested by a California State-certified lab. If the analysis shows contamination, the applicant will be required to treat the well per County requirements and re-test the well. If the contamination cannot be cleared from the well, destruction under permit of this Department and an alternate on-site (or off-site) easement to a well or spring water source may be required. Copies of all laboratory results must be submitted to the Project Review Health Specialist. (Note: Arsenic analysis are already listed in the EIR, response to comments).
- U 4. Prior to the issuance of building permits, project operation and vesting the Use Permit, the applicant shall provide an engineered design of the water supply system, construct and/or develop the water sources (wells and/or springs), complete the appropriate water quality testing and apply for a water supply permit from the State Department of Public Health, Office of Drinking Water if more than 25 persons per day for 60 days within a year will be served by the water system. A copy of the Use Permit application and conditions must be provided to the State Department of Public Health in order to obtain appropriate raw water source sampling requirements. (This process should begin as soon as possible, as the application, plan check and sampling may take some time.) Prior to the issuance of building permits, copies of the clearance letter must be submitted to the Project Review Health Specialist, or the Office of Drinking Water may E-mail clearance directly to PRMD.
- U 5. If a water supply permit is required, then the water supply well is required to have a 50 foot annular seal prior to project operation and vesting the Use Permit. Annular seals are installed at the time of construction of the water well, and are very difficult (and sometimes impossible) to retro-fit in an economic manner. If documentation of a 50 foot annular seal cannot be obtained, then a new water well may be required.
- U 6. The applicant shall modify the existing supply well under permit for Phases I and II, and abandon the existing well under permit from the Well and Septic Section of PRMD for Phase III.
- U 7. Prior to the issuance of any building permit, project operation and vesting the Use Permit, an easement is required to be recorded for this project to provide Sonoma County personnel access to any on-site water well serving this project and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted Monday through Friday from 8:00 AM to 5:00 PM. All easement language is subject to review and approval by PRMD-Project Review and County Counsel prior to recordation.
- U 8. Prior to the issuance of any building permit, project operation and vesting the Use Permit, any new or existing water well serving this project shall be fitted with a water meter to measure all groundwater extracted for this use.
- U 9. Prior to the issuance of any building permit, project operation and vesting the Use Permit, a separate, dedicated groundwater supply monitoring well is required to be drilled for this project. The monitoring well is required to be drilled under permit of this Department and shall be of a depth, screening and development comparable to the supply well. The monitoring well shall be located as far away from other wells, ponds and wastewater disposal fields as is consistent with being in the same geologic formation as the primary well and being accessible by street vehicle. The monitoring well location shall be approved by PRMD in advance of construction. The monitoring well shall be marked with a water level measuring reference

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point, and the GPS coordinates (in NAD83-California State Plane II or WGS 84 lat./long.) of the monitoring well shall be submitted to PRMD.

Alternatively, PRMD will evaluate proposals to use existing nearby standby or auxiliary water wells as a substitute for the required monitoring well. Any proposal to use a substitute well must include at a minimum, a copy of the drillers log for both the production well and the substitute monitoring well, and a site plan with the GPS coordinates of both wells. The proposal must verify that the substitute well does not have a collapsed casing, and is suitable for groundwater level monitoring purposes.

Septic:

- U 10. Prior to building permit issuance, project operation and vesting the Use Permit, the applicant shall obtain a permit for the sewage disposal system. The system may require design by a Registered Civil Engineer or Registered Environmental Health Specialist and both soils analysis, percolation and wet weather testing may be required. Wet weather groundwater testing may also be required. The sewage system shall meet peak flow discharge of the wastewater from all sources granted in the Use Permit and any additional sources from the parcel plumbed to the disposal system, and shall include the required reserve area. If a permit for a standard, innovative or Experimental Sewage Disposal System sized to meet all peak flows cannot be issued, then the applicant shall revise the project (fees apply and a hearing may be required) to amend the Use Permit to a reduced size, not to exceed the on-site disposal capabilities of the project site and attendant easements. The Project Review Health Specialist shall receive a final clearance from the Well and Septic Division that all required septic system testing and design elements have been met.
- U 11. The use of portable toilets shall not substitute for required bathrooms and septic systems, but may be used to supplement the required restrooms and shall meet the following minimum requirements:
 - a. Portable hand washing facilities shall be provided with all portable toilets used for employees, serving visitors or the public.
 - b. Portable toilets shall be serviced as needed, but in no case less than once every seven days.
 - c. The applicant shall provide an accessible portable restroom on the job site where required by Federal, State or local law, including but not limited to, requirements imposed under OSHA, the Americans with Disabilities Act or Fair Employment and Housing Act.
 - d. If complaints are received that PRMD believes are valid complaints, the applicant or current operator of the Use Permit shall increase the number of portable toilets and/or increase the frequency of maintenance of the portable toilets as directed by PRMD. The property owner and his agent(s) are expected to maintain portable toilets and hand washing units so that:
 - i. The holding tank does not leak or overflow.
 - ii. Toilet paper is promptly replaced when the dispenser runs out.
 - iii. Water, paper towels and soap are promptly replaced when the hand washing units run out.
 - iv. The wait to use a portable toilet shall not be so long that people relieve themselves at other impromptu locations.
 - v. Reliance upon portable toilets shall not create a public nuisance.
- U 12. Toilet facilities shall be provided for patrons and employees prior to project operation and vesting the Use Permit. A copy of the floor plan showing the location of the restrooms shall be submitted to Project Review Health prior to issuance of building permits.

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Vector Control:

- U 13. A mosquito and vector control plan acceptable to the Marin-Sonoma Mosquito and Vector Control District (telephone 707-285-2200) shall be submitted prior to the construction of any ponds and prior to vesting the Use Permit. The Project Review Health Specialist shall receive a copy of the vector control plan and an acceptance letter from the Marin-Sonoma Mosquito and Vector Control District.

Hazardous Materials:

- U 14. The applicant/operator shall prepare a Spill Prevention, Control and Counter Measure Plan (SPCCMP) in conformance with the requirements of the Code of Federal Regulations 40CFR112. A copy of the SPCCMP shall be submitted to the Sonoma County Department of Emergency Services (DES) to demonstrate completion of the mitigation. *Mitigation Measure H.1a*

Mitigation Monitoring: Prior to the storage or handling of petroleum products, PRMD staff will verify that a Spill Prevention, Control and Counter Measure Plan (SPCCMP) has been submitted to the DES for review and approval.

Noise:

- U 15. The applicant/operator shall fund residential noise insulation upgrades, as agreed to by the property owners, on the two residences on Roblar Road between the project entrance and Valley Ford Road (APNs 022-290-001 and 027-080-005, sufficient to maintain existing interior noise levels with the increased truck traffic. The applicant shall contact the property owners in writing with an offer to perform noise insulation upgrades. If approved by the property owners, perform the upgrades prior to the commencement of mining.
Mitigation Measure G.2

Mitigation Monitoring: PRMD will verify that the applicant has made a written offer to the property owners and installed noise insulation upgrades prior to commencement of mining, if approved by the property owners.

Operational Health Conditions:

Water:

- U 16. A safe, potable water supply shall be provided and maintained.
- U/R 17. Production well DW-1 shall not be used for any quarry-related operations or reclamation. In the event operational constraints prevent production well DW-2 from being used throughout the project duration, well DW-2 shall be abandoned under permit and a new well drilled onsite within, or in proximity to, the quarry footprint (and no closer to the adjacent landfill property than existing Well DW-2).
Mitigation Measure C.4d

Mitigation Monitoring: PRMD ARM staff will verify during quarterly inspections that well DW-1 is not utilized for quarry operations. PRMD Planning will verify that any proposed new production well is located no closer to the landfill property than DW-2, should operational constraints be experienced with well DW-2. PRMD staff will also verify that well DW-2 is abandoned under permit, as necessary.

- U 18. The location of the wells, and groundwater elevations and quantities of groundwater extracted for this use shall be monitored monthly and reported to PRMD and the Local Enforcement Agency on a quarterly basis pursuant to section WR-2d of the Sonoma County General Plan and County policies. Annual monitoring fees shall be paid at the rate specified in the County Fee Ordinance. If the County determines that groundwater levels are declining in the basin,

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then the applicant shall submit and implement a water conservation plan, subject to review and approval by PRMD.

- U 19. Required water meters shall be calibrated, and copies of receipts and correction factors shall be submitted to PRMD-Project Review at least once every five years.
- U 20. In accordance with the Water Management Plan a groundwater level monitoring and adaptive management program shall be implemented when the project begins to pump groundwater for quarry operations from Well DW-2. The applicant shall retain a California certified hydrogeologist to develop the monitoring program, subject to approval by the County. Groundwater levels in well DW-2 and the onsite monitoring wells (MW-1, MW-2b, MW 3, MW-4 and DW-1) as well as the adjacent landfill property wells (R-1, R-2 and R-3) shall be monitored on a weekly basis by quarry staff during the period of active pumping from Well DW-2. If pumping at Well DW-2 results in a measurable declining trend of static water levels, the applicant shall employ appropriate adaptive management strategies including short-term (e.g. alteration of pumping schedule, reduced pumping, decreased water use, changes in overall water management strategies or temporary cessation of pumping) or long-term corrective measures (e.g. permanent cessation of pumping at Well DW-2, installation of a higher producing well in an alternate onsite location) until the groundwater levels in onsite wells are shown to recover to pre-project pumping conditions.
- U/R 21. In conjunction with the groundwater sampling program required below, groundwater levels in the four monitoring wells (MW-1, MW-2b, and MW-3 and MW-4), two existing onsite production wells (well DW-1 and DW-2), as well as the adjacent landfill property wells (R-1, R-2 and R-3) shall be measured to allow continued monitoring of groundwater levels and potential localized changes in gradient in the site vicinity.

To ensure consistency in measured groundwater level data, prior to mining and as required, all the existing and proposed wells on the quarry and landfill properties to be used for monitoring shall be surveyed by a licensed surveyor for location and elevation, referenced to mean sea level, utilizing the North American Datum of 1988-GEOID 99 (NAVD88).

Mitigation Measure C.4c

Mitigation Monitoring: PRMD staff will verify that groundwater levels are surveyed prior to mining and review groundwater level data after mining has commenced to verify changes in groundwater levels.

- U 22. Split samples shall be collected under County supervision from the four on-site monitoring wells (MW-1, MW-2b, MW-3 and new MW-4) and two existing onsite production wells (wells DW-1 and DW-2) each quarter to continue to provide water quality data and provide an early warning of potential groundwater contamination, including any potential contamination that could be entering the quarry property from the Roblar Landfill property. The split samples shall go to different State-certified laboratories. Water samples shall be tested for the same suite of analytes used at the adjacent Roblar Landfill during the 2004 through 2008 monitoring events, and at the project site during the 2007/08 monitoring events. The QA/QC protocol for the sampling and analysis program shall be developed in consultation with, and approved by, the County and RWQCB as applicable. Quarterly water sample results shall be sent to and reviewed by Sonoma County PRMD, RWQCB, and the Local Enforcement Agency in Environmental Health.

Mitigation Measure C.4b

Mitigation Monitoring: PRMD Health, RWQCB, and the Local Enforcement Agency in Environmental Health will review groundwater sampling results each quarter to verify the results of groundwater monitoring.

- U 23. In the event that leachate and/or landfill materials are detected on site the Local Enforcement Agency in Environmental Health must be contact within 24 hours.

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- U 24. In addition to compliance with all of the procedures outlined in the Water Management Plan provided in the Final EIR, provide quarterly groundwater quality results to PRMD, RWQCB, and the Local Enforcement Agency in Environmental Health.
- U 25. In the event that destabilization of the Roblar Landfill occurs, operation shall cease in the areas adjacent to the landfill until the issue is adequately addressed/resolved according to CCR Title 27.

Septic:

- U 26. Maintain the annual operating permit for any Alternative (mound or pressure distribution) or Experimental Sewage Disposal System installed per Sonoma County Code 24-32, and all applicable Waste Discharge Requirements set by the Regional Water Quality Control Board.
- U 27. Use of the on-site wastewater disposal system shall be in accordance with the design and approval of the system.
- U 28. All future sewage disposal system repairs shall be completed in the designated reserve areas and shall meet Class I Standards. Alternate reserve areas may be designated if soil evaluation and testing demonstrate that the alternative reserve area meets or exceeds all of the requirements that would have been met by the original reserve area. If wastewater ponds or a package treatment plant are needed, then a modification of the Use Permit is required.

Noise:

- U 29. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

TABLE NE-2: Maximum Allowable Exterior Noise Exposures

Hourly Noise Metric ¹ , dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60
¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.		

- U 30. If noise complaints are received from nearby residents, and they appear to be valid complaints in PRMD's opinion, then the applicant shall hire a qualified acoustical consultant to conduct a noise study to determine if the current operations meet noise standards and identify any additional noise mitigation measures if necessary. A copy of the noise study shall be submitted to the Project Review Health Specialist within sixty days of notification from PRMD that a noise complaint has been received. The owner/operator shall implement any additional mitigation measures needed to meet noise standards.
- U 31. At the initiation of each of the three project phases and at regular intervals within each phase, noise monitoring shall be conducted by a qualified acoustical consultant at fence line locations to the west and the northeast that are on the direct line between the path from the center of quarry operations and the nearest off-site sensitive receptor in that direction. Noise source levels at the residences shall be measured. The applicant shall submit the noise monitoring information to PRMD upon the initiation of site development, initiation of each phase of mining, and biannually.

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If no exceedances of the Table NE-2 daytime standards are predicted, operations may proceed. Should noise levels exceed the daytime limits in Table NE-2, the quarry operator shall take measures so that quarry operations are within the limits in Table NE-2. Measures could include any combination of the following: (1) additional soundproofing to equipment (2) soundberms or other noise barriers to attenuate equipment noise, (3) sound proofing to affected occupied residences, (4) restriction on duty cycles for noisy equipment, or other recommended measures. If the operator presents evidence to the County that demonstrates that the identified measures will reduce noise levels to meet Table NE-2 standards, then the measures shall be implemented and mining operations may proceed within the area included in the monitoring study. Once work begins, the noise level shall be monitored for a period long enough to validate the predicted levels. Upon request by the County, the applicant shall provide additional monitoring at later times to demonstrate compliance.

Mitigation Measure G.1a

Mitigation Monitoring: Prior to initial grading and at each phase of mining, PRMD Arm staff will verify that noise monitoring occurs at specified intervals through the submission of monitoring data and noise reduction measures to insure Table NE-2 standards are met.

- U 32. To comply with the nighttime requirement in Table NE-2, loud operations capable of exceeding the nighttime standards in Table NE-2 shall not occur in the 6:00 to 7:00 a.m. time frame. This requirement shall be reviewed during the start up of noise testing described in .
Mitigation Measure G.1b

Mitigation Monitoring: PRMD will verify that noise monitoring occurs at specified intervals through the submission of monitoring data and that noise reduction measures are implemented to meet Table NE-2 standards as necessary.

- U 33. Consistent with ARM Plan operating standards, the applicant shall develop and implement a truck driver education program that informs drivers of procedures established to reduce public conflicts. This program shall be implemented by contract and stipulate the Alternative 2 haul route and include instructions to drivers to avoid the use of engine brakes on the quarry access road and local haul routes, as safety allows. The operator shall submit to PRMD a written list of contractor haulers and the date of their participation in the required training.
Mitigation Measure G.1c

Mitigation Monitoring: PRMD will monitor the mitigation by verifying that the operator has an education program for truck drivers and submits to PRMD a written list of the date of their participation in the required training.

- U 34. The applicant/operator shall require and verify that all quarry haul trucks, which are required to be under contract with the quarry operator, use a properly functioning exhaust muffler (capable of meeting the federal passby standards) equivalent to the original factory installed muffler. Each haul truck which would be under contract with the quarry operator shall be inspected upon signing a hauling contract and no less than once a year. The applicant shall annually submit written confirmation haul trucks have met this requirement. The applicant shall also provide evidence that this requirement is in the contract aggregate sales.
Mitigation Measure G.1d

Mitigation Monitoring: PRMD will verify this measure on an annual basis by verifying that the applicant submits written confirmation that trucks have been inspected for compliance with this requirement. PRMD will also verify that this requirement is in the standard hauling contract.

- U 35. A blasting plan shall be provided that ensures that ground motions do not exceed 0.5 inches per second at the nearest residence. To ensure that the intensity of ground motion in this location would not exceed the 0.5 inch per second limit, all blasting in the eastern edge of the proposed quarry shall be designed to assure that charges are sized to maintain a scaled scaled distance (Ds) of 65 or greater (see Appendix F-1 in the EIR) to avoid impacts to residential uses 600 feet away. With this limitation, maximum cumulative weight of any

charges firing within any 8-milliseconds time period shall not exceed 85.2 pounds $[(600/65)^2]$. The applicant shall use delay-decked charges in 5 inch holes or reduced hole-size or the height of benches. For practical blasting purposes, the single charge in a 34-foot hole could be separated into two or three individually delayed charges, separated by stemming, to ensure the maximum charge weight-per-delay in 5-inch holes is appropriate for vibration control.

Mitigation Measure G.3a

Mitigation Monitoring for G.3a - G.3i: PRMD Project Review staff will review the Blasting Plan to insure that the above measures are included. PRMD ARM Staff will periodically monitor compliance with blasting mitigations during ongoing quarterly field inspections. PRMD Code Enforcement will investigate all noise complaints and will ensure compliance from the permit holder. All inspection reports will be placed in the project file.

The Blasting Plan shall specify the following:

- a. The applicant shall conduct monitoring of ground vibration and air-overpressure at a minimum of two locations to ensure these effects remain under threshold levels. One location should be close to the nearest residential property. The second monitoring point should be the adjacent landfill property. All monitoring equipment and practices shall conform with the standards developed by the Vibration Section of the International Society of Explosive Engineers (see Attachment 1 in Appendix F of this EIR).

Mitigation Measure G.3b

- b. Blasting shall be limited to daytime hours between 10:00 am. and 4:00 p.m.

Mitigation Measure G.3c

- c. A blasting permit shall be obtained from the Sonoma County Sheriff's Department prior to any blasting.

Mitigation Measure G.3d

- d. The blast monitoring program shall be discussed with the residents in the project area. Educate property owners as to what is being done and why. Obtain information on time periods that are sensitive to blast activity.

Mitigation Measure G.3e

- e. Conduct a pre-blast survey to determine the condition of existing structures, and to alert homeowners that some rattling may be expected but damage is not expected. Contacts should be provided so that damage claims and complaints can be monitored and responded to quickly.

Mitigation Measure G.3f

- f. Schedule blasts to occur at approximately the same time on each blast day. Include this information in public announcements.

Mitigation Measure G.3g

- g. Prior to any blast proposed within 1,500 feet of the Roblar landfill cells, the applicant shall test methane using methane detection devices at hole-collars of six holes drilled closest to the Roblar landfill property. Blasting shall only proceed if any detected methane is below the 0.1 percent minimum trace level established by the Bay Area Air Quality Management District.

Mitigation Measure G.3h

- h. The blasting plan shall include a procedure, acceptable to PRMD, for notifying nearby residents prior to each blasting event. This public notification process shall be fully explained in the blasting education program for area residents (Mitigation Measure G.3e), and shall include the list of residents to be notified, a standard time at which such pre-blast notification shall be made, and a telephone number area residents can call to

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hear a regularly-updated recording describing the next scheduled blasting activity.
Mitigation Measure G.3i

Mitigation Monitoring: for G.3a - G.3i: PRMD Project Review staff will review the Blasting Plan to insure that the above measures are included. PRMD ARM Staff will periodically monitor compliance with blasting mitigations during ongoing quarterly field inspections. PRMD Code Enforcement will investigate all noise complaints and shall ensure compliance from the permit holder. All inspection reports will be placed in the project file.

Hazardous Materials Program:

- U 36. Comply with applicable hazardous waste generator, underground storage tank, above ground storage tank and AB2185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Hazardous Materials Division of Sonoma County Department of Emergency Services. The applicant shall submit a copy of a current permit to the Permit and Resource Management Department Health Specialist to verify compliance.
Mitigation Measure H.1b

Mitigation Monitoring: Prior to the handling and storage of hazardous waste, PRMD will verify that appropriate approval is obtained for the generation or storage of hazardous waste.

- U 37. All hazardous waste materials shall be stored, handled and managed in accordance with the approved site plan and hazardous materials plan so as to reduce the potential for any spillage.
Mitigation Measure H.1c

Mitigation Monitoring: In conjunction with ongoing inspections, PRMD ARM and DES staff will verify compliance the hazardous materials management plan.

- U 38. No soil or other material containing hazardous or toxic waste shall be imported to the quarry.
Mitigation Measure H.1d

Mitigation Monitoring: In conjunction with ongoing inspections, PRMD ARM staff will verify compliance with this measure.

Solid Waste:

- U 39. All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of to a County Transfer Station or County Landfill before the end of the seventh day. Please note that the Local Enforcement Agency (at Environmental Health) bills at an hourly rate for enforcement of violations of the solid waste requirements.

TRANSPORTATION AND PUBLIC WORKS:

"The conditions below have been satisfied" BY _____ DATE _____

Integrated Waste Division:

- U/R 40. The project applicant/operator shall accept responsibility for loss or damage to any person or entity, including the County and its Board of Supervisors, representatives, agents, employees, and consultants (hereinafter "County") and/or Applicant, that arises out of, pertains to, results from and/or relates to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project. The burden of proof shall be on the Project Applicant

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to demonstrate that any contaminants found on the Quarry site are not the result of the Quarry Project.

- U/R 41. The project applicant/operator shall indemnify and hold harmless County, in a form acceptable to the County, from and against any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgements undertaken and/or asserted by any person or entity, including any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as a result of the Quarry Project in a form acceptable to the County. This includes all costs and expenses of any kind, including attorneys' fees and expenses, incurred by the County.
- U/R 42. The project applicant/operator shall release the County from any and all losses, costs and/or expenses of any kind Project Applicant incurs or may incur as a result of any and all actions, claims, debts, damages, liabilities, obligations, costs, expenses, penalties, fines, and/or judgements undertaken and/or asserted by any person or entity, including the Project Applicant or any governmental authority, that arise out of, pertain to, result from and/or relate to migration or threat of migration of contaminants from the former Roblar landfill as result of the Quarry Project in a form acceptable to the County. This release shall be binding on all future owners/operators, successors and assigns of the Quarry site.

Roads Division Preoperational Conditions:

- U 43. Prior to the commencement of mining, the applicant shall enter into an improvement and reimbursement agreement with the Department of Transportation and Public Works and install a signal at the Stony Point Road/Roblar Road intersection. The applicant shall have plans prepared for the work in conformance with the County's preliminary design plans, including widening all approaches to the intersection, including shoulders, lengthening the northbound left-turn lane, and adding a southbound left-turn lane (for access to the driveway across Roblar Road). The signal shall be designed in accordance with Caltrans guidelines, subject to review and approval by TPW. A reimbursement agreement and/or an offset of the payment of traffic mitigation fees may be
- Mitigation Measure E.1*

Mitigation Monitoring: PRMD will verify that the funding agreement for signal installation is in place and the signal is installed prior to the commencement of mining.

- U 44. The signalization of the Stony Point Road and Roblar Road intersection shall also include a dedicated southbound right-turn lane if feasible. The County's preliminary design for this intersection does not include a southbound right-turn lane. In conjunction with final design, the feasibility of a right turn lane shall be further considered. Should it prove feasible, the design shall be modified to incorporate the change.
- Mitigation Measure E.2a*

Mitigation Monitoring: As the final design of intersection improvements progresses PRMD will consult with DTPW to verify whether a southbound right turn lane is feasible. Should feasibility be confirmed, PRMD will verify the plans include the right turn lane.

- U 45. Prior to the commencement of mining, the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of the future signalization of the Stony Point Road/West Railroad Avenue intersection. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and DTPW. The fair share is 5%. The DTPW will provide the cost estimate prior to commencement of mining.
- Mitigation Measure E.2b*

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to the commencement of mining.

- U 46. Prior to the commencement of mining, the applicant shall pay to the Sonoma County

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Department of Transportation and Public Works a fair share of the cost of the future signal timing optimization of the Story Point Road/SR 116 intersection. The fair share is 1%. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of Caltrans, PRMD and DTPW. The cost estimate shall be determined by a qualified consultant and approved by Caltrans.

Mitigation Measure E.2c

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to commencement of mining.

- U 47. Prior to the commencement of mining the applicant shall pay to the Sonoma County Department of Transportation and Public Works a fair share of the cost of future signal timing optimization of the Highway 116/Old Redwood Highway intersection. The fair share is 1 %. The method for calculating equitable fair share is based on the Caltrans Guide for the Preparation of Traffic Impact Studies, Appendix "B", Methodology for Calculating Equitable Mitigation Measures, subject to the review and approval of PRMD and Caltrans. Caltrans or the City of Cotati shall perform signal optimization once signal warrants are met.

Mitigation Measure E.2d

Mitigation Monitoring: PRMD will verify that fair share mitigation fees are collected according to the above condition prior to the commencement of mining.

- U 48. Prior to the commencement of mining, the applicant shall obtain easements/right of-way and improve Roblar Road (between Access Road 1 and Access Road 2) to meet current County road design standards, including, but not limited to, two 12-foot wide vehicle travel lanes and two six-foot wide shoulders with a traffic index of 10.5, and associated striping/signage to meet Class II bike facilities. This does not include the grading of the site to obtain fill material for the local road improvement. These road improvements shall be conducted prior to initiation of quarry mining.

Mitigation Measure E.3a

Mitigation Monitoring: PRMD will verify that roadway improvements are completed prior to the commencement of mining.

- U 49. The applicant shall post warning signs on Roblar Road at key locations where sight distance may continue to be limited after implementation of Mitigation Measure E.3a. *Mitigation Measure E.4a.*

Mitigation Monitoring: PRMD and DTPW staff will review the Roblar Road public improvement plans to insure roadway warning signs are included on the plans as necessary.

- U 50. The applicant shall post warning signs on Roblar Road 250 feet ahead of the access driveway that cautions drivers about truck traffic entering and exiting the roadway, subject to County approval. The warning signs shall follow guidelines set forth in the California Manual on Uniform Traffic Control Devices (Caltrans, 2006c).

Mitigation Measure E.4b

Mitigation Monitoring: PRMD and DTPW staff will review the Roblar Road public improvement plans to insure that these roadway warning signs are included on the plans.

- U 51. Prior to grading permit issuance for on-site improvements, the applicant shall Improve Roblar Road at the proposed access according to American Association of State Highway and Transportation Officials (AASHTO) design standards.

Mitigation Measure E.5a

Mitigation Monitoring: PRMD and DTPW will review the Roblar Road driveway access plans to insure that these improvements meet AASHTO standards.

- U 52. The design of the quarry access road (Access Road 1) to Roblar Road, shall be configured to

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prohibit truck turning movements to/from Roblar Road, east of the access road.

- U 53. Design the roadway cross-section to meet the design standards set forth by the American Association of State Highway and Transportation Officials (AASHTO) in A Policy on Geometric Design of Highways and Streets.
Mitigation Measure E.5b

Mitigation Monitoring: PRMD and DTPW will review the Roblar Road public improvement plans to insure that the design for Roblar Road meets AASHTO standards.

- U 54. Prior grading permit issuance, the project applicant shall have a qualified consultant conduct core sampling and associated testing on Pepper Road between Mecham Road and Valley Ford Road, and review as-builts if available, in order to determine the roadway thickness, and the condition of the base and subbase of the roadway. If such testing indicates the existing roadways are not designed, for and/or in a condition that would not accommodate, long-term project truck traffic, the roadways shall be improved as needed (e.g., overlays or reconstruction to meet a traffic index of 10.5) per Caltrans Design Manual standards. The project applicant shall pay the full cost of road improvements, including design and construction.
Mitigation Measure E.6a:

Mitigation Monitoring: The DTPW will verify the core test results and public improvement plans for roadway improvements as needed.

- U 55. Prior to the issuance of a grading permit, the project construction contractor(s) shall develop a construction management plan for review and approval by the Sonoma County Public Works Department. To minimize construction-related traffic congestion, the plan shall provide comprehensive traffic control measures including designated construction access routes and scheduling major deliveries to avoid peak traffic hours. Adjacent property owners and public safety agencies shall be notified prior to such major deliveries.
Mitigation Measure E.7

Mitigation Monitoring: PRMD not authorize grading until verifying that DTPW has reviewed and approved the construction management plan for conformance with this measure.

- U 56. The applicant shall offer right-of-way to the County of Sonoma, free of encumbrances, and of sufficient width:
- a. To contain the public improvement of Roblar Road described herein. This right-of-way requirement shall be void if the existing right-of-way meets or exceeds the minimum requirements described above.
 - b. To contain all relocated overhead utilities.

- U 57. Right-of-way shall be dedicated as roadway easement. The applicant shall have prepared an easement deed, together with the required descriptions and shall submit them to the County Surveyor for review and approval. A copy of the recorded deed shall be submitted to the Land Development Section of the Permit and Resource Management Department prior to clearance of these conditions.

- U 58. The applicant shall construct or install improvements described as follows:
- a. Widen, reconstruct and/or overlay, as necessary, Roblar Road between the entrances of Private Access Road 1 and Private Access Road 2 in order to create the improved roadway described below. Road width shall be measured from edge of pavement to edge of pavement, a width of 36 feet, and shall include:
 - 1) Two-twelve (12) foot wide paved travel lanes,

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- 2) Two six (6) foot wide paved shoulders,
 - 3) Two-foot wide shoulder backing at the edge of pavement,
 - 4) Construct left-turn channelization at the intersection with Access Road 2,
 - 5) The roadway alignment and channelization shall be designed in conformance to Caltrans standards for a design speed of 45 miles per hour.
 - 6) Depending on the existing conditions, the improvements may require overlay, re-striping, metal beam guardrail, and overhead utilities relocation, as necessary.
 - 7) The Developer shall mill, repair and overlay the existing pavement as necessary to make a smooth transition between the existing pavement and the new pavement.
- U 59. The structural section of all road improvements shall be designed using a soils investigation which provides the basement soil's R-value and Expansion Pressure test results. A copy of the soils report shall be submitted with the first set of improvement plan check prints. The Traffic Index (TI) to be used for the pavement design of Roblar Road is 10.5.
- U 60. Storm drainage facilities shall be designed and constructed in accordance with Sonoma County Water Agency design standards. Drainage improvements shall be reviewed and cleared by the Grading & Storm Water Section of the Permit and Resource Management Department.
- U 61. Private access road intersections with Roblar Road and Valley Ford Road shall be constructed to meet the following criteria:
- a. A minimum throat width of 28 feet,
 - b. To prevent right-turning trucks from crossing centerline on Valley Ford Road, the pavement curve returns shall have sufficient radius to accommodate the inside wheel path of the largest anticipated haul vehicle,
 - c. The driveway shall enter the public road as close to perpendicular as possible, but in no case shall the driveway enter the public road at more than 20 degrees from perpendicular,
 - d. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with AASHTO requirements for the speed traveled on the intersecting public road,
 - e. The entry shall be surfaced with asphalt concrete a minimum distance of 25 feet from the existing edge of pavement.
 - f. Refer to County of Sonoma Department of Transportation and Public Works Construction Standard Drawing 814, latest revision, for private road and driveway intersection details,
 - g. The entrance improvements shall be in place prior to commencement of mining activity.
- U 62. The applicant shall install traffic control devices as required by the Department of Transportation and Public Works, including items such as traffic signs, roadway striping, pavement markers, etc.
- U 63. The applicant shall employ a Registered Civil Engineer, licensed in the State of California, to develop plans for the required improvements. The scale of these improvement plans shall be a minimum 1 inch equals 40 feet, and shall be submitted on 24-inch by 36-inch sheets for review. The Plans shall include roadway cross-sections, at a maximum interval between cross-sections of 50 feet.

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- U 64. Plan checking fees and inspection fees, including those involving off-site frontage improvements, shall be paid to the Permit and Resource Management Department, prior to signature of the Improvement Plans by the Director of the Department of Transportation and Public Works.
- U 65. A Traffic Mitigation Fee shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code, prior to expansion of clearing or mining activities. This fee is for indirect cumulative traffic impacts throughout the county. This permit shall not be vested until the traffic mitigation fees are paid in full.
- U 66. The applicant shall submit improvement plans for all required improvements to the Office of the County Surveyor in the Permit and Resource Management Department for review and approval and shall obtain signed approval from the Director of the Department of Transportation and Public Works prior to the issuance of a Grading, Building or Encroachment permit.
- U 67. The applicant shall obtain an Encroachment Permit from the Permit and Resource Management Department prior to constructing any improvements within County Road right-of-way.
- U 68. Prior to commencement of mining, the applicant shall complete construction of all the required public improvements.

Haul Route Secondary Impact Preoperational Conditions:

- U 69. As part of the grading and construction specifications for the roadway widening, implement best management practices (BMPs) to reduce or eliminate soil erosion during construction. The contractor shall implement these BMPs and be responsible for the inspection and maintenance of the BMPs during construction. These measures shall be incorporated into the Storm Water Pollution Prevention Plan (SWPPP) for the proposed roadway widening (see Mitigation Measure E.8a, below).
Mitigation Measure E.8a
- Mitigation Monitoring: PRMD staff verify that roadway improvement plans for include appropriate erosion control measure prior to grading permit issuance.
- U 70. Prior to grading permit issuance, a design level geotechnical investigation shall be required to identify site specific geologic conditions and geotechnical constraints and develop adequate engineering design criteria and remedies to reduce the potential for slope instability from cutting and filling of adjacent slopes along the roadway alignments. Methods for reducing potential slope instability effects could include, but are not limited to, slope reconstruction, earth buttress construction, or retaining structures/walls. All recommendations identified by the licensed geotechnical engineer shall be included in the final design and be incorporated into the roadway widening project, subject to review and approval of DTPW.
Mitigation Measure E.8b
- Mitigation Monitoring: PRMD will verify that road improvements are in conformance with the geotechnical report recommendations and approved by DTPW.
- U 71. Prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) before commencing with roadway widening construction. As part of this process, a Notice of Intent shall be filed with the State Water Resources Regional Control Board, in compliance with the statewide NPDES General Permit for Discharges of Stormwater Runoff Associated with Construction Activity (General Construction Permit). The SWPPP shall specify Best Management Practices (BMPs) to control contamination of surface flows through measures to prevent the potential discharge of pollutants from the construction area.

The BMPs shall be designed to minimize erosion of disturbed soil areas. BMPs could include, without limitation, silt fences, gravel or sand bags, stormdrain inlet protection, soil stockpile

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protection, preservation of existing vegetation where feasible, use of straw mulch, dust control, and other measures. The SWPPP will also include protection and spill prevention measures for any temporary onsite storage of hazardous materials used during construction. The project applicant shall adhere to the identified BMPs as well as the waste discharge and stormwater requirements outlined in the permit.

Mitigation Measure E.8c

Mitigation Monitoring: PRMD will verify that a Notice of Intent to comply with the NPDES is filed with the RWQCB prior to grading permit issuance.

- U 72. The proposed storm drain system for the roadway widening improvements shall be designed in accordance with all applicable County and Sonoma County Water Agency (SCWA) drainage and flood control design standards. The drainage plan for the roadway widening improvements shall ensure the proposed drainage facilities are properly sized to accommodate projected stormflows and prevent any potential project flooding on-site and in downstream areas.

Mitigation Measure E.8d

Mitigation Monitoring: PRMD will verify that roadway storm drain systems are design to meet PRMD and Water Agency design standards.

- U 73. Prior to issuance of a grading permit for the Alternative 2 haul route, the applicant shall:

- Conduct a formal wetland delineation in accordance with 1987 Corps of Engineers Wetlands Delineation Manual and have it verified by the U.S. Army Corps of Engineers (Corps). If the Corps and/or CDFG determine that the potentially affected water-associated features are jurisdictional, then the project proponent shall obtain appropriate wetland permits and implement all conditions contained in the Section 404 Clean Water Act permit (possibly an Nationwide permit) from the Corps, Section 1603 Streambed Alteration Agreement from CDFG, and/or Section 401 water quality certification from the Regional Water Quality Control Board.
- Compensate for the loss of jurisdictional wetlands at a 2:1 ratio (or as agreed to by the permitting agencies) within the project site boundary, or at a 3:1 ratio (or as agreed to by the permitting agencies) off-site within the local watershed, by creating, restoring or enhancing waters of the U.S., or contributing in-lieu funds to an existing or new restoration project preserved in perpetuity. The restoration effort shall require implementation of a five-year monitoring program with applicable performance standards, including but not limited to establishing: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.

Mitigation Measure E.8e

Mitigation Monitoring: PRMD will verify that wetland delineations, mitigation, and resource agency approval is obtained prior to grading permit issuance for road improvements.

- U/R 74. Avoid all potential jurisdictional wetlands and riparian habitat located along the roadway alignments, as feasible. Prior to construction activities, the project applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:

- Installation of exclusionary construction fencing to protect these features from all project construction and operation activities; and
- Implementation of measures to control dust in adjacent work areas (please see comprehensive dust control program identified in Mitigation Measure F.4 in Section IV.F, Air Quality).

Mitigation Measure E.8f

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Mitigation Monitoring: PRMD will verify that wetland delineations, mitigation, and resource agency approval is obtained and verify that protective measures are installed prior to grading permit issuance for road improvements.

- U 75. The contractor shall comply with all laws and regulations (Caltrans Standard Specifications, section 7-1.01). The contractor shall be made aware that, if there is removal of any trees on private property in conjunction with the roadway widening improvements, it must be in accordance with the following: 1) the County Tree Protection and Replacement Ordinance; 2) the Sonoma County Valley Oak Stewardship Guidelines for valley oak trees removed within the Valley Oak Habitat combining district; and 3) the Heritage or Landmark Tree Ordinance. Enforcement of this measure will be through a combination of the DTPW and PRMD staff.
Mitigation Measure E.8g

Mitigation Monitoring: PRMD will verify that tree protection and mitigation measures are provided on road construction plans.

- U 76. The project proponent shall implement measures to minimize and avoid take of CRLF and CTS that would additionally benefit pond turtles and FYLF, if present. The following measures are derived from the Programmatic Biological Opinion (PBO) for impacts to California red-legged frog (USFWS, 1999), and the Santa Rosa Plain Conservation Strategy for CTS (Conservation Strategy Team, 2005). Projects that impact CRLF or CTS require formal consultation with the USFWS and issuance of a Biological Opinion. The following actions will minimize impacts to these species.

- A USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training will include a description of the CRLF and CTS and their habitat, and the general measures that are being implemented to protect the CRLF and CTS as they relate to the roadway widening improvements.
- A preconstruction survey for CTS shall be performed by a qualified biologist within 72 hours of new ground disturbances for work areas on Roblar Road between the western end of the "S" curve on Roblar Road west of the project site Camiglia Lane and Stony Point Road. Such surveys allow for the identification and relocation of CTS and other special status species that may be present.
- A USFWS-approved biologist shall be present during initial grading activities to monitor roadway construction activities within 100 feet of creek corridors and aquatic habitat that could support CRLF. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.

Mitigation Measure E.8h

Mitigation Monitoring: PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from the United States Fish and Wildlife Service and contract with a qualified biologist prior to grading permit issuance.

- U 77. Implement Mitigation Measure D.4a and D.4b (Conditions #134 and #135) to reduce potential impacts to nesting raptors and other special-status birds.
Mitigation Measure E.8i
- U 78. Implement Mitigation Measure D.5 (Conditions #136) to reduce potential impacts to badgers.
Mitigation Measure E.8j
- U 79. In conjunction with Mitigation Measure E.7 the project construction contractor(s) shall develop a construction management plan for review and approval by the Sonoma County Public Works Department and meet the following requirements:
- To the extent possible, the contractor shall schedule truck trips outside of peak commute hours.

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- Lane closures on Roblar and Pepper Road shall occur only during the hours of 8:30 a.m. and 4:30 p.m. Outside of these hours on Monday through Friday, or on weekends, two lanes of traffic on both roads must be open.
- If lengthy delays are anticipated, signs shall be posted to notify motorists that traffic will be subject to delay.
- Traffic safety guidelines compatible with Section 12 of the Caltrans Standard Specifications, "Construction Area Traffic Control Devices" shall be followed during construction. Project plans and specifications shall also require that adequate signing and other precautions for public safety be provided during project construction.
- For highly sensitive land uses, such as schools, fire and police, the County shall require the construction contractor to develop access plans in consultation with facility owner or administrator. The contractor shall notify the facility owner in advance of the timing, location, and duration of construction activities and the locations of detours and lane closures.
- The contractor shall provide for passage of emergency vehicles through the project site at all times.
- The contractor shall maintain access to all parcels adjacent to the construction zone during construction.

Mitigation Measure E.8k

Mitigation Monitoring: PRMD not release grading permits until verifying that DTPW has reviewed and approved the construction management plan for conformance with this measure.

- U 80. Comply with Mitigation Measure E.8m and the following dust control measures:

- Water or dust palliative shall be sprayed on unpaved construction and staging areas during construction as directed by the County.
- Trucks hauling soil, sand and other loose materials over public roads shall cover the loads, or keep the loads at least two feet below the level of the sides of the container, or shall wet the load sufficiently to prevent dust emissions.
- Paved roads shall be swept as needed to remove soil that has been carried onto them from the project site.
- Water or other dust palliative shall be applied to stockpiles of soil as needed to control dust.

Mitigation Measure E.8l

- U 81. Roadway widening construction activities for this project shall be restricted as follows:

- All internal combustion engines used during construction of this project shall be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code.
- Except for actions taken to prevent an emergency, or to deal with an existing emergency, all construction activities shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. Only work that does not require motorized vehicles or power equipment shall be allowed on holidays. If work outside the times specified above becomes necessary, the resident engineer shall notify PRMD Project Review and Code Enforcement as soon as practical.

Mitigation Measure E.8m:

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Mitigation Monitoring: PRMD project review will verify that road construction plans include the above requirements. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented. Code Enforcement will respond, should complaints be received for work conducted outside of approved hours.

- U 82. The applicant shall provide landscape improvements following roadway widening and creation of any cut slopes. Native shrubs and trees shall be planted to create a landscape that recalls the native landscape of the region. Plants shall be selected that require the least maintenance, and create a sustainable landscape.

- If retaining walls are required as part of the roadway widening, the use of natural finishes shall be incorporated.
- A maintenance program, including weeding and summer watering shall be followed until plants have become established (minimum of three years).

Mitigation Measure E.8n

Mitigation Monitoring: PRMD project review will verify that road construction plans include the above requirements. PRMD and DTPW field inspectors will verify that the design details and notes on the plans are implemented.

- U 83. If archaeological materials are discovered during project construction, construction shall cease in the immediate vicinity of the find until a qualified archaeologist is consulted to determine the significance of the find, and has recommended appropriate measures to protect the resource. Further disturbance of the resource will not be allowed until those recommendations deemed appropriate by the County have been implemented.

Mitigation Measure E.8o

Mitigation Monitoring: PRMD project review will verify that the above requirement is noted on the construction plans and verify that the above procedure is utilized should resources be discovered.

- U 84. If paleontological resources or unique geologic features are discovered during project construction, construction shall cease in the immediate vicinity of the find until a qualified paleontologist or geologist is consulted to determine the significance of the find and has recommended appropriate measures to protect the resource.

Mitigation Measure E.8p

Mitigation Monitoring: PRMD project review will verify that the above requirement is noted on the construction plans and verify that the above procedure is utilized should resources be discovered.

- U 85. Implement adopted mitigation measures contained in the Signalization of Stony Point Road at Roblar Road, Mitigated Negative Declaration and Mitigation-Monitoring Program, Sonoma County PRMD, October 2005.

Mitigation Measure E.9

Mitigation Monitoring: DTPW will verify that the mitigation measures included in the Mitigated Negative Declaration approved for the Signalization of Stony Point Road at Roblar Road are implemented at the time of intersection design and signal construction.

Roads Division Operational Conditions:

- U 86. The applicant/operator shall install and use a tire wash and tire scraper to loosen dirt from the trucks and their tires. The applicant shall weekly sweep the paved shoulders and the traveled way as necessary, of Roblar Road and Valley Ford Road, in the vicinity of the private access road intersections. Sweeping shall be performed by mechanized sweeping equipment that can collect the sweepings and are equipped with devices/features to adequately control dust. Sweeping operations shall be performed under the appropriate traffic control contained in the

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California Manual of Uniform Traffic Control Devices (MUTCD) and for which the applicant will be required to obtain a blanket encroachment permit from the County's Permit and Resource Management Department.
Mitigation Measure E.3c

Mitigation Monitoring: PRMD ARM plan staff shall verify that this condition is being implemented during their quarterly inspections. PRMD Project Review will verify that the tire washer is installed prior to the commencement of mining.

- U 87. The applicant/operator shall report annually to PRMD, all aggregate materials transported from the facility, including recycled aggregate materials. This information shall be deemed proprietary. The applicant shall pay annually the adopted per ton fee on aggregate materials, including recycled aggregate materials, transported from the facility as the applicant's share of the Aggregate Road Mitigation Fee.
Mitigation E.6b

Mitigation Monitoring: PRMD staff will review annual reports submitted by the operator and shall invoice the applicant annually.

Grading and Storm Water:

"The conditions below have been satisfied" BY _____ DATE _____

- U/R 88. Grading and/or building permits require review and approval by the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance.
- U/R 89. Separate grading permits for on-site improvements shall be required for each phase of the proposed project including work for construction of roads/driveways, ponds, and drainage facilities.
- U/R 90. The applicant shall provide grading plans, prepared by a registered civil engineer, which clearly indicate the nature and extent of the work proposed. The grading plans shall conform to and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
- U/R 91. The applicant shall provide an erosion prevention/sediment control plan, prepared by a registered civil engineer, which clearly shows best management practices to be implemented, limits of disturbed areas, vegetated areas to be preserved, pertinent details, notes, and specifications to prevent damages and minimize adverse impacts to the environment. Tracking of soil or construction debris into the public right-of-way shall be prohibited. Runoff containing concrete waste or by-products shall not be allowed to drain to the storm drain system, waterway(s), or adjacent lands. The erosion prevention/sediment control plan shall conform to and contain all applicable items in the Grading Permit Required Application Contents (GRD-004) handout.
- UR 92. A master drainage plan for the proposed project shall be prepared by a registered civil engineer in accordance with the Sonoma County Water Agency Flood Control Design Criteria and be submitted to the Grading & Stormwater Section of the Permit and Resource Management Department for review and approval. The master drainage plan shall include analyses and drainage reports for initial, interim and final drainage improvements and shall demonstrate no increase in storm water levels or polluted runoff from the proposed project at each phase of development. The master drainage plan must be approved prior to the issuance of any grading permits for quarry development. The drainage reports shall conform to and contain all applicable items in the Drainage Report Required Contents (DRN-006) handout. Drainage Facilities shall be operated and maintained in accordance with approved plans during operation of the quarry and post-reclamation.
Mitigation C.1d

Mitigation Monitoring: PRMD Grading and Stormwater will review storm drainage plans to verify they are designed by a registered engineer, meet Water Agency Flood Control Criteria, and are maintained through post-reclamation.

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- UR 93. The applicant shall prepare, for review and approval by the Sonoma County PRMD, a design level drainage plan that addresses stormwater runoff from the proposed project during active mining and post reclamation. The stormwater drainage plan must ensure that the peak stormwater flows from outside the quarry footprint are managed to the extent that stormwater flow entering Americano Creek and Ranch Tributary from the project site does not exceed pre-project baseline flows during the 2, 10, 25-, 50- and 100-year storm events. The design level drainage plan shall include specific design criteria that ensure 1) the proposed sediment ponds operate as a stormwater runoff detention feature with the capacity to contain and manage at least a 25-year return storm and 2) alternative on-site stormwater detention strategies are implemented to ensure that stormwater flows are adequately detained so discharges to Americano Creek and Ranch Tributary do not exceed baseline discharge rates. Alternative detention strategies could include alternate detention basins, expanded use of the quarry floor for detention, or expanded use of infiltration areas for percolation and storage.
Mitigation Measure C.1c
- Mitigation Monitoring: PRMD Grading and Drainage Review staff will review drainage plans to verify that storm drainage facilities are designed to detain flows so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.
- U/R 94. Except for stream crossings, no grading or land disturbance shall occur within 50 feet of the top of banks of the waterways. Any waterway setbacks, including but not limited to building setbacks, grading setbacks, riparian corridor setbacks or biotic resources setbacks, shall be shown and noted on the grading plans. A construction fence must be placed along the most stringent waterway setback to prevent land disturbance adjacent to the waterways.
- U/R 95. Any bridge or stream crossing shall maintain at least one foot of freeboard from the 100-year water surface elevation and the lowest structural component of the crossing. Streams shall be adequately protected from erosion resulting from the installation and function of a stream crossing.
- U/R 96. Polluted runoff from waste receptacles or industrial areas/activities shall not be allowed to drain directly to the storm drain system or waterway(s).
- U/R 97. The project is subject to National Pollutant Discharge Elimination System (NPDES) requirements and must obtain coverage under the State Water Resource Control Board's General Construction Permit (General Permit). Documentation of coverage under the General Permit must be submitted to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 98. The applicant will be responsible to contact the Regional Water Quality Control Board and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 99. The applicant will be responsible to contact the California Department of Fish & Game and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 100. The applicant will be responsible to contact the U.S. Army Corps of Engineers and obtain any necessary permits or waivers for proposed work in or near a waterway. The applicant shall provide said documentation to the Grading & Storm Water Section of the Permit and Resource Management Department prior to issuance of a grading permit.
- U/R 101. A rolling permit from the Permit and Resource Management Department shall be obtained prior to start of work within an active waterway.
- U/R 102. At project approval, the applicant shall implement a baseline flow and creek stage monitoring program for the Ranch Tributary and Americano Creek. This program shall

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continue the flow monitoring program currently underway through the project duration, and as determined by the SCWA and the Sonoma County PRMD, through post-reclamation. The required monitoring program should include two locations of Ranch Tributary (representative of upstream and downstream conditions) and three representative locations on Americano Creek (i.e., upstream location at east property boundary, and locations upstream and downstream of Ranch Tributary). Flow and creek stage monitoring shall be conducted quarterly and following winter storm events. The applicant shall apply the data to design of stormwater discharge facilities to ensure that stormwater discharges from the site do not exceed pre-project flows in Ranch Tributary and Americano Creek. The Applicant shall submit baseline flow monitoring data to the Sonoma County Water Agency and Sonoma County PRMD.

Mitigation Measure C.1a

Mitigation Monitoring: PRMD Grading and Drainage Review staff will review base line flow and creekstage monitoring data to verify that storm drainage facilities are designed to maintain baseline flows and that stormwater discharges from the site do not exceed pre-project flows in Ranch Tributary and Americano Creek.

- U/R 103. Only surface water runoff occurring on the project site outside the quarry footprint shall be discharged to Ranch Tributary and/or Americano Creek. No water collected within the quarry footprint and/or production Well DW-2 shall be discharged to surface waters, including Ranch Tributary or Americano Creek.

Mitigation Measure C.1b:

Mitigation Monitoring: PRMD will review grading and drainage plans. Grading and Drainage Review staff will review drainage plans to verify that storm drainage facilities are designed to detain flows so as not to exceed pre-project base flows in Ranch Tributary and Americano Creek during flood events.

- U/R 104. The applicant shall develop and implement a Water Quality Protection Program (WQPP) to control sediment and pollutant runoff from the quarry during its operational life and beyond through post reclamation. All structural elements and processes shall be designed and approved by a professional civil engineer experienced in stormwater management and sediment control. The design shall meet the standards of the Sonoma County SMARO. All hydrologic and engineering calculations, including sediment trap efficiency, shall be submitted to the County and the RWQCB for review and approval prior to commencement of project grading.

The WQPP consists of several elements, as discussed below, to control the source of sediment and the discharge of that sediment into the adjacent receiving waters of Americano Creek and Ranch Tributary.

The applicant shall submit a copy of the SWPPP that adequately addresses control and reduction of stormwater laden with sediment or other pollutants to the County PRMD. The applicant shall comply with requirements set forth by the RWQCB in the SWPPP Program for annual reporting and water quality sampling, which typically includes annual reports and reports of failed best management practices (BMPs). The SWPPP shall be regularly updated as BMPs are updated and new BMPs are constructed and/or the quarry operation changes. The SWPPP shall be implemented during the initial stage of quarry construction and stay in effect through the completion of reclamation.

Aggressive Source Control. The WQPP shall outline and describe source control measures designed to prevent erosion. Specific measures, as cited below, shall be adapted from the most current edition of the Stormwater Best Management Practice Handbook for Construction, published by the California Stormwater Quality Association (CASQA). Equivalent measures deemed more effective by the North Coast RWQCB may be substituted.

- Reclamation or stabilization of all quarry slopes and the quarry floor (excluding the working/processing/stockpile/loading/access areas) shall be completed by October 1 of each year. Stabilization measures include hydraulic application of surface stabilizing

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compounds, hydroseeding, mulching, or other measures to prevent erosion. To insure accurate compliance with this condition, the applicant shall submit to the Sonoma County PRMD, a site plan or aerial photograph clearly depicting the extent of mining and reclamation on the site every five years during mining and reclamation and at the completion of reclamation;

- In areas not being actively mined, bare soil shall be protected from erosion with the application of hydraulic mulch or hydroseeded;
- In areas requiring temporary protection until a permanent vegetative cover can be established, bare soil shall be protected by the application of straw mulch, wood mulch, or mats;
- To the extent practical, benches should be back-sloped or provided with rock or straw bale checks so that sediment is trapped on the benches rather than washed into the sediment ponds; and
- Benches shall drain into adequately sized pipes or rock-lined channels that convey the runoff to the quarry floor. Outlets of pipes shall have appropriate energy dissipaters to prevent erosion at the outfall.

Sediment Retention Measures. The WQPP shall include specific measures to trap eroded sediment on site to prevent a discharge to receiving waters. Specific measures cited below shall be adapted from the most current edition of the CASQA Stormwater BMP handbook for construction. The applicant shall install sediment retention measures prior to winter (on or about October 15) or in areas receiving surface water runoff in the dry season (e.g. the areas receiving seepage from the quarry walls). Sediment retention measures shall be regularly inspected by quarry personnel and corrective action shall be conducted in the event that the measures fail. Inspection and performance of the sediment retention measures shall be included in the SWPPP and included in the required annual report. Equivalent measures deemed more effective by the North Coast RWQCB may be substituted.

- Silt fences, fiber rolls, and straw bale barriers shall be used on bare slopes not being actively mined to intercept and trap sediment carried by sheet flow;
- The program shall include a description of the construction method for the sediment ponds, including the design storm and spillways;
- The applicant shall design the proposed sediment ponds to the maximum size practical for the available space. The sediment control basin shall include a forebay to trap coarse soil particles. Recognizing that the sediment ponds may not be large enough to trap very fine particles such as clay, the design shall include supplemental treatment that can be used as needed to meet the water quality discharge criteria for this project. Supplemental treatment may be chemical treatment that promotes fine particle settlement, mechanical filters to remove fine particles, or other measures approved and required by the North Coast RWCQB for this particular project;
- All runoff from actively mined or reclaimed areas shall be directed through the sediment control basins.

Implement Contaminant-Control BMPs. The applicant shall implement BMPs to reduce the potential for discharge of contaminants to storm water runoff. These BMPs shall be designed by a civil engineer and the design engineer shall oversee BMP installation. To minimize the introduction of contaminants which may degrade the quality of water discharged from the site, the following measures shall be taken:

- Fueling and maintenance of all rubber-tired loading, grading and support equipment shall be prohibited within 100 feet of drainage ways. Fueling and maintenance activities associated with other less mobile equipment shall be conducted with proper safeguards

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to prevent hazardous material releases. All refueling and maintenance of mobile vehicles and equipment shall take place in a designated area with an impervious surface and berms to contain any potential spills;

- The site shall be controlled by maintaining security fencing and locking gates and posted trespass signs at all vehicular access points to the site to prevent unauthorized entry;
- Runoff from the access roads shall be captured, retained and conveyed to the sediment control pond; and
- All chemical dust suppressants and slope stabilization chemicals or polymers, and sediment pond enhancement chemicals or polymers shall be EPA approved and shall be used strictly according with the manufacturer's directions. An accurate accounting of the kinds and quantities of these materials used on the site shall be maintained by the operator.

Mitigation Measure C.2a

Mitigation Monitoring: PRMD Grading and Stormwater, Sonoma County Water Agency, and RWQCB, as applicable, will review the WQPP to verify that the storm drain and sediment control ponds are designed to handle storm events and that best management practices are utilized for sediment, erosion, and contaminant control. The Regional Water Quality Control Board will also insure that the plan meets their requirements for stormwater pollution prevention. PRMD ARM staff will verify through quarterly inspections that reclamation and slope stabilization occurs to avoid excessive erosion.

- U/R 105. Maintain and repair storm damage to conveyance and water quality control systems, as necessary. The applicant shall maintain procedures to ensure prompt identification and repair of damage to the drainage and water quality control systems, especially after large storm events. The applicant shall conduct routine inspection and maintenance of the stormwater and sediment control facilities. Stormwater drainage conveyance and outfalls shall be inspected monthly during the dry season and after each rain storm between October and March. If inspections reveal that stormwater conveyance or water quality control facilities (e.g. sediment ponds, energy dissipation structures) are damaged, corrective actions shall be implemented immediately. The applicant shall immediately report, to the Sonoma County PRMD and RWQCB, any storm-related drainage or sediment control system failure that results in discharge of sediment to Ranch Tributary or Americano Creek. The applicant shall submit a written report within 72 hours and describe the occurrence, corrective action, and observed performance of the corrective action.

Mitigation Measure C.2b

Mitigation Monitoring: PRMD ARM staff and the RWQCB will inspect the site, as necessary, to verify that water conveyance and control systems are maintained.

- U/R 106. The drainage plan identified in Mitigation Measure C.1 shall account for additional flows created by groundwater seepage expected to occur through the quarry walls. The plan shall consider management of seepage during operation, as well as, in the long term following reclamation and be based on conservative estimates of seepage derived from measured hydraulic conductivities in the weathered and unweathered Wilson Grove Formation and the Tolay Volcanics. The drainage plan shall include measures to ensure that the quarry wall seepage can be managed by stormwater flow conveyance structures and that these structures would not be overwhelmed during the 2-, 10-, 25-, and 100-year storm events large storm events.

Mitigation Measure C.3

Mitigation Monitoring: PRMD Grading and Stormwater and will review drainage plans to verify that storm drainage facilities are designed to detain flows, including groundwater seepage, so as not to exceed pre-project base flows in Ranch Tributary and Americano

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- U/R 107. Creek during flood events. The applicant shall fully incorporate and implement all measures specified in the approved Water Management Plan, including those reflected in this mitigation measure as follows:

The applicant/operator shall regularly sample and analyze all water collected within the quarry footprint and in production well DW-2 for the same suite of analytes used at the adjacent Roblar Landfill during the 2004 through 2008 monitoring events, and at the project site during the 2007/08 monitoring events. The QA/QC protocol for the sampling and analysis program shall be completed by an environmental professional knowledgeable of current surface water/groundwater regulations and sampling procedures.

The sediment control basin sampling and analysis schedule shall be developed in conjunction with the basin management operations. Prior to the release of water from any sediment control basin, the quarry shall obtain representative samples of the water held in the basin and submit the samples for analysis of VOCs and metals by a California state certified analytical laboratory. Once samples and final analytical results are received, the quarry shall determine the appropriate routing of the water based on applicable water quality standards. Basin water quality sampling schedules, guidelines, protocols, and procedures required to collect and analyze representative samples from each basin will be provided in a detailed Sediment Control Basin Sampling and Analysis Plan, subject to review and approval by the County of Sonoma PRMD, and as applicable, the North Coast RWQCB, prior to commencement of operation of the treatment system.

Groundwater extracted from Well DW-2 shall be sampled and analyzed once every 24-hours during periods of sustained or cyclic pumping, and at the end of each pumping episode during times of intermittent use of the well (intermittent use means pumping episodes separated by more than 24 hours).

In the event that the monitoring of the water collected within the quarry footprint or production well DW-2 contains contaminants exceeding water quality standards, such water shall be treated on-site (e.g., use of granular activated carbon vessels to treat VOCs, and use of an ion-exchange resin system to treat metals) until concentrations meet acceptable water quality standards and subsequently be available only for either direct onsite reuse or temporary storage prior to onsite reuse.

In addition, in the event that VOCs and/or metals are detected in the water in the sediment control basins exceeding water quality standards, the sediment within the respective sediment control basin would also be sampled and analyzed for VOCs and/or metals prior to removal. In the event that VOCs and/or metals are detected in this sediment at concentrations above applicable standards, the sediment shall be removed, transported and disposed of off-site at an appropriate licensed facility in accordance with all applicable state and federal regulations."

Mitigation Measure C.4e:

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD staff will verify that a detailed Sediment Control Basin Sampling and Analysis Plan is submitted in conformance with the above requirements for review and approval by PRMD and RWQCB, as applicable.

- U/R 108. The applicant shall incorporate into the final project drainage plan a hydrologic strategy that replaces potential baseflow lost due to the quarry operation. This mitigation measures requires a) continuation of the baseflow monitoring program that commenced in Spring 2007, and b) determining from that data whether substantial changes in baseflow is occurring during the operation of the quarry. If a reduction in baseflow due to project activities becomes evident through long term monitoring, the applicant shall adapt their on-site surface water discharge program as needed to provide additional infiltration (e.g. recharge basins, additional infiltration trenches to replicate pre-project base flows. Sonoma County PRMD shall review and approve the monitoring plan and on-site surface water

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discharge system prior to implementation. The applicant shall continue to monitor the flows in Ranch Tributary to ensure consistent replacement of baseflow. The applicant shall submit quarterly reports to the Sonoma County PRMD that details system monitoring and performance.

Mitigation Measure C.5a

Mitigation Monitoring: Prior to issuance of a grading permit for work that would disrupt base flows, PRMD Project Review and Drainage Review staff will review the monitoring program as well as grading and drainage plans to verify that they include the infiltration system design to address the retention of base flow conditions in Ranch Tributary. PRMD ARM Plan staff in conjunction with Drainage Review will review the quarterly monitoring reports to verify the performance and require adaptive measures as necessary.

PLANNING:

"The conditions below have been satisfied" BY _____ DATE _____

U/R 109. This permit authorizes a (1) Zone Change to add the MR (Mineral Resources) overlay zone to the proposed 70 acre mining site (APN 027-080-009) and a 25 foot perimeter setback area around the parcel, (2) Use Permit for Alternative 2 (Alternative Haul Route/Contracted Sales Only) to allow a 20-year mining permit with an annual production limit of 570,000 cubic yards per year, including no more than 57,000 cubic yards of recyclable material, (3) Reclamation Plan to return the 70 acre mining area to a natural condition with native soil and vegetation suitable for agriculture and open space use, and (4) Agricultural Preservation and Open Space District easement exchange allowing the use of approximately 4 acres of property on APN 027-210-006, currently encumbered by conservation easement, for Access Road 1 in exchange for the establishment of a permanent Agriculture and Open Space District conservation easement on the 198 acre project site.

U/R 110. This permit incorporates the Revised Water Management Plan and Revised Master Response HYD-1 into the FEIR.

Pre-operational Conditions:

U/R 111. Prior to grading permit issuance for on-site improvements, a comprehensive mining Operation and Management Plan shall be prepared to address all operational conditions, including but not limited to erosion and sediment control, stormwater management, water quality and groundwater monitoring, wind monitoring and dust control, noise monitoring, blasting, hazardous materials management, sediment pond operation and maintenance, and slope stability and vegetation management, as detailed in these conditions.

U 112. The applicant shall submit an application for the Williamson Act easement exchange. Grading of the mining site shall not commence until the Williamson Act contract # 2-387-72 covering the 70-acre portion of the project site is rescinded in accordance with Government Code Sections 51256, 51256.1 and 512892, and transfer of a permanent conservation easement on the 243+ acre exchange site for future stewardship to an appropriate private land trust or government conservation agency is simultaneously completed.

Mitigation A.4

Mitigation Monitoring: PRMD Project Review will not authorize grading to begin on the mining site until the above measure is implemented.

U 113. Prior to issuance of a grading permit for Access Road 1, the applicant shall obtain approval from Agricultural and Open Space District through an agreement where by the District would temporarily release its conservation easement on approximately four acres (encompassing the extent of Access Road 1 and adjacent isolated area), in exchange for a permanent open space conservation easement and offer of dedication of the entire project site (198 acres).

U/R 114. The applicant shall submit a final Reclamation Plan for review and approval by PRMD. The

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final Reclamation Plan shall meet all County and State requirements. This permit shall not be vested or effective until the final Reclamation Plan has been approved by PRMD.

- U 115. Prior to grading permit issuance for phase one mining, a site landscape/irrigation plan shall be submitted consistent with the project description. Landscaping shall consist of a mixture native trees, shrubs, and groundcover. Trees shall be planted in natural groupings along Roblar Road, along the access road, and around the parking lot and quarry office. All landscaping shall be automatically irrigated.
- U/R 116. A Water Conservation Plan shall be submitted for all landscaping prior to building permit issuance, subject to PRMD review and approval. The Water Conservation Plan shall comply with all provisions of the County Landscape Water Efficiency Ordinance as applicable. Verification, from a qualified irrigation specialist, that landscaping complies with the County Landscape Water Efficiency Ordinance shall be provided prior to building permit issuance. The measures in the plan shall be implemented and verified by PRMD staff prior to Certificate of Occupancy.
- U 117. A Water Conservation Plan shall be submitted for all buildings prior to building permit issuance. The Water Conservation Plan shall include, at a minimum, proposals for low-flow fixtures.
- U/R 118. Prior to issuance of building permits, an exterior lighting plan shall be submitted for administrative design review. Exterior lighting shall be low mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. All parking lot shall be full cut-off fixtures. Lighting shall shut off automatically after closing and security lighting shall be motion-sensor activated.
- U/R 119. The operator shall submit to the Sonoma County Permit and Resource Management Department financial assurance(s) payable to the County of Sonoma and, in the alternative, the State Department of Conservation, in an amount and format to be reviewed and approved by PRMD and State Department of Conservation - Mines and Geology Division, to assure compliance with the approved Reclamation Plan and conditions thereof for the entire area of the quarry. A valid financial assurance shall be maintained on file until PRMD determines that all reclamation has been successfully carried out in compliance with the reclamation and final conditions. Financial assurance shall renew automatically and shall not expire without 90-days advance written notice being provided to PRMD. A Continuation Certificate or other proof of extended coverage shall be forwarded to PRMD no less than 30 days prior to the expiration date of the financial assurance. PRMD may adjust the amount of the security on an annual basis to account for additional lands disturbed or reclaimed, inflation, or revised cost estimates. The financial assurance shall reference the name of the mining site, the resolution number of the County approval, and PRMD file number.

 The County may pursue redemption of the securities if: 1) the final reclamation does not meet the performance standards, 2) satisfactory progress is not made towards completing the reclamation in a timely manner, or 3) The operator is financially incapable of carrying out the reclamation.
- U 120. The operator shall pay all applicable development and processing fees prior initial grading, unless otherwise specified in this permit.
- U/R 121. Within 30 days of approval of the project, the applicant shall submit to PRMD a Condition Compliance Review Fee deposit (amount to be determined consistent with the ordinance in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based on hours of staff time worked).
- U/R 122. This "At Cost" entitlement is not vested until all permit processing costs are paid in full. No

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clearing or mining activities in the expansion area shall be authorized until all permit processing costs are paid in full.

- U/R 123. Mining, and reclamation is subject to Sonoma County Fire Safe Standards and the mining plan shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: 1) emergency vehicle access and turn-around at the site(s), 2) addressing, and 3) water storage for fire fighting and fire break maintenance around all structures. Prior to the commencement of mining, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
- U/R 124. Within five working days after project approval, the applicant shall pay a mandatory Notice of Determination filing fee of \$50 (or latest fee in effect at time of payment) for County Clerk processing, and \$2,010.25 (or latest fee in effect at the time of payment) because a Negative Declaration was prepared, for a total of \$2,060.25 made payable to Sonoma County Clerk and submitted to PRMD. If the required filing fee is not paid for a project, the project will not be operative, vested, or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code.) NOTE: If the fee is not paid within five days after approval of the project, it will extend time frames for CEQA legal challenges.
- U/R 125. To mitigate the filling or excavating of potentially jurisdictional wetlands within the proposed project area, the project proponent shall:
- Conduct a formal wetland delineation in accordance with 1987 Corps of Engineers Wetlands Delineation Manual and have it verified by the U.S. Army Corps of Engineers (Corps). If the Corps and/or CDFG determine that the potentially affected water-associated features are jurisdictional, then the project proponent shall obtain appropriate wetland permits and implement all conditions contained in the Section 404 Clean Water Act permit (possibly an Nationwide permit) from the Corps, Section 1603 Streambed Alteration Agreement from CDFG, and/or Section 401 water quality certification from the Regional Water Quality Control Board.
 - Compensate for the loss of jurisdictional wetlands at a 2:1 ratio (or as agreed to by the permitting agencies) within the project site boundary, or at a 3:1 ratio (or as agreed to by the permitting agencies) off-site within the local watershed, by creating, restoring or enhancing waters of the U.S., or contributing in-lieu funds to an existing or new restoration project preserved in perpetuity. The restoration effort shall require implementation of a five-year monitoring program with applicable performance standards, including but not limited to establishing: 80 percent survival rate of restoration plantings native to local watershed; absence of invasive plant species; absence of erosion features; and a functioning, and self-sustainable wetland system.
- Mitigation Measure D.1a*
- Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that wetlands have been formally delineated and wetlands are created and/or mitigation fees paid in accordance with resource agency approvals.
- U/R 126. Avoid all potential jurisdictional wetlands and riparian habitat located along the southern boundary (i.e., Ranch Tributary) and the southwestern corner (i.e., seasonal wetlands on valley floor adjacent to Americano Creek) of the property. Prior to construction activities, the project applicant shall take appropriate measures to protect the wetland and riparian habitat located in these areas. The following protection measures are to be included in the grading and Reclamation Plan:
- Installation of exclusionary construction fencing along the southern property line as well as around the two seasonally wetlands identified on Figure IV.D-1 to protect these features from all project construction and operation activities;
 - Implementation of measures to control dust in adjacent work areas (see comprehensive

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dust control program identified in Mitigation Measure F.4 in Section IV.F, Air Quality);

- Maintenance of the hydrologic inputs (flow) to the seasonally wet area in the southwestern corner of the property (see Mitigation Measure C.5); and
- The project applicant shall maintain the minimum allowed 100-foot setback for quarry mining operations from stream banks (Americano Creek and Ranch Tributary) and critical habitat areas designated in the Sonoma County General Plan (Chapter 26A, County Code).

Mitigation Measure D.1b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that plans provide the above protection measures.

- U 127. In accordance with Sonoma County Ordinance No. 4014, prior to the start of any clearing, stockpiling, excavation, grading, compaction, paving, change in ground elevation, or construction, the project applicant shall obtain a certified arborist to identify trees proposed for preservation (saved) and trees proposed for removal at the project site on a map. The map shall indicate the size and species of trees proposed for removal and preservation. The project applicant shall save trees identified for preservation on the project site and clearly delineate such trees by constructing short post and plank walls, or other protective fencing material, at the dripline of each tree to hold back fill. The delineation markers shall remain in place for the duration of the work. The placement of the fencing material at the dripline shall be coordinated with a certified arborist.

Mitigation Measure D.2a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will verify that an arborist report is provided showing trees to be removed and preserved and that plans include tree protection fencing at the dripline of trees to be saved that could be impacted by construction.

- U 128. Where proposed development or other site work must encroach upon the dripline of a tree identified to be saved (see Mitigation Measure D.2a, above), special construction techniques will be required to allow the roots of remaining trees within the project site to breathe and obtain water (examples include, but are not limited to, use of hand equipment for tunnels and trenching, installation of protective fencing, allowance of only one pass through a tree's dripline). Tree wells or other techniques may be used where advisable. Permission from, and inspection by, the PRMD will be required prior to backfilling, if applicable. No burning or use of equipment with an open flame shall occur near or within the dripline (except for authorized controlled burns) of a tree identified for preservation. No parking; storage of vehicles, equipment, machinery, stockpiles of excavated soils, or construction materials; or dumping of oils or chemicals shall be allowed within the dripline of preserved trees.

Mitigation Measure D.2b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will review arborist report and tree protection measures to ensure compliance with this condition.

- U 129. In coordination with a landscape architect, certified arborist or qualified biologist, the project proponent shall replace all removed protected trees in accordance with the Sonoma County Tree Protection and Replacement Ordinance No. 4014 and incorporate these trees into the tree replacement, reclamation and erosion control plans. Arboreal Value Chart #1 shall be used to determine the number of replaced trees or amount of in-lieu fees.

Mitigation Measure D.2c

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD Project Review staff will review arborist report, tree protection measures, and tree replacement/replanting plan to ensure compliance with this condition.

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- U/R 130. In coordination with a landscape architect, certified arborist or qualified biologist, the project applicant shall develop and implement a five-year tree monitoring program for all replaced trees. Appropriate performance standards may include, but are not limited to establishing: a 80 percent survival rate of tree plantings and the ability to be self-sustaining at the end of five years. Additional monitoring periods may be required until the trees successfully establish.

Mitigation Measure D.2e

- U 131. The project applicant shall implement measures to minimize and avoid take of California Red-legged Frog (CRLF) that would additionally benefit pond turtles and foothill yellow-legged frog, if present. The following measures are derived from the Programmatic Biological Opinion (PBO) for impacts to California red-legged frog (United States Fish and Wildlife Service (USFWS, 1999)). The applicant shall obtain formal consultation with the USFWS and issuance of a project specific Biological Opinion. The following actions will minimize impacts to these species.

Construction-Related Measures

- "A USFWS-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training will include a description of the CRLF and their habitat, and the general measures that are being implemented to protect the CRLF as they relate to the project.
- The mitigation pond shall be created and suitable for receiving relocated CRLF prior to the removal of Center Pond and surrounding upland habitat.
- Following construction of the mitigation pond and no more than 14 days prior to the initiation of grading activities near Center Pond, a USFWS-approved wildlife biologist shall capture all CRLF and other special-status aquatic species and relocate them to the mitigation pond.
- A USFWS-approved biologist shall be present during initial grading activities in and surrounding Center Pond until CRLF have been removed. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.
- During all phases of project operations, all trash that may attract CRLF predators shall be properly contained and removed from the site.
- The fueling and maintenance of vehicles and other equipment shall occur at least 20 meters from any riparian habitat or water body.

Pond Design, Management, and Monitoring

- The project proponent shall coordinate with the USFWS to select a suitable site for a new mitigation stockpond of equal or greater size to Center Pond within the property boundaries. The location and design of the new pond shall conform to guidelines of the USFWS Recovery Plan for CRLF (USFWS, 2002) and shall also include a permanent upland habitat buffer of no less than 250 feet around the pond. The final pond design shall be approved by the USFWS as a requirement of the project Biological Opinion. The mitigation pond should be created and functioning prior to the initiation of ground disturbing activities within 250 feet of Center Pond.
- The mitigation pond shall be designed to provide CRLF breeding habitat and shall include areas with deep-water cover for adult, juvenile and metamorphic red-legged frogs and shallow areas to provide for tadpole and juvenile rearing. The pond shall be designed to pool to a depth of between 3 to 4 feet and to maintain at least 1.0 foot of standing water through September 15 during years with average rainfall. To ensure sufficient water is available to support CRLF breeding, a qualified hydrologist shall be consulted to assess the amount of water that will be available at the selected site during

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dry, average, and wet years. A design plan shall be prepared to include a grading plan and cross-section plan indicating pond depth and dimensions. The basin shall be contoured based on the above design, and lined with clay or a similar impervious substrate to ensure water holding capacity that meets minimum performance standards and specifications.

- The mitigation pond shall be vegetated in accordance with the guidelines set forth in the Red-legged Frog Recovery Plan. Relocated vegetation shall salvage and utilize native emergent and aquatic vegetation from Center Pond whenever possible. Upland habitat surrounding the pond should be seeded with native grassland cover species.
- An adaptive management plan shall be developed for the mitigation pond consistent with the USFWS Recovery Plan for CRLF (USFWS, 2002) and project Biological Opinion. The plan shall include a program to monitor pond performance over time and discourage the presence of non-native vegetation and bullfrogs. During the initial five year monitoring period, annual hydrologic, vegetation and wildlife surveys shall be performed to document ponding conditions, the establishment of aquatic vegetation and to monitor California red-legged frog use of the pond.
- The adaptive management plan shall provide provisions to quantify site conditions relative to performance standards for a period of five years, to include:
 1. Ability to maintain standing water at a depth of at least 1.0 foot within at least 50 percent of the pond area through September 15 during a year with average rainfall.
 2. Presence of CRLF in any life history stage, to be determined by egg mass surveys and focused nighttime surveys for adults and juveniles.
 3. The presence of native emergent or aquatic vegetation covering at least 10 percent of the pond edge.
 4. Absence of persistent, self-sustaining populations of non-native CRLF predators, particularly bullfrogs.

The adaptive management plan shall include contingency measures to respond to inadequate hydrologic conditions (if later identified) and provide for control of non-native vegetation and CRLF predators, if identified in the mitigation pond. If bullfrogs are identified, the preferred management method shall be manual (hand) removal using a gig or other means. This method maintains the availability of aquatic habitat for red-legged frogs and sustains aquatic vegetation. If hand removal of bullfrogs proves ineffective, the pond shall be drained and dried between October 1 and November 15 (following metamorphosis of red-legged frog tadpoles) to break the bullfrog life cycle.

An invasive plant species management plan shall be incorporated into the adaptive management plan to provide for the management and removal of invasive aquatic vegetation, if present. The preferred management method shall be for manual (i.e., non-chemical) removal of invasive species, whenever possible.

Pond management shall continue for the duration of the proposed project, or as required by the Biological Opinion.

Mitigation Measure D.3

Mitigation Monitoring: Prior to grading permit issuance, PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from USFWS for establishment of the mitigation pond, relocation of any red-legged frogs, and an adaptive management plan.

- U 132. Avoid disturbing active nests of raptors and other special-status birds through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase. If site preparation activities (i.e., ground clearing and grading, including removal of trees or shrubs) are scheduled to occur during the non-breeding season (September 1 through January 31), no mitigation is required.

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If site preparation activities are scheduled to occur during the breeding season (February 1 through August 31), the following measures shall be implemented to avoid potential adverse effects to nesting raptors and other special-status birds:

- A qualified wildlife biologist shall conduct preconstruction surveys of all potential nesting habitat within 500 feet of construction activities where access is available.
- If active nests are found during preconstruction surveys, a no-disturbance buffer acceptable in size to CDFG shall be created around active raptor nests and nests of other special-status birds during the breeding season or until it is determined that all young have fledged. Typical buffers include 500 feet for raptors and 250 feet for other nesting special-status birds. The size of these buffer zones and types of construction activities restricted in these areas may be further modified through coordination with CDFG and will be based on existing noise and human disturbance levels at each project site. Nests initiated during construction are presumed to be unaffected and no buffer is necessary. The "take" of any individuals is prohibited.
- If preconstruction surveys indicate that nests are inactive or potential habitat is unoccupied during the construction period, no further mitigation is required. Trees and shrubs within the project footprint that have been determined to be unoccupied by special-status birds or that are located outside the no-disturbance buffer for active nests may be removed.

Mitigation D.4a

Mitigation Monitoring: If site preparation activities are scheduled to occur during the breeding season (February 1 through August 31), PRMD will verify that preconstruction surveys are completed and buffer areas established, as necessary.

- U/R 133. The applicant shall avoid disturbing potential burrowing owl burrows through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase.
- No more than 2 weeks before grading and ground-clearing activities begin prior to each of the three mining phases, a survey for burrowing owls shall be conducted by a qualified biologist within 500 feet of the earthmoving activities. The survey shall conform to the most current protocol described by the California Burrowing Owl Consortium (presently the 1993 protocol). If burrowing owl habitat is identified during the initial survey, a complete owl survey consisting of four site visits shall be performed as detailed in the Consortium guidelines.
 - If occupied owl burrows are found during the surveys, a determination shall be made by a qualified burrowing owl biologist as to whether or not proposed project activities would affect the occupied burrows or disrupt reproductive behavior. If it is determined that the project would not adversely affect occupied burrows or disrupt breeding behavior, project implementation may proceed without any restriction or mitigation measures. If it is determined that the project could adversely affect occupied burrows during the August 31 through February 1 non-breeding season, the subject owls may be passively relocated from the occupied burrow(s) using one-way doors. There shall be at least two unoccupied burrows suitable for burrowing owls within 300 feet of the occupied burrow before one-way doors are installed. The unoccupied burrows shall be located 160 feet from construction activities and can be natural burrows or artificial burrows constructed according to current design specifications. Artificial burrows shall be in place at least one-week before one-way doors are installed on occupied burrows. One-way doors would be in place for a minimum of 48 hours before burrows are excavated.
 - If it is determined that the project would physically affect occupied burrows or disrupt reproductive behavior during the nesting season (February 1 through August 31) then avoidance is the only mitigation available (California Burrowing Owl Consortium 1993;

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CDFG 1995). Implementation of ground-clearing and grading activities shall be delayed within 250 feet of occupied burrows until it is determined that the subject owls are not nesting or until a qualified biologist determines that juvenile owls are self-sufficient or are no longer using the natal burrow as their primary source of shelter.

Mitigation Measure D.4b

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed for burrowing owl and buffer areas established, as necessary for initial grading and each phase of mining.

- U 134. Avoid and minimize impacts to badgers through preconstruction surveys prior to ground clearing and grading in annual grasslands habitat or areas that are known or suspected to support badger.

Within 30-days prior to initiation of each mining phase, a qualified biologist shall survey for badgers within 100-feet of project activities. If no evidence of badger presence is detected, no further mitigation is required. If evidence of badgers is identified, the following measures are required to avoid potential impacts to this species:

- Use exclusion techniques to passively relocate any badgers that are present in project areas or within 50 feet of project activities. When outside the project area, but within 50 feet of activities, vacated dens shall be temporarily covered using plywood sheets or similar materials.
- To reduce the risk of badger mortality from vehicles, the use of private (non-county operated) haul roads shall be limited to daylight hours during the March to June badger pupping season with gated access.
- A 25 mile-per-hour speed limit shall be posted for roads on the site.

Mitigation Measure D.5

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed for badgers and relocation accomplished, as necessary, for initial grading and each phase of mining.

- U 135. Avoid disturbing active roosts of special-status bats through preconstruction surveys and creation of no-disturbance buffers during ground-clearing and grading activities associated with initiation of each mining phase, as well as during project activities related to remodeling and/or renewed use of the existing buildings.

Prior to construction activities (i.e., ground-clearing and grading, including removal of trees or shrubs, building remodeling, renewed building use) within 200 feet of trees or buildings potentially supporting special-status bats, a qualified bat biologist will survey for special-status bats. If no evidence of bats (i.e., direct observation, guano, staining, strong odors) is present, no further mitigation is required.

If evidence of bats in trees on the property is observed, the following measures are required to avoid potential adverse effects special-status bats:

- A no-disturbance buffer of 100-feet, or other suitable distance determined in coordination with CDFG, will be created around active bat roosts during the breeding season (April 15 through August 15). Bat roosts initiated during construction are presumed to be unaffected, and no buffer is necessary. However, the "take" of individuals is prohibited.
- Removal of trees showing evidence of bat activity will occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 if winter hibernacula are observed or between August 15 and April 15 if maternity roosts are present). If known bat roosting habitat is destroyed

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during tree removal activities, artificial bat roosts shall be constructed in an undisturbed area of the property, at least 200 feet from any project activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

If evidence of bats in existing buildings on the property is observed, the following measures are required to avoid potential adverse effects special-status bats:

- Prior to any remodeling activities and/or renewed use of existing buildings with observed bat activity, a qualified bat biologist shall review design drawings and use plans for the building(s). The biologist shall then make a determination, in coordination with CDFG, whether the bats would need to be evicted in order to implement the remodeling/new use of the structures, or if the bats would not be affected and should remain in the structure. If eviction is deemed necessary, the bats shall be transferred to an artificial roosting site. The artificial roost shall be constructed in an undisturbed area of the property, at least 200 feet from any project activities. The design and location of the artificial bat roost(s) shall be determined by a qualified bat biologist.

Mitigation Measure D.6

Mitigation Monitoring: PRMD will verify that preconstruction surveys are completed, buffer areas established, and relocation of bats occurs, as necessary, prior to tree removal, building modification, initial grading, and each phase of mining.

- U/R 136. The project would impact the federally and state listed CTS and require compliance with the federal and state Endangered Species Acts. Because the project would impact wetland subject to the authority of the U.S. Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act, the project applicant, through the Corps, shall be required to consult with the USFWS in compliance with Section 7 of the federal Endangered Species Act. Through this consultation process the USFWS will define the necessary mitigation to compensate for the unavoidable impacts to the CTS and its breeding and upland habitat and issue its findings in a Biological Opinion (BO) for the project. Following the provisions of Section 2080.1 of the California Fish and Game Code, the California Department of Fish and Game (CDFG) will review the incidental take statement in the BO and determine if it is consistent with the requirements of the California Endangered Species Act (CESA). If CDFG determines that the federal authorization is not consistent with the CESA, the project proponent shall apply for a State Incidental Take Permit under section 2081(b) of the CDFG Code.

Although the project site is west of and outside the Santa Rosa Plain Conservation Area, mitigation for impacts to CTS breeding and upland habitat shall be consistent with the CTS mitigation identified in the Santa Rosa Plain Conservation Strategy (2005) and the Programmatic Biological Opinion (USFWS, 2007). The appropriate mitigation ratio shall be negotiated with the USFWS and CDFG, and shall be no less than 1:1. Under the Santa Rosa Plain Conservation Strategy (2005), the agencies concluded that compliance with the interim mitigation guidelines is sufficient to mitigate significant effects to listed species.

The following measures are recommended to minimize the possible "take" of CTS, as defined by the federal and state Endangered Species Acts. These measures are identified in the Santa Rosa Plain Conservation Strategy (2005) and the Programmatic Biological Opinion (USFWS, 2007) to minimize and avoid project impacts to CTS. These measures include actions to be implemented prior to construction, and during construction.

Pre-Construction Minimization and Avoidance Measures: One year prior to initiation of grading and other ground-disturbing activities at the project site, exclusion fencing with one-way ramps, one-way doors, or similar USFWS-approved exclusion devices shall be installed around the project impact area to passively exclude CTS from accessing the project impact area. The fence will remain in place for at least one season (October through June of the following year) unless CDFG and the Service require it to remain in place for a longer period of time. Following removal of the fence and ramp system, and prior to the following rainy season, a more permanent structure will be installed, either a solid fence or

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curb structure, that is high enough to prevent CTS from accessing the project impact area once construction begins. The fence and ramp setup shall be installed prior to the first rains in the fall, or by October 15th and shall remain in place until the larvae have exited or been removed from Center Pond. The fence shall prevent migrating CTS from accessing the project site, and the one-way ramps shall allow dispersing CTS to exit the project impact area but prevent them from returning to the impact area. The area in which the fence and ramp system is to be installed shall be fenced to prevent cattle from accessing the site as the cattle will knock down the fencing and trample the one-way ramps. Prior to installation of the fence and exclusion system, a plan shall be submitted to the USFWS and CDFG for approval of the design and procedures for maintaining the fence and ramp system.

Construction Minimization and Avoidance Measures: A qualified biologist(s) or designated trained monitor(s) shall be onsite during initial groundbreaking activities that may result in the take of CTS. The qualifications of the biologist(s) and monitor(s) must be presented to the USFWS for review and written approval prior to ground-breaking at the project site. Prior to approval, the biologist(s) and monitor(s) must submit a letter to the USFWS verifying that they possess a copy of the biological opinion prepared for the project by the USFWS and understand its Terms and Conditions. The biologist(s) and monitor(s) shall keep a copy the biological opinion in their possession when onsite. The biologist(s) and monitor(s) shall have the authority to stop any work that may result in take of CTS. If the biologist(s) or monitor(s) exercises this authority, the USFWS and CDFG shall be notified by telephone and electronic mail within one (1) working day.

In addition, the following minimization measures shall be implemented during the initial ground disturbing activities at the beginning of each phase of construction (each phase is expected to take one to two months). This initial ground disturbing activity will consist of stripping and stockpiling the upper several feet of soil and vegetation material.

1. A duly trained monitor shall be present during the initial ground disturbing activity at the beginning of each phase of the project. The monitor should remain onsite until the top several feet of soil have been removed and stockpiled. Thereafter, an onsite person shall be designated to monitor compliance with all applicable minimization measures. The USFWS approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.
2. A training session shall be given by the biologist to all construction workers before work is started on the projects. After initial training, all new personnel shall be given the training as well. The training session shall provide pictures of CTS, information on behavior and habitat requirements, measures required to protect these species, relevant federal and state regulations, penalties to harming or harassing CTS and other listed species known to occur in the area, and what to do if CTS are found.
3. If a CTS is observed within the project site by a worker, the worker shall immediately inform the monitor. The monitor shall notify the biologist immediately. All work shall halt and machinery turned off within 100 feet of the animal until a biologist can capture and remove the tiger salamander from the work area. Biologists approved by the USFWS and CDFG are the only personnel allowed to handle CTS. CTS found in the work area shall be relocated to pre-approved areas no more than one hour after capture.
4. The monitor and the biologist have the authority to halt work activities at any time to prevent harming special status species or when any of these protective measures have been violated. Work shall only commence when authorized by the monitor or biologists.
5. Before the start of work each morning, the monitor shall check for animals under any equipment such as vehicles and stored pipes.
6. Before the start of work each morning, the monitor shall check all excavated steep-walled holes or trenches greater than one foot deep for any wildlife. Wildlife shall be removed; the biologist will be notified if CTS are found.

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7. A record of all CTS observed and the outcome of that observation shall be kept by the biologist and submitted to the USFWS.
8. Access routes and number and size of work areas shall be limited to the minimum necessary to achieve the project goals. Routes and boundaries of the road work shall be clearly marked. Off-road driving during non-quarry activities shall be limited to only what is necessary for the project.
9. All foods and food-related trash items, such as lunch bags, plastic sandwich bags, fast food containers, foods of any type, candy wrappers, chip packages, drink bottles and cans, etc., shall be enclosed in sealed trash containers and removed from the site regularly. Food items could attract predators into the work area.
10. No pets are to be allowed anywhere in the project site during the initial ground disturbing activities at the beginning of Phase 1. Pets would not be restricted after the initial ground disturbing activities associated with Phase 1, unless required by the applicant.
11. A speed limit of 15 mph on dirt roads shall be maintained. [This measure is also addressed in Mitigation Measure F.4 in the EIR Air Quality section]
12. All equipment shall be maintained such that there will be no leaks of automotive fluids such as gasoline, oils, or solvents. [This measure is also addressed in Mitigation Measure C.2a in the EIR Hydrology and Water Quality section]
13. Hazardous materials such as fuels, oils, solvents, etc., shall be stored in sealable containers in a designated location that is at least 200 feet from aquatic habitats. All fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 200 feet from any aquatic habitat. [This measure is also addressed in Mitigation Measure C.2a in the EIR Hydrology and Water Quality section]
14. A pollution prevention plan and the identification of best management practices to control storm water discharge, erosion, and sedimentation shall be developed and implemented. [This measure is also addressed in Mitigation Measure C.2a in the EIR Hydrology and Water Quality section]
15. Project areas outside of the footprint of the development that have been disturbed by construction activities shall be re-vegetated with native plants.
 - A USFWS-approved biologist shall be present during initial grading activities to monitor roadway construction activities within 100 feet of creek corridors and aquatic habitat that could support CRLF. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.
 - A preconstruction survey for CTS shall be performed by a qualified biologist within 72 hours of new ground disturbances for work areas on Roblar Road between the western end of the "S" curve on Roblar Road west of the project site Camiglia Lane and Stony Point Road. Such surveys allow for the identification and relocation of CTS and other special status species that may be present.
 - A USFWS-approved biologist shall be present during initial grading activities to monitor roadway construction activities within 100 feet of creek corridors and aquatic habitat that could support CRLF. Thereafter, an onsite person shall be designated to monitor onsite compliance with all minimization measures. The USFWS-approved biologist shall ensure that this individual receives training consistent with that outlined in the Biological Opinion.

Mitigation Measure D.11a:

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Mitigation Monitoring: Prior to grading permit issuance, PRMD will verify that the applicant has obtained a biological opinion and necessary clearances from USFWS for the establishment of the mitigation pond, relocation of any CTS, and an adaptive management plan. In addition, PRMD will verify that the preconstruction measures have been implemented in accordance with resource agency requirements and that grading plans list the above construction avoidance measures.

- U 137. All employees on site shall undergo a cultural resources orientation and awareness training prior to commencing work activities on site. Such training shall include familiarization with the stop work restrictions if buried archaeological remains or artifacts are uncovered. The operator shall provide Permit and Resource Management Department with a verification list of the employees completing the orientation. The training and list shall be updated by the operator as new employees are added.

Mitigation Measure K.1a

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD will verify that employee orientation has been provided.

- U/R 138. Prior to grading permit issuance, a qualified paleontologist shall be retained to conduct a preliminary survey and surface salvage in an effort to recover, as is feasible, surface deposits (if present) in their original context. The preliminary survey shall identify and map areas of high-potential rock units, as well as low and undetermined-potential rock-units within the quarry site area-if such distinctions can be established on a micro-topographic scale versus existing geologic surveys of the area. The paleontologist shall focus the field survey in exposures of sensitive stratigraphic units within the quarry site that would be disturbed.

Mitigation Measure K.2b

Mitigation Monitoring: Prior to issuance of a grading permit, PRMD will verify that the survey has been conducted in accordance with the above criteria.

- U/R 139. Prior to grading permit issuance for on-site improvements, the consulting paleontologist shall both prepare a monitoring and mitigation program and implement the program during the excavation phase at the quarry site and for all other project-related ground disturbance. The paleontologic resource monitoring and mitigation program shall include, but not limited to, as outlined by the Society of Vertebrate Paleontology (1995):

- preconstruction coordination;
- guidelines for excavation monitoring;
- emergency discovery procedures;
- procedures to permit the stabilization of large remains to allow for identification and permanent preservation. This includes stabilization of large remains and screen washing of fossiliferous sediments to recover significant microfossil remains;
- discusses how recovered fossils would be analyzed, including (but not limited to): identification to genus/species, element, etc.; interpretation of species abundance and diversity; determination of sex ratios and the relative abundance of ontogenetic age groups; dating of remains as appropriate; evaluation of potential taphonomic factors; and comparison with other vertebrate faunas from the Sonoma County region.
- Discusses how recovered significant fossils would be preserved and curated, including all associated contextual data, at a Federally recognized, accredited repository with long-term retrievable storage.
- Defines a framework for regularly scheduled reporting on the project.

Mitigation Measure K.2c

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Mitigation Monitoring: Prior to grading permit issuance, PRMD will verify that a monitoring and mitigation program is prepared by a paleontologist.

Operational Conditions:

- U 140. If any protected tree (as defined in County of Sonoma Ordinance No. 4014) proposed for preservation is damaged or stressed and results in mortality due to mining operations (including changes to shallow groundwater flows), then the project proponent shall replace the protected tree in accordance with the Arboreal Value Chart. If on-site replacement is not feasible, the proponent shall pay in-lieu fees into the County of Sonoma tree replacement fund. Should pruning be required, this will be performed by a certified arborist. No more than 25 percent of a tree's canopy will be removed during the pruning of preserved trees.

Mitigation Measure D.2d

Mitigation Monitoring: PRMD ARM staff will periodically monitor the health of trees affected by quarry development and require replacement as necessary.

- U 141. The applicant/operator shall ensure that all loaded trucks are covered or maintain at least two feet of free board to prevent spillage of materials onto haul routes.

Mitigation Measure E.3b

Mitigation Monitoring: PRMD ARM plan staff will verify compliance with this mitigation measure during quarterly inspections.

- U/R 142. The applicant shall utilize electricity to power the mobile processing plant instead of using diesel-powered generator.

The specific electrical loading and requirements of the proposed project shall be determined after the project applicant submits a formal application for electrical service. At that time the service provider would identify what electrical requirements would be needed.

Mitigation Measure F.1a

Mitigation Monitoring: PRMD will verify that electrical service is provided prior to issuance of a building permit for the quarry office.

- U 143. The approved haul route consisting of new Access Road 1, a mile-long section of Improved Roblar Road, new Access Road 2, Valley Ford Road, Pepper Road (west of Mecham Road), Mecham Road, and a combination of Stony Point Road, SR 116, Railroad Avenue, and/or Old Redwood Highway to/from U.S. 101 shall be stipulated in all aggregate sales and importation of recyclable materials contracts.

- U/R 144. The project applicant/operator shall utilize 2007 model engines or newer on-site loaders, dozers, rock trucks, and water truck. The applicant shall provide on annual basis, a written inventory of the model year of on site mobile equipment.

Mitigation Measure F.1b

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through quarterly inspections and through written documentation provided by the applicant.

- U/R 145. The project applicant shall require that all quarry haul trucks be under contract and utilize 2003 model or newer trucks. The applicant shall annually provide a written inventory of the model year of haul trucks utilizing the quarry.

Mitigation Measure F.1c

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through on site inspections and through written documentation provided by the applicant.

- U/R 146. The applicant/operator shall implement the following combustion equipment emissions measures:

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- Use alternative powered equipment (i.e., hybrid, CNG, biodiesel, electric), where feasible. Feasibility shall be determined by market availability and cost considerations. The applicant shall provide an annual report to PRMD explaining what alternative powered equipment has been brought online and what efforts were made in the previous 12 months to modify the composition of applicant's equipment. Such report shall include information on market availability and cost in sufficient detail for PRMD to determine whether additional equipment can feasibly be brought online;
- Use equipment which uses add-on control devices, such as diesel oxidation catalysts, as required by CARB's In-Use Off-Road Diesel Vehicle Regulation and On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation;
- Limit the hours of operation of heavy duty equipment where feasible;
- The project applicant shall keep all equipment well-tuned and regularly serviced to minimize exhaust emissions, and shall establish a regular and frequent check-up and service/maintenance program for all operating equipment at the quarry; and
- Minimize idling time of diesel powered equipment to five minutes, as required by regulation, or less where feasible.

Mitigation Measure F.1e

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through on site inspections and through written documentation provided by the applicant.

- U/R 147. The applicant/operator shall use commercially feasible efforts to pursue an offsite mitigation program to achieve contemporaneous emission reductions from sources off-site. Such efforts shall include pursuit of State, Bay Area, and grant funds (e.g., the Carl Moyer Fund, Transportation Fund for Clean Air, etc.) for improved trucks and retrofits such as diesel particulate filters for use in reducing emission sources within the vicinity of the project, such as school bus conversion. Such efforts shall also include incentives to contractors to induce them to achieve greater air quality efficiencies. Applicant shall submit an annual report to PRMD detailing the efforts made during the previous 12 months to achieve off-site mitigation.

Mitigation Measure F.1f

Mitigation Monitoring: PRMD ARM staff will verify this measure is being implemented through an annual report provided by the applicant.

- U/R 148. Prior to grading permit issuance for on-site improvements, a comprehensive dust control program shall be implemented by project applicant that would include the quarry's proposed dust control measures to maintain minimal fugitive dust impacts from the project.

Elements of the dust control program (especially during the dry season) for project components include, but are not necessarily limited to, the following:

- Water all active unpaved vehicle circulation areas daily, using reclaimed water whenever possible. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency whenever wind speeds exceed 15 miles per hour during dry conditions.
- Suspend excavation activity when winds (instantaneous gusts) exceed 25 miles per hour during dry conditions.
- Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer) or CHP standards.
- Sweep paved roadways (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.

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- Hydroseed or apply soil stabilizers to inactive exposed soil areas (as presented in the quarry's reclamation and water quality control plan).
- Exposed soil stockpiles shall be enclosed, covered, watered daily or treated with a (non-toxic) soil stabilizer.
- Limit traffic speeds on unpaved roads and circulation areas to 15 miles per hour.
- Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. The operator shall have at least one employee who is a certified visual emissions evaluator.
- Install wheel washers or other washing method (e.g., water sprayers or use of a water depression crossing) so that that tires or tracks of all exiting trucks leaving the site are cleaned of dirt and gravel to minimize tracking these materials onto public roads.
- Conduct blasting activities by using water injection when drilling to control drilling dust, using sequential delay timing schemes to generate effective rock fragmentation and vibration control to minimize blasting dust, remove loose overburden to prevent dilution of mined rock, which lessens the amount of fine material that can become airborne by blasting, and as needed, during dry summer periods, water onto blast areas to further mitigate dust.
- Ensure covers over the quarry's crushers (e.g., baghouses or sheds) are in place to minimize fugitive dust during crushing operations. With certain equipment, the use of water or foam spray may be the most effective method to be used, as determined in consultation with the Air District.
- The applicant shall retain a qualified meteorological consultant to design and implement a wind monitoring program at the quarry site during project construction and operations. The monitoring program shall be limited to providing wind speed and direction information sufficient to implement these specific dust mitigation measures. The meteorological consultant shall conduct an initial field meteorological study to select the equipment and establish onsite locations for wind speed monitoring; the meteorological consultant shall use that information to develop an operating plan for the on-going meteorological monitoring program. The meteorological consultant shall prepare a design and operating plan for the meteorological monitoring (subject to the approval of the County). The meteorological consultant shall supervise the long-term operation of the meteorological monitoring program, regularly preparing and submitting to the County a report summarizing the results of the wind monitoring program. (For the first year, quarterly reports shall be required; yearly meteorological monitoring reports may be more appropriate after the first year's experience.) The long-term meteorological monitoring program shall be reviewed periodically by the meteorological consultant and, subject to the approval of the County, adjustments made to reflect the experience and understanding of wind conditions and the related experience with dust generation and control at the quarry.

The meteorological monitoring plan shall include the basic elements in Attachment AQ-1, General Meteorological Monitoring Guidelines for Roblar Road Quarry, which generally discusses aspects of a well-designed and -operated meteorological monitoring system. These elements include use of suitable equipment, proper instrument siting and maintenance practices, electronic data recording and preservation, periodic quality control audits of the station equipment and operating practices, and frequent review of the resulting data. The meteorological consultant shall consider each element in developing a plan that addresses plan objectives.

On-going wind monitoring shall be conducted at the project site during the quarry construction and long-term operation, especially during any dry periods of the year when winds are anticipated to exceed 15 mph at the quarry. As part of the wind monitoring program, suitable anemometry shall be employed to regularly monitor winds at locations within the project site subject to fugitive dust, including quarry slopes being actively

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mined, stockpiles, unpaved travel paths being used for mobile equipment, and where processing operations are occurring. The wind monitoring shall measure and report, at a minimum, average wind speeds and wind gust speeds during the operating hours of the quarry. The measurement intervals for average wind speed (initially anticipated to be one- or two-minute measurements that are made up of 60 consecutive 1- or 2-second samples, taken once every 15-minutes) and wind gust duration (initially anticipated to be a five- to ten-second gust, extracted as the highest 5 consecutive samples among the 60 samples that make up an average wind speed reading) shall be reviewed and modified, as appropriate, by the meteorological consultant as a part of the development of an operating plan for the on-going meteorological monitoring.

All applicable electronic and manually measured wind data shall be time-stamped and recorded, so that it can be cross-referenced or linked to time-stamped entries in a (manual or electronic) log book that describe the specific dust control measures or changes in operations made in response to attaining the identified wind speed criteria.

- If, based on the wind monitoring, wind speeds at an active quarry area are found to exceed 15 miles per hour, watering frequency shall be increased and/or other appropriate dust control methods of equal or better effectiveness shall be implemented within the area of effect. Quarry personnel shall put into action and shall document the specific dust control measures or changes in operations that were implemented when the identified 15 miles per hour wind speed was exceeded. These measures shall continue until wind speeds decrease to less than 15 miles per hour, as recorded on two successive regular measurements.
 - If wind gusts during quarry operations are determined to exceed 25 miles per hour at any active quarry area of the quarry and those quarry operations generate any visible dust, that dust-generating activity in the area of effect shall be suspended until such time wind gust speeds in that area clearly subside. Quarry personnel shall put into action and document the change in operations that were implemented when the identified 25 miles per hour wind speed was exceeded. These measures shall continue until wind gust speeds decrease to less than 25 miles per hour, as recorded on two successive regular measurements.
 - Automated dust control systems shall be used (e.g. automated sprinkler systems) to maintain proper surface moisture in the stockpiles before sufficient vegetative cover in the stockpiles has been established.
 - If determined to be needed by the meteorological consultant, the applicant shall plant native evergreen trees along the perimeter of the quarry footprint to further minimize wind from entering the active quarry area. (This would be in addition to the trees already proposed to be planted in the vicinity of the proposed office, equipment storage area and parking lot, and along the proposed access road.) The specific tree type, location, and number of rows and spacing of trees shall be determined by the meteorological consultant.
 - The quarry's dust control monitor shall provide nearby landowners (within a radius of potential effect as determined by the meteorological consultant) with a contact phone number for the quarry's dust control monitor for off-site dust complaints that may arise associated with the quarry. The dust control monitor shall determine the cause of the complaint and ensure that measures are implemented to correct the problem.
- Mitigation Measure F.4:*

Mitigation Monitoring: PRMD will review the applicant's comprehensive dust control and meteorological monitoring program to insure it includes the above measures. PRMD will review the applicant wind monitoring data documenting the changes in dust control measures that were implemented when winds exceeded 15 mph and changes in operations that were implemented when winds exceeded 25 mph.

- U/R 149. The applicant shall become a reporting member of The Climate Registry. Beginning with the first year of quarry operations and continuing through the completion of quarry reclamation,

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the applicant shall conduct an annual inventory of greenhouse gas emissions, and report these to The Climate Registry. The annual inventory shall be conducted according to The Climate Registry protocols and third-party verified by a verification body accredited through The Climate Registry. Copies of the annual inventory shall be submitted to the Sonoma County PRMD.

Mitigation Measure F.6a:

Mitigation Monitoring: PRMD staff will verify that the annual inventory is submitted to the Climate Registry and third party verified prior to the submittal to PRMD.

- U/R 150. Prior to grading or initiation of grading activities, the applicant/operator shall take the following steps to ensure that GHG emissions do not exceed 1,100 MT CO₂e per year:
- As described in Mitigation measure F.1a, the applicant shall utilize electricity to power the mobile processing plant instead of using the proposed diesel-powered generator.
 - The applicant shall fuel on-road and off-road vehicles with alternative fuels (such as biodiesel and compressed natural gas) to the extent feasible.
 - Other measures, including those listed in Mitigation Measures F.1e (which will limit the use of diesel-powered equipment), shall be employed and quantified to achieve the maximum feasible reduction in GHG emissions from quarry operations.
 - If the applicant is unable to reduce emissions to below 1,100 MT CO₂e per year using the above measures, the applicant shall submit a detailed plan for PRMD review and approval demonstrating offset of all remaining project emissions above that threshold. Any offset of project emissions shall be demonstrated to be real, permanent, verifiable, enforceable, and additional, as determined by PRMD in its sole discretion. To the maximum extent feasible, as determined by PRMD, offsets shall be implemented locally. Offsets may include but are not limited to, the following (in order of preference):
 - i. Onsite offset of project emissions, for example through development of a renewable energy generation facility or a carbon sequestration project (such as a forestry or wetlands project for which inventory and reporting protocols have been adopted). If the applicant develops an offset project, it must be registered with the Climate Action Reserve or otherwise approved by PRMD in order to be used to offset project emissions. The number of offset credits produced would then be included in the annual inventory, and the net (emissions minus offsets) calculated.
 - ii. Funding of local projects, subject to review and approval by PRMD, that will result in real, permanent, verifiable, enforceable, and additional reduction in GHG emissions. If the BAAQMD or Sonoma County develops a GHG mitigation fund, the applicant may instead pay into this fund to offset GHG emissions in excess of the significance threshold.
 - iii. Purchase of carbon credits to offset emissions to below the significance threshold. Only carbon offset credits that are verified and registered with the Climate Action Reserve, or available through a County approved local GHG mitigation bank or fund, may be used to offset project emissions.

Mitigation Measure F.6b

Mitigation Monitoring: Prior to grading or initiation of quarry activities PRMD will review the GHG reduction plan to verify that emission reductions have been reduced to below thresholds and are real, permanent, enforceable, and additional. Payments and/or on- or off-site inspections for capital improvements will be performed to verify compliance.

- U 149. Prior to the issuance of a building permit for the quarry office the plans shall be reviewed by Department of Emergency Services and the Gold Ridge Fire Department, as necessary to ensure compliance with Fire Safe Standards.

Mitigation Measure J.1

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Mitigation Monitoring: PRMD will verify that the building plans are reviewed for compliance with Fire Safe Standards.

- U 150. During quarry operations, particularly initial grading and on-going clearing operations, should any undiscovered evidence of archaeological materials be encountered, work at the place of discovery shall be halted, and a qualified archaeologist shall be consulted to assess the significance of the finds. Prompt evaluations could then be made regarding the finds, and management plan consistent with CEQA and Sonoma County cultural resources management requirements could be adopted. This mitigation shall appear as a note on the grading plans.
Mitigation Measure K.1b

Mitigation Monitoring: PRMD will coordinate with the qualified archaeologist and ensure that work is halted if archaeological resources are uncovered.

- U/R 151. If prehistoric Native American burials are encountered, a qualified archaeologist, the Sonoma County Coroner, the California Native American Heritage Commission and local Native American Heritage Commission shall be consulted in accordance with established requirements.
Mitigation Measure K.1c

Mitigation Monitoring: PRMD will coordinate with the qualified archaeologist, the Sonoma County Coroner, the California Native American Heritage Commission and local Native American Heritage Commission should Native American burials be discovered uncovered.

- U/R 152. Prior to the start of construction, construction personnel involved with earth-moving activities will be informed on the appearance of fossils and the proper notification procedures. This worker training will be prepared and presented by a qualified paleontologist.
Mitigation Measure K.2a

Mitigation Monitoring: PRMD will monitor the mitigation by requiring the operator to submit to PRMD a written list of the employees and the date of their participation in the required training sessions prior to authorizing clearing or mining and periodically when new employees are hired.

- U/R 153. Earth-moving quarry activities shall be monitored by the mining personnel under the direction of the project paleontologist where this activity will disturb previously undisturbed sediment. Monitoring will not be conducted in areas where exposed sediment will be buried, but not otherwise disturbed. If high-potential and undetermined-potential areas within the quarry can be distinguished, full-time monitoring shall take place in rock units that have high paleontologic sensitivity, e.g. Wilson Grove Formation, while units of undetermined sensitivity shall be spot-checked monitored. In lieu of any rock-unit distinction on the site, the frequency and duration of the monitoring conducted shall be under the discretion of the project paleontologist.
Mitigation Measure K.2d

Mitigation Monitoring: PRMD staff will coordinate with the qualified paleontologist and ensure that a monitoring plan is developed in accordance with the above condition.

- U/R 154. Significant fossils discovered shall be salvaged. Salvage would include recovery of exposed significant paleontologic resources, removal and/or molding of exposed trackways and sampling where necessary to recover microfossil remains.
Mitigation Measure K.2e:

Mitigation Monitoring: If fossils are discovered, PRMD ARM staff will coordinate with the qualified paleontologist to ensure that they are salvaged in accordance with the above condition.

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- U/R 155. Upon completion of a 50% threshold of quarry excavation, as determined by quarry managers, the project paleontologist shall prepare a progress report including a summary of the field and laboratory methods, site geology and stratigraphy, faunal list, and a brief statement of significance and relationship of the site to similar fossil localities. A similar final report shall be prepared at the 100% threshold of quarry excavation. These reports shall be distributed to the appropriate lead and cooperating agencies and any relevant scholarly publications.

Mitigation Measure K.2f:

Mitigation Monitoring: PRMD ARM staff will verify that a progress report and a final report are submitted as required.

- U/R 156. This Use Permit allows mining/rock extraction, processing, rock crushing, screening and stockpiling, and concrete/asphalt recycling supported by an office, a scale, and on-site fueling/shop operations, with up to 10 employees on APN 028-080-009 as described in the Roblar Road surface mining Draft EIR, Response to Comments, Revised Response to Comments and Revised Water Management Plan, Recirculated Draft EIR and associated Response to Comments, as modified by these conditions. In no case shall the amount of material sold or exported in any one year from the entire quarry operation exceed the 570,000 cubic yard limit, including recycled materials, unless a modification to this Use Permit is first obtained.

No more than 10% of the annual maximum permitted quarry production shall be imported, including recycled materials. The maximum allowed annual production, shall be reduced by an amount equal to the amount of import, except where it is documented that the sale of aggregate has been coordinated with import, such that the inbound truck trip for imported material is coordinated with the outbound truck trip distributing rock.

Permitted hours of operation are 7:00 a.m. to 5:00 p.m. weekdays and 7:00 a.m. to 4:00 p.m. on Saturdays. Extended evening hours (until 10:00 p.m.) as needed, consistent with the County Surface Mining and Reclamation Ordinance (SMARO) and the Aggregate Resources Mining (ARM) plan may be permitted with prior written County authorization. Blasting shall be limited to day time hours from 10:00 a.m. to 4:00 p.m., Monday through Friday. There shall be no clearing or mining operations on Sundays or federal holidays. The approved mining area shall not encroach within 25 feet of the boundary of the Mineral Resources Zoning District. The boundaries of the approved mining area shall be surveyed and staked prior to the commencement of clearing or mining in the expansion area.

As a condition of exercising this Use Permit, the applicant/operator agrees that for as long as the Use Permit remains in effect, all conditions set forth herein shall be applicable to both mining and processing within the parcel APN 028-080-009.

- U/R 157. The operator and subsequent owners or operators of the above-referenced project shall complete mining and reclamation activities in accordance with the Roblar Road surface mining application materials and Reclamation Plan dated December 2009 as revised by these Conditions of Approval and subject to the revised Reclamation Plan requirements herein. Owners shall maintain the site in perpetuity in accordance with the Reclamation Plan, including but not limited to the drainage improvements, slopes and vegetation. Prior to the lease, sale or other conveyance of any portion of the real property subject to this approval, the owner shall provide a copy of the Use Permit and Reclamation Plan approval along with this exhibit to the prospective lessee, buyer or other recipient of such conveyance. The County has the power to modify or revoke a permit, entitlement, or project approval if the conditions are not met. The mining operator must also notify the State Division of Mines and Geology and PRMD of any changes in ownership/operator and a new performance bond may be required.

- U/R 158. When mining encroaches within 200 feet of the property line of APN 028-080-010, the approved top of final reclamation slope in that area shall be clearly marked in the field by brightly colored stakes projecting at least 4 feet above ground level spaced every 200

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feet. When mining encroaches within 100 feet of the approved toe of final reclamation slope in any area, the toe shall be clearly marked in the field by brightly colored stakes projecting at least 4 feet above ground level spaced every 200 feet. The operator shall be responsible for submitting a site plan or aerial photograph showing the extent of existing mining in relationship to all property lines if requested by PRMD to verify the need for, or location of, the required stakes.

U/R 159. Payment of ARM Plan Fees for Monitoring, Administration, and Other Mitigation:

The operator shall contribute to ARM Plan Monitoring and Administration funds established by the County pursuant to the ARM Plan and shall otherwise mitigate identified impacts as follows:

Inspection Enforcement and Monitoring Fees:

Annual inspection, enforcement and monitoring fees shall be paid by the operator in order to cover all actual costs incurred by the County for the inspection, monitoring, and enforcement of the applicable Use Permit and reclamation plan conditions in accordance with the ARM Plan. Where the monitoring service of a qualified professional is required by the Mitigation Monitoring Program, additional monitoring fees may be levied on the operator to cover such costs. *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff shall be responsible for determining compliance with this condition. PRMD staff shall also be responsible for billing the operator for all monitoring work done in compliance with ARM Plan and County ordinance requirements. Violations of the condition may result in proceedings to revoke the Use Permit for mining.

U/R 160. The Use Permit and Reclamation Plan shall be subject to the provisions of the 1994 ARM Plan, Chapter 26A of the Sonoma County Code, and other County ordinances, local, state and federal regulations, rules, orders and requirements regulating surface mining and reclamation in existence or hereafter adopted pursuant to the 1994 ARM Plan. Any violation of applicable regulations is a violation of this permit.

U/R 161. The Reclamation Plan shall be updated annually to incorporate a detailed cost estimate for reclamation and incorporate provisions for reclamation plan monitoring and maintenance. All descriptions, terminology, and procedures shall be consistent with the EIR, including the Water Management Plan. In addition the Reclamation Plan shall include the following:

- a) Property owner signature acknowledging responsibility for reclamation.
- b) Reclamation planting plan indicating the size and locations of planting areas on cut slopes, benches, berms, and the quarry floor.
- c) Sediment ponds to be converted to permanent ponds and riparian habitat.
- d) Reclamation of Access Roads 1 and 2 upon completion of mining.
- e) To ensure accurate compliance with this condition the operator shall submit a site plan or aerial photograph clearly depicting the extent of mining and reclamation on the site every year during mining and reclamation and at the completion of reclamation. The operator must provide annual documentation to PRMD that they are up to date with all required reporting forms and fees, and have no outstanding water quality-related violations anywhere on the project site.

U/R 162. The operator shall notify PRMD in writing at least fifteen (15) days before the conclusion of each phase of reclamation to request a site inspection. *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff shall inspect the site periodically in accordance with the inspection, enforcement, monitoring, and mitigation program of the ARM Plan

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and also within thirty (30) days of receiving the operator's notification of completion of each phase of reclamation. A written inspection report on each site visit shall be placed in the project file, which shall be used to determine the official start date of reclamation effort time frames for each area as established in these Conditions of Approval.

- U/R 163. To the extent required by applicable law, the operator and all successors in interest shall obtain any and all permits or approvals required by other agencies having jurisdiction over the project and shall provide copies of same to PRMD. This permit is subject to the conditions of said permits and any violation of other such permits shall constitute a violation of this Use Permit. If there are conflicts between the conditions of any permits, the more restrictive shall apply. PRMD Project Review staff will work with the agencies and the operator to help achieve solutions. A modification to this Use Permit may be required. Such agencies may include, but are not limited to:

- a) Sonoma County Water Agency
- b) Sonoma County Department of Health Services
- c) Bay Area Air Quality Management District
- d) California Department of Fish and Game
- e) California Water Resources Control Board
- f) North Coast Regional Water Quality Control Board
- g) Army Corps of Engineers
- h) U.S. Fish and Wildlife Service
- i) U.S. Environmental Protection Agency
- j) California Department of Transportation (Caltrans)
- k) NOAA Fisheries

- U/R 164. Grading of slopes, replacement of soil, and replanting shall be completed concurrently with mining activities where possible rather than be delayed until after the completion of all mining. In no case shall the planting of vegetation and final reclamation of slopes last more than two years past cessation of mining in that area unless weather or other conditions beyond the control of the operator make performance within this time period unreasonable. To ensure accurate monitoring of this condition, the operator shall be responsible for submitting a site plan or aerial photograph by October 1st of every second year (after mining in the expansion area has begun) that clearly depicts the total extent of the mining and reclamation areas on the property. Failure to comply with this condition shall require the immediate cessation of all mining, processing, and sales of material (reclamation work may continue). *ARM PEIR*

Mitigation Monitoring: PRMD ARM staff review the reports and will periodically monitor compliance with the condition during ongoing quarterly field inspections and will respond to all complaints. All inspection reports will be placed in the project file.

- U/R 164. The operator shall continue to provide the California Department of Conservation and PRMD, in the manner specified by said agencies, annual reports on mining and reclamation activities on the site until the project is completed and the site is taken off the state's mining list. *ARM PEIR*

Mitigation Monitoring: PRMD will review reports for compliance with permit requirements and make available to the public.

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 cont.

Conditions of Approval - PLP03-0094
 October 19, 2010
 Page 46

- U/R 165. Sales of aggregate material shall be by contract only. All contracts shall specify compliance and the applicant/operator shall implement all mitigation measures, including but not limited to the implementation of a truck driver education program, muffler specifications/inspections, haul route restrictions, haul truck age limitations, recycling limitations and incentives to reduce air emissions. The use of Roblar Road, east of the project site and Pepper Road, east of Mecham Road for hauling aggregate or recycled material is prohibited. The haul route and relevant mitigation measures shall be specified in all aggregate sales contracts.
- U/R 166. The operator shall require all aggregate haulers to participate in a truck driver education/safety orientation which familiarizes them with the approved haul route, speed limit zones, school bus stops, weight and load height limits, and established procedures to reduce public conflicts and ensure traffic safety. Truck drivers shall be informed that Roblar Road, east of the quarry and Pepper Road, east of Mecham Road are not approved haul routes and shall not be used. A list of the independent haulers undergoing the orientation shall be submitted to PRMD on an annual basis.
- U/R 167. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Planning Commission, as appropriate. Such changes may require a new or modified Use Permit and additional environmental review.
- The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The operator must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. The Director of PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by the Director of PRMD are limited to those items that were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from the Director, and shall not affect the original permit approval date or the term for expiration of the permit.
- U/R 168. This permit shall be subject to revocation or modification by the Planning Commission if: (a) the Commission finds that there has been a violation or noncompliance with any of the conditions, (b) the use for which this permit is hereby granted constitutes a nuisance, or (c) the Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use, recognizing that the project as approved may result in some unavoidable environmental impacts. Any such revocation shall be preceded by a public hearing pursuant to Section 26-92-120, except that the Planning Commission shall be the hearing body, and noticed pursuant to 26-92-140 of the Sonoma County Code.
- U/R 169. The applicant shall notify PRMD in writing 30 days before implementation/activation of the use permit. Implementation/activation of the use permit shall consist of mining or clearing on the mining parcel or implementation of major conditions of approval as determined by PRMD. If the Use Permit has not been implemented/activated within five (5) years after the date of the granting thereof, the permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the five year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code. This Use Permit shall expire when the mining area and Access Roads 1 and 2 have been reclaimed as approved by PRMD, or 20 years from the date of permit implementation/activation, whichever occurs first. Upon the completion of mining, all processing equipment used for mining and other materials, equipment and vehicles shall be removed from the site so that reclamation can be completed.

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 cont.



**California Regional Water Quality Control Board
North Coast Region**

Geoffrey M. Hales, Chairman



**Arnold
Schwarzenegger
Governor**

**Linda S. Adams
Secretary for
Environmental Protection**

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 578-2220 • FAX: (707) 523-0135

October 12, 2010

Mr. Scott Briggs
Sonoma County Permitting and
Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403-2829

Valery Brown

RECEIVED

OCT 13 2010

**BOARD OF SUPERVISORS
COUNTY OF SONOMA**

Dear Mr. Briggs:

Subject: Update on Regional Board Comments on Final Environmental Impact Report
for the Proposed Roblar Road Quarry, Sonoma County,
SCH No. 2004092099

North Coast Regional Water Quality Control Board (Regional Water Board) staff submitted comments on the Final Environmental Impact Report (FEIR) for the proposed Roblar Road Quarry by letter dated December 15, 2009. This letter updates the status of concerns regarding the project raised in that letter. Since December 2009, Regional Water Board staff have met on several occasions with project proponents to better understand the proposed project and to reach agreement on project modifications that would address Regional Water Board comments.

Discharges of Pollutants to Surface and Ground Waters

Regional Water Board staff had expressed concerns regarding discharge of groundwater seepage, stormwater runoff, and process waters to nearby surface waters, and had also expressed concerns that the FEIR did not compare site water quality data to state water quality objectives that are the most appropriate for the protection of water quality.

The project proponents have since modified their proposal to include onsite reuse and recharge thus eliminating the need for disposal of groundwater seepage and process water to surface waters, and to manage stormwater to maximize diversion of stormwater runoff away from process areas thus avoiding potential for pollutants to enter runoff. In addition, the project proponents have committed to a monitoring program to assess water quality against water quality objectives as specified in Regional Water Board waste discharge requirements, and to treatment if necessary to meet these objectives. Thus, the current proposal has largely addressed the Regional Water Board comments.

California Environmental Protection Agency

Recycled Paper

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cont.

Mr. Briggs

-2-

October 12, 2010

Potential for Excavation to Intercept Contaminated Groundwater

Regional Water Board staff commented on the FEIR regarding the presence of an uncharacterized landfill with unknown groundwater quality conditions and lacking a leachate collection system or an impermeable cap, adjacent to a proposed large excavation and the associated potential for migration of groundwater contamination that could result. While characterizing groundwater quality within the footprint of the landfill could address Regional Water Board concerns directly, project proponents have instead proposed an enhanced monitoring well network on the quarry site, including additional wells between the landfill and the quarry to serve, along with some of the existing monitoring wells, as a sentry wells to provide ongoing water level and water quality data and to identify changes in water quality that may indicate migration of contaminants from the landfill toward the quarry excavation. The Regional Water Board has recently received a proposal for an expanded monitoring well network and is in the process of reviewing this proposal. Project proponents have also described their intent to install water collection systems within the quarry excavation and have provided contingency plans for water treatment should it become necessary. While it is premature to comment on the adequacy of these proposals, the project proponents have generally been responsive to concerns raised by Regional Water Board staff, and we anticipate that continued responsiveness on their part will lead to a monitoring program and contingency plans acceptable to the Regional Water Board.

Should you have any questions, please contact me at 707-576-2069 or dleland@waterboards.ca.gov, or John Short at 707-576-2065 or jshort@waterboards.ca.gov.

Sincerely,

Original signed by

David F. Leland
Chief, Watershed Protection Division

Cc: Mr. John Barella, 431 Payran Street, Petaluma, CA 94952

101012_DFL_Sonoma_County_Roblar_Quarry_Status

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cont.

California Environmental Protection Agency

Recycled Paper

Appendix C-2

Comment Letter G, Exhibit 10 (Comment G-66)

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Exhibit 10

Date: November 9, 2010 at 3:00 pm
To: Board of Directors
From: Bill Keene, General Manager
Subject: Roblar Ranch Conservation Easement:
Request for Amendment

I. Background

On May 21, 2004, the Sonoma County Agricultural Preservation and Open Space District (District) acquired a Conservation Easement ("Ranch Easement", on file with clerk) over the 757.7-acre Roblar Ranch property along Roblar Road ("Easement Property", see Attachment 1). The purpose of the acquisition was to preserve the property's agricultural, scenic, and natural resource values. The property is characterized by rolling hills with grassland, oak woodland and riparian woodland, and contains approximately one-half mile of Americano Creek as well as two of its tributaries.

At the time of the acquisition, the Easement Property was owned by the Barella Family Trust. The fee interest was subsequently divided and transferred to two conservation buyers on June 14, 2004, both of whom still hold title. The western 388.7-acre parcel is owned by Ken and Clairette Wilson, who use their property for cattle grazing ("the Wilson Property"); the eastern 368.9-acre parcel is owned by Joe and Kathleen Tresch, who likewise use their property for cattle grazing ("the Tresch Property"). The two parcels remain under the Ranch Easement, the conservation easement jointly held by the two families.

Although the Barella Family Trust no longer owns the Easement Property, it does currently own 200 acres immediately north of the Easement Property. Last month, the Board of Supervisors, by straw vote, tentatively approved the development of a 70-acre commercial quarry on that northerly site ("the Quarry Property").

In connection with the Quarry, John Barella and Ken Wilson have requested a clarification of or amendment to the Ranch Easement to allow for the establishment of a 105-acre California tiger salamander (CTS) and California red-legged frog (CRLF) preserve on the Wilson Property ("Requested Amendment," see Attachments 2,3,4 & 5). The Treschs have indicated that they object to that request, and will be submitting a letter to the Board and the District stating their position.

After evaluating the request, staff determined that the request was inconsistent with the Ranch Easement and would require an amendment. The General Manager recommended that an alternative configuration of the mitigation preserve be considered.

The District's Board of Directors initially considered the Requested Amendment at its October 19th hearing. The Board continued the matter to November 9, 2010, and directed District staff to work

with the project applicant to contact the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) for feedback on the mitigation proposal.

District staff met with the project applicant on October 27, 2010, and submitted a letter to the regulatory agencies on November 2, 2010, requesting an evaluation of the mitigation value of two alternative configurations of the Preserve (Attachment 6). At this point the agencies have not approved either the applicant's configuration or the District's proposed reconfiguration.

II. Requested Amendment

A. Description of Proposed Offsite Mitigation Preserve

The Requested Amendment would allow for the establishment of a 105-acre CTS/CRLF preserve on the Wilson Property as shown on Attachment 7 ("Requested Preserve Area"). The establishment of the Preserve would include (1) the expansion of an existing stock pond on the Wilson Property, (2) the construction of a new stock pond (.15 to .25 acre) on the Wilson Property, and (3) the conveyance of a more restrictive conservation easement over a portion of the Wilson Property to CDFG or USFWS.

Under the Public Resources Code, an amendment to a conservation easement may be approved with a majority vote of the District's Board of Directors.

B. Analysis of Proposed Offsite Mitigation Preserve

1. Inconsistency with Terms of Ranch Easement

At the outset, the construction and expansion of stock ponds is permitted under the terms of the Ranch Easement in connection with agricultural use of the land. The stock ponds are therefore not of concern and would be permitted on the Wilson Property with or without the Requested Amendment.

District staff has determined, however, that the proposed establishment of an off-site mitigation preserve on the Wilson Property is inconsistent with at least two express provisions of the Ranch Easement, and perhaps others.

First, the proposed use of the Wilson Property for a CTS/CRLF preserve will require recordation of a new restrictive easement in favor of CDFG. The Ranch Easement, however, allows recordation of new third-party easements *only* "where they will *remove or significantly lessen the impact of existing easements of record* on the protected values..." (Easement Exhibit B, Paragraph 7). Since the new CDFG easement does not replace or reduce the impact of any existing easement of record, it is not permitted under the plain language of the Ranch Easement.

Second, the Ranch Easement expressly prohibits any non-agricultural commercial use of the Wilson Property (see Exhibit C, paragraph 1). Use of the Wilson Property as mitigation for off-site development is a non-agricultural commercial use, and thus, again, is not permitted.

The proposed mitigation preserve would require an amendment to these provisions and perhaps others.

2. Consideration of an Amendment

The prohibitions against new third party easements and against non-agricultural commercial uses are designed to help to ensure that the primary purpose of the Ranch Easement – preservation of the property for agricultural purposes -- is maintained. The Ranch Easement states plainly that its purpose is to “primarily preserve the Property’s productive agricultural soils, agricultural viability and productivity, and the Property’s size, such that it remains large enough to sustain an economically viable agricultural operation.”

That being said, however, the purpose of the Ranch Easement also includes protection of “the natural resource values of the Property” and prohibits “any use that would impair, degrade, or damage these values”. If the mitigation proposal could be designed to substantially further that purpose, while minimizing adverse impacts to the agricultural values of the Wilson Property, the requested amendment could be deemed consistent with the Ranch Easement.

a. District’s Amendment Policy

The District’s Easement Amendment Policy, set forth in the Board approved 2006 Stewardship Manual (on file with clerk), states that:

- *The District shall approve amendments to conservation easements only where there is a clear benefit to the District and its conservation goals;*
- *The District shall approve amendments to conservation easements only where the amendment is consistent with law, with adopted District policies and with the conservation purpose of the easement; and*
- *Amendments to provide for additional natural resource protection shall be permitted provided that such additional protection does not diminish or otherwise impair the conservation values of the land.*

District staff evaluated the applicant’s proposal to determine if an amendment to the Ranch Easement to allow creation of the Preserve on the Wilson Property would be consistent with the District’s Amendment Policy.

b. Protection of Natural Resources Identified in the Ranch Easement

The proposed Preserve is located at the northernmost extent of the Wilson Property, bounded by Roblar Road to the west and the Tresch Property to the east, and includes upland grassland, oak woodland, seasonal drainages, and portions of Americano Creek and Ranch Tributary that include riparian vegetation such as willow and Oregon ash. The riparian areas and oak woodlands are identified in the Ranch Easement as Natural Resource Areas, within which no structures can be built or permanent crops planted.

Creation of the Preserve would clearly benefit the natural resource values of the Wilson Property by providing additional protection of habitat for CTS and CRLF. On the other hand, establishment of the Preserve could significantly restrict agricultural use of the Wilson Property in perpetuity. Typically, CDFG easements prohibit agricultural activities of any kind except grazing for vegetation management. The proposed configuration of the Preserve includes significant acreage of open

grassland, grassland currently used for dairy and beef cattle grazing. These open lands also present opportunities for other potential future agricultural uses. Recordation of the CDFG easement could eliminate those possibilities, thereby diminishing the agricultural values of the Wilson Property. The District's Amendment Policy prohibits amendments that would *"diminish or otherwise impair the conservation values of the land."* As currently proposed, the requested amendment therefore would not comply with the District's Amendment Policy.

However, if the proposed Preserve Area were reconfigured to focus on those areas called out for protection under the Ranch Easement, the amendment may enhance rather than diminish the Wilson Property's conservation values. If the Preserve Area were reconfigured to include only the riparian areas and existing oak woodland tree canopy, along with an associated 250-foot buffer that include the created stockpond and some upland grasslands, then the key natural resource values expressly identified in the Ranch Easement would be enhanced while potential impacts to the agricultural values of the Wilson Property would be minimized. The reconfigured Preserve Area, still encompassing approximately 105 acres, would allow for the restoration and regeneration of the riparian and oak woodland habitat, and would strengthen the permanent protection of the Wilson Property's natural resources (See Attachment 8). The reconfigured Preserve Area could therefore be found to be consistent with the Easement Amendment Policy.

Although District staff recognizes the risks of allowing mitigation on protected lands, staff believes that, under these particular circumstances, the Reconfigured Preserve Area – focused solely on the riparian areas, oak woodlands and appropriate associated buffers – could strengthen the permanent protection of the natural resource values specifically called out in the Ranch Easement, without significantly impacting the property's agricultural values. In addition, the reconfigured area would also meet the 105-acre mitigation area requested by the project applicant. Accordingly, the amendment to allow for mitigation could be beneficial to the property's protected values.

c. Property Owners Consent

Any amendment to the Ranch Easement would require approval of all landowners that are party to the easement, in this case including Ken and Clairette Wilson, and Joe and Kathy Tresch. The Ranch Easement is a single easement encompassing both properties. An amendment cannot be recorded without the signature of all property owners.

The District only works with willing landowners, in accordance with voter-approved Measures A and C, adopted in 1990, and Measure F, adopted in 2006. The District is not a regulatory agency, and depends upon good working relationships with its landowners and other partners to protect lands. District staff is concerned that approval of an amendment before the landowners themselves have reached agreement could undermine these relationships.

d. Broader Policy Issues

Allowing use of conservation easement properties for mitigation raises several broader policy implications and has been the subject of considerable debate in recent years. Amending the Ranch Easement to allow for CTS and CRLF mitigation on the Wilson Property may set a precedent for other conservation easements. Lands conserved for agricultural purposes, like the Wilson Property, may be targeted for conversion to mitigation, due to their lower cost (their development values having already sold). Yet many of these conserved lands are recognized as key agricultural resources, important to the continued viability of agriculture in Sonoma County. In individual cases, the

conversion of such conserved lands (or portions of such land) may be seen as insignificant, but together, they may result in a cumulative loss of the County's productive farmland.

Another consideration is that state and federal regulations that protect species do change over time, as does the protected status of a species. For example, the Sonoma County Distinct Population Segment of the California tiger salamander was listed by the U.S. Fish and Wildlife Service as endangered in 2002, but was changed to threatened in 2004. In 2005, the listing was changed back to endangered. The California tiger salamander was proposed for State listing in the 1990s, but was only approved for listing as Threatened by the California Fish and Game Commission in March of 2010. A protected species may recover to the point of delisting under the Endangered Species Act, or conversely might become extinct.

Conservation easements, on the other hand, offer permanent protection for the purchased conservation values, through permanent restrictions on land uses. Once a conservation easement is recorded, unless amended, it provides protection of conservation values in perpetuity. In the case of the proposed mitigation preserve, agricultural uses beyond grazing as determined by a Grazing Management Plan would be prohibited forever on the property now owned by the Wilsons. A future property owner may desire to use the land for other agricultural uses, but would not be allowed to do so.

3. Citizens' Advisory Committee

At their October 28, 2010 meeting, the Citizens' Advisory Committee discussed the request for an amendment to the Ranch Easement. Committee members stated their opposition to the establishment of a mitigation preserve on the Wilson Property, particularly with respect to the precedent that would be set if an amendment were to be approved. They expressed concern that such an action would compromise the integrity of perpetual conservation easements and erode the public's trust. The Committee further expressed concern that the preserve would diminish agricultural uses of the Wilson Property for a limited environmental benefit. Finally, the Committee expressed concern about the private commercial benefit associated with amending the Ranch Easement to allow offsite mitigation for the quarry project. At the meeting, members of the public also spoke out against the amendment. At the conclusion of the meeting, the Committee voted unanimously to send a letter to the Board recommending that the Board deny the applicant's request.

Recommendation

The District General Manager has determined that the proposal for a CTS/CRLF preserve on the Wilson Property is not consistent with the existing terms of the Ranch Easement, and cannot be allowed without an easement amendment.

Further, the General Manager cannot recommend that the District Board of Directors approve an amendment to allow the CTS/CRLF preserve as currently proposed, as it may diminish or impair the protected agricultural values of the Wilson Property.

The General Manager, however, believes that if the Preserve Area is reconfigured as recommended by staff, and both landowners party to the Ranch Easement are in agreement, an amendment to allow establishment of the Preserve would be acceptable.

On File with Clerk

Roblar Ranch Conservation Easement

Staff Report to Board of Directors, April 6, 2004, Acquisition of CE over Roblar Ranch

Staff Report to Board of Directors, October 19, 2010, Request for Exchange and Amendment to the Roblar Ranch Easement

Easement Amendment Policy (excerpt from District Stewardship Manual)

Attachments

1. Site Map: Roblar Ranch Conservation Easement
2. Letter from Stephen Butler dated July 21, 2010
3. Letter from Ken Wilson dated August 12, 2010
4. Letter from Stephen Butler dated September 29, 2010
5. Letter from Stephen Butler dated October 13, 2010
6. Letter from District Staff to USFWS and CDFG dated November 1, 2010
7. Site Map: Requested Preserve Area
8. Site Map: Reconfigured Preserve Area

MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS

COMMUNITY DEVELOPMENT COMMISSION

October 19, 2010

The Board of Commissioners of the Community Development Commission met this date in adjourned session at 8:30 a.m., with the following members present:

Commissioners Kerns, Zane, Kelley, Carrillo, Brown

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

CONSENT CALENDAR

DEVELOPMENT SERVICES

10-0742

1. Sonoma County Affordable Housing, Inc. Designation as a Community Housing Development Organization for the purposes of the HOME Program
 - a. Approve Concurrent Resolution of the County of Sonoma Board of Supervisors and the Board of Commissioners of the Sonoma County Community Development Commission, designating Sonoma County Affordable Housing, Inc. as a Community Housing Development Organization for the purposes of the HOME Program.

UNANIMOUS

6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS

SONOMA COUNTY WATER AGENCY

October 19, 2010

The Board of Directors of the Sonoma County Water Agency met this date in adjourned session at 8:30 a.m., with the following members present:
Directors Kerns, Zane, Kelley, Carrillo, Brown

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

CONSENT CALENDARDEVELOPMENT SERVICES

2. Willow Creek Fish Passage Enhancement Project
 - a. Authorize Chair to execute the Agreement for Partial Funding of the Willow Creek Fish Passage Enhancement Project between the Sonoma County Water Agency and Trout Unlimited (\$105,000; agreement terminates on November 30, 2011). (Fifth District)

10-0743

 - b. Adopt a Resolution adjusting the Fiscal Year 2010/2011 Budget for the Water Agency General Fund in the amount of \$105,000.

10-0744

 - c. Adopt a Resolution adjusting the Fiscal Year 2010/2011 Budget for the Warm Springs Dam Revenue Fund in the amount of \$105,000.

10-0745
3. 1315 Airport Boulevard Tenant Improvements (Geothermal Ground Loop) - Adopt Plans and Specifications and Award Construction Contract
Adopt a Resolution:
 - a. Finding that the experience requirements are appropriate for the Project.
 - b. Adopting the plans and specifications entitled "1315 Airport Boulevard Tenant Improvements (Geothermal Ground Loop)" as submitted by the Chief Engineer of the Water Agency.
 - c. Authorizing the General Manager of the Water Agency to sign an Agreement and Release of Any and All Claims, with County Counsel review, if any unresolved claims are listed by the contractor.

SPECIAL DISTRICTS (Cont.)

October 19, 2010

CONSENT CALENDAR (Cont.)

SONOMA COUNTY WATER AGENCY (Cont.)

- d. Authorizing the General Manager of the Water Agency to waive the escrow account requirements of Escrow Bid Documents of the Project Manual.
- e. Accepting the lowest responsible and responsive bid for the 1315 Airport Boulevard Tenant Improvements (Geothermal Ground Loop) project and letting the contract for construction to Bertram Drilling, Inc. for \$468,505.
- f. Approving Construction Performance Bond and Document 00620 (Construction Payment Bond).
- g. Authorizing the Chair of the Board to execute the contract with Bertram Drilling, Inc. for the aforesaid work, including the performance and payment bonds attached thereto.

UNANIMOUS

6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

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cont.

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS

SONOMA VALLEY COUNTY SANITATION DISTRICT

October 19, 2010

The Board of Directors of the Sonoma Valley County Sanitation District met this date in adjourned session at 8:30 a.m., with the following members present:

Directors Brown, Carrillo

Absent: Barbose

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

CONSENT CALENDAR

DEVELOPMENT SERVICES

- 10-0746
4. Glen Ellen Creek Bank Repair Easement Agreement
- a. Adopt a Resolution authorizing the General Manager to execute an easement agreement between the Sonoma Valley County Sanitation District and Brigida Viratos in the form as presented to this Board. (First District)

AYES: Brown, Carrillo
ABSENT: Barbose

6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

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cont.

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT

October 19, 2010

The Board of Directors of the Sonoma County Agricultural Preservation and Open Space District met this date in adjourned session at 8:30 a.m., with the following members present: Directors Kerns, Zane, Kelley, Carrillo, Brown

President Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

REGULAR CALENDARDEVELOPMENT SERVICES

- 2:30 The Board of Supervisors and the Board of Directors of Sonoma County Agricultural Preservation and Open Space District considered File No.: PLP03-0094 and the Roblar Ranch Conservation Easement concurrently.

File No.: PLP03-0094 - [REDACTED] Trust - Roblar Quarry
Description: Certification of the Final EIR and request for zone change, use permit and mining and reclamation plan for an aggregate rock quarry with annual production of up to 570,000 cubic yards for 20 years (APN 027-080-009 and 010)
Env. Doc.: Environmental Impact Report
Location: 7601 and 7175 Roblar Road, Sebastopol
Sup. Dist.: 2

Present: Pete Parkinson, Director, PRMD
Blake Hillegas, Project Planner, PRMD
Paul Mitchell, Consultant
David Hurst, Chief Deputy County Counsel

Speaker: Sally McGough, Deputy County Counsel

The Board of Directors gave direction to staff to remove the Agricultural Preservation and Open Space District proposed easement exchange with the applicant.

SPECIAL DISTRICTS (Cont.)

October 19, 2010

REGULAR CALENDAR (Cont.)

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT(Cont.)

- 2:49 Board of Directors of Sonoma County Agricultural Preservation and Open Space District
Roblar Ranch Conservation Easement (APN 027-210-006 and 027-200-003)

Description: Proposed exchange of real property pursuant to Public Resources Code 5540.5 and proposed amendment to conservation easement to allow for establishment of California Tiger Salamander and California Red-Legged Frog preserve.

Present: Maria Cipriani, Agricultural Preservation and Open Space District
Sheri Emerson, Agricultural Preservation and Open Space District

Speaker: Sue Gallagher, Deputy County Counsel

- 3:05 Public Hearing opened
John Barella, Applicant
Jean Kapolchok, J. Kapolchok & Associates
Ted Winfield, Ph.D
Stephen Butler
Pamela Torliatt, Mayor, City of Petaluma
David Glass, Vice Mayor, City of Petaluma
Greg Carr
Jack Buckhorn
Kathleen Tresch
Damon Callegary
Julie Jacobson
Chris Snyder
Mark Lieman, Cotati City Council
Sheryl Bratton, County Counsel
Gerry Lopez
Ann Gilbert
Ralph Miranda
David Spilman
Gail Coughelan
Carol Vinniti
Stan Carpenter
Bruce Norbid
Nick Baretto
Jason Erick
George Stephenson

SPECIAL DISTRICTS (Cont.)

October 19, 2010

REGULAR CALENDAR (Cont.)

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT(Cont.)

- Donna Norton
- Keith Woods
- Susan Barrital
- 4:32 Board recessed
- 4:46 Board reconvened
- Supervisor Zane was not present
- Susan Kirks
- Arthur Niebrief
- 4:51 Supervisor Zane joined the meeting
- Bill Baldavitch
- Bob Piazza
- Jeff Pudruff
- Bill Cordum
- Jerry Cozzi
- Gail Delpid
- Donna Spilman
- David Petrits
- Arthur Slater
- Forrest Phine
- Alan Nelson
- Jackie McMahan
- Marcia Sue
- Margaret Hanley
- Pat O'Haloreen
- John Siesien
- Tom Siesien
- Sue Buckston
- Nia Bradford
- Gary Reed
- 5:31 Public Hearing closed

Board of Directors of Sonoma County Agricultural Preservation and Open Space District gave direction to staff to return on November 9, 2010 with more information and reopen the public hearing regarding the California Tiger Salamander and California Red-Legged Frog preserve.

SPECIAL DISTRICTS (Cont.)

October 19, 2010

REGULAR CALENDAR (Cont.)

SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT(Cont.)

Straw vote:

Motion to certify the Final Environmental Impact Report (FEIR) and adopt a Statement of Overriding Considerations subject to findings; approve a Zone Change to add Mineral Resources overlay zone to the proposed 70 acre mining site and a 25 foot perimeter setback area around the parcel; approve the Use Permit and Mining and Reclamation Plan; and approve the certification of the re-circulated portions of the FEIR.

AYES: Kelley, Kerns, Brown

NOES: Carrillo, Zane

10-0759

29. Resolution continuing the final approval for the certification of the Final Environmental Impact Report as recommended by staff for the Roblar Road Quarry at 7601 and 7175 Roblar Road (PLP03-0094) to December 14, 2010 on the consent calendar.

AYES: Kelley, Kerns, Brown

NOES: Carrillo, Zane

10-0760

30. Resolution to continue and reopen the public hearing limited to new information to the Roblar Ranch Conservation Easement proposed amendment of the California Tiger Salamander and California Red-Legged Frog preserve to November 9, 2010 at 3:00 p.m.

UNANIMOUS

- 6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

MINUTES OF THE MEETING OF THE BOARD OF SUPERVISORS

COUNTY OF SONOMA

October 19, 2010

The Board of Supervisors of the County of Sonoma met this date in adjourned session at 8:30 a.m., with the following members present:

Supervisors Kerns, Zane, Kelley, Carrillo, Brown

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

Call to order and pledge of allegiance

Board member announcements and reports on meetings and other activities

Supervisor Zane reported on a field trip to San Jose with Solid Waste Advisory Group to see how they are handling their solid waste issues. She also stated that she hosted a seminar for Directors of Non-Profits who have contracts with the County. The purpose of the seminar was how to work with elected officials for successful outcomes.

Supervisor Carrillo attended a Wastewater Symposium in Monte Rio to discuss issues with water and how to deal with it in the future.

Supervisor Kelley reported attending the Public Utilities Officials Conference in Napa. He also made a presentation to the World Water Council in San Francisco.

Chair Brown congratulated the County for the coverage in Sunday's paper on hybrid cars and what the County is doing with energy efficiency projects.

CONSENT CALENDAR

CRIMINAL JUSTICE SYSTEM SERVICES

SHERIFF'S OFFICE

5. Agreement for Court Security Services
 - a. Approve and authorize the Chair to execute a two year (July 1, 2010-June 30, 2012) Agreement for the Provision of Court Security Services between the County of Sonoma and the Superior Court of California, County of Sonoma (approximately \$5,952,222 for Fiscal Year 2010-2011).

CONSENT CALENDAR (Cont.)

October 19, 2010

HEALTH AND HUMAN SERVICESHEALTH SERVICES

6. Mental Health Services Act Contract and Information Technology Funding
 - a. Authorize the Director of Health Services to execute an agreement with Harder & Company Community Research to provide Mental Health Services Act initiatives evaluation services for the term October 19, 2010 to October 18, 2011 (\$200,000).
- 10-0747
- b. Adopt a Resolution authorizing budgetary adjustments to the Fiscal Year 2010-2011 Final Budget within the Special Revenue Fund-Department of Health Services in the amount of \$1,494,390 (4/5 vote required).

HUMAN SERVICES

- 10-0748
7. Child Care Planning Council of Sonoma County
 - a. Adopt a resolution appointing Teri Lane, Heather Sweet and Jynx Lopez as new members to the Child Care Planning Council of Sonoma County (which will fill required membership).
 - b. Changing the length of membership appointment terms from three years to two years.

FISCAL SERVICES/CONSUMER PROTECTION SERVICESAUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR

8. Audit Report
 - a. Review and approve the audit report of the County Service Area No. 40 - Fire Services for the fiscal year ended June 30, 2009.

AUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR (Cont.)

- 10-0749
9. Petaluma Elementary School District 2010 Tax and Revenue Anticipation Notes
 - a. Adopt a Resolution providing for the borrowing of funds in the name of the Petaluma (Elementary) School District for Fiscal Year 2010-2011 and the issuance and sale of 2010 Tax and Revenue Anticipation Notes (in an amount not to exceed \$6,000,000); (Second District).

CONSENT CALENDAR (Cont.)

October 19, 2010

DEVELOPMENT SERVICESPERMIT AND RESOURCE MANAGEMENT DEPARTMENT/FIRE AND EMERGENCY SERVICES

10-0750

10. Amendment to County Building and Fire Codes

- a. Adopt a Resolution introducing, reading the title of, waiving further reading and setting public hearing for November 2, 2010 at 10:00 a.m. to consider adoption of an Ordinance amending the Sonoma County Building Code (Chapters 7, 7A, 7D1 and 7D2) and making other technical and administrative revisions.

10-0751

- b. Adopt a Resolution introducing, reading the title of, waiving further reading and setting public hearing for November 2, 2010 at 10:00 a.m. to consider adoption of an ordinance amending Sonoma County Fire Code (Chapter 13) and making technical and administrative revisions.

REGIONAL PARKS

11. Guerneville Veterans Memorial Building - River to Coast Children's Services License Agreement

- a. Authorize the Chair to execute an agreement with River to Coast Children's Services to provide the Kindergym Program for the period of November 1, 2010 through October 31, 2013 with a total revenue amount of \$9,930. (Fifth District)

10-0752

12. Laguna de Santa Rosa Trail - Construction Contract Change Order

- a. Adopt a Resolution authorizing the Chair to execute a change order for additional work with Cats 4U, Inc. in the amount of \$60,933 for the Laguna de Santa Rosa Trail. (4/5 vote required)

10-0753

- b. Adopt a Resolution authorizing budgetary adjustments to the 2010-2011 final budget of Regional Parks Department for the fund, Laguna de Santa Rosa Trail Construction, in the amount of \$60,933. (4/5 vote required)

GENERAL ADMINISTRATIVE SERVICESCOUNTY COUNSEL

13. Legal Services Agreement

- a. Authorize County Counsel to execute a legal services agreement with the law firm of Liebert Cassidy Whitmore, in an amount not to exceed \$100,000 for outside counsel assistance regarding employment litigation for a two year term.

CONSENT CALENDAR (Cont.)

October 19, 2010

COUNTY ADMINISTRATOR

- 10-0754
14. Appropriation Transfer
- a. Adopt a Resolution authorizing budgetary reduction to the Fiscal Year 2010-2011 General Fund Contingency Funds in the amount of \$13,037 to reimburse the Permit and Resource Management Department for miscellaneous fee waivers approved by the Board of Supervisors, leaving a balance in the General Fund Contingency Funds of \$3,727,618. (4/5 vote required)
15. Status Report
- a. Transfers from Appropriations for Contingencies General Fund

BOARD OF SUPERVISORS

- 10-0739
16. Gold Resolution
- a. Commending the Sonoma County Bicycle Coalition's Hazard Reporting Program and the work of Steve Schmitz and Rob Silva to improve road safety. (Third District)
- 10-0740
17. Gold Resolution
- a. Commemorating United Nations Day on October 24, 2010. (First District)
- 10-0741
18. Gold Resolution
- a. Proclaiming October 23 to 31, 2010 as Red Ribbon Campaign Week. (Second District)
- 10-0725
19. Gold Resolution
- a. Commending Don and Maureen Green for their exemplary community contribution. (Third District)
- 10-0755
20. Reappointment
- a. Adopt a Resolution Reappointing Ginger Kelly to the Sonoma County Regional Parks Foundation for a term of two years. (Fourth District)
- 10-0756
21. Appointment
- a. Adopt a Resolution appointing Mike Runyon as Honorary Director of the Sonoma County Fair Board. (Fifth District)

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cont.

CONSENT CALENDAR (Cont.)

October 19, 2010

10-0742

1. Sonoma County Affordable Housing, Inc. Designation as a Community Housing Development Organization for the purposes of the HOME Program
 - a. Approve Concurrent Resolution of the County of Sonoma Board of Supervisors and the Board of Commissioners of the Sonoma County Community Development Commission, designating Sonoma County Affordable Housing, Inc. as a Community Housing Development Organization for the purposes of the HOME Program.

UNANIMOUS

67
cont.

REGULAR CALENDAR

October 19, 2010

CRIMINAL JUSTICE SYSTEM SERVICES

PROBATION

9:00

Present: Sheralynn Freitas, Deputy Chief Probation Officer
Jesse Irizary, Probation Department

22. Authorize Agreement to Provide Juvenile Evening Reporting Center Services
 - a. Authorize the Chief Probation Officer, on behalf of the County, to sign a Professional Services Agreement for the term of October 1, 2010, to September 30, 2011, with the Center for Social and Environmental Stewardship (\$375,000) to provide Juvenile Evening Reporting Center services for designated Sonoma County youth.

UNANIMOUS

DEVELOPMENT SERVICES

FIRE AND EMERGENCY SERVICES

9:20

Present: Chief Mark Aston, Emergency Services

23. Vision 2020 County Fire Strategic Plan
 - a. Accept the Vision 2020 County Fire Strategic Plan.

Speakers:

Chief Wilhorn
Nick Silva, Lakeville Fire Department

UNANIMOUS

TRANSPORTATION AND PUBLIC WORKS

9:55

Present: Phil Demery, Director, Transportation and Public Works

24. Solid Waste Collection Franchise Agreement
 - a. Approve Amended and Restated Solid Waste Collection Franchise Agreement By and Between the County of Sonoma and Redwood Empire Disposal Sonoma County, Inc. through October 31, 2029.

UNANIMOUS

REGULAR CALENDAR (Cont.)

October 19, 2010

TRANSPORTATION AND PUBLIC WORKS (Cont.)

10:20

Present: Phil Demery, Director, Transportation and Public Works

10-0757

25. Lease/Purchase of a Service Truck for Refuse Operations

- a. Adopt a resolution authorizing the lease/purchase of a service truck for Refuse Operations and authorizing the Director of Transportation and Public Works to execute all necessary and appropriate documents with Caterpillar Financial Services Corporation for a 5-year lease in the amount of \$139,200.

UNANIMOUS

GENERAL ADMINISTRATIVE SERVICES

COUNTY ADMINISTRATOR/GENERAL SERVICES/PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

10:20

Present: Veronica A. Ferguson, County Administrator
Don Schwartz, County Administrator's Office
Pete Parkinson, Director, Permit and Resource Management Department
Rich Bagala, General Services Department

26. Performance Measurement Pilot Project Final Report

- a. Accept the Performance Measurement Pilot Project Final Report.

UNANIMOUS

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cont.

REGULAR CALENDAR (Cont.)

October 19, 2010

10:45 Board recessed to Closed Session

11:35 Board recessed to 2:00 p.m.

2:00 Board reconvened

2:30 Report on Closed Session:

1. Conference with Legal Counsel-Anticipated Litigation (Govt. Code Section 54956.9(b)).

10-0758

27. Resolution authorizing execution of a settlement agreement for payment for transient occupancy taxes and business area improvement assessments and authorizing execution of a certificate of acceptance for a deed of trust.

UNANIMOUS

2. Instruction to Legal Counsel- Initiation of Litigation - Thin Film Transistor Liquid Crystal Displays ("LCDs") Antitrust Litigation (Govt. Code Section 54956.9©)). No action taken.
3. Instruction to Legal Counsel - Public Employee Appointment. Title: Director of Human Resources (Govt. Code Section 54957). No action taken.
4. Public Employee Appointment (Board of Supervisors, the Board of Directors of the Sonoma County Water Agency, the Board of Commissioners of the Community Development Commission and the Board of Directors of the IHSS Public Authority). Title: Director of Regional Parks (Govt. Code Section 54957). Appointment of Dr. Caryl Hart as new Director of Regional Parks effective November 8, 2010.

2:03 Public Comment opened

Wayne Kelley

Peter Tscherneff

Gail Johnson

Mary Morrison

2:13 Supervisor Zane left the meeting

2:14 Supervisor Zane returned

John Jenkel

2:19 Public Comment closed

2:19 Permit and Resource Management Department: Review and possible action on the following:

- a. Acts and Determinations of Planning Commission/Board of Zoning Adjustments
 - b. Acts and Determinations of Project Review and Advisory Committee
 - c. Administrative Determinations of the Director of Permit and Resource Management
- APPROVED

REGULAR CALENDAR (Cont.)

October 19, 2010

2:19 File No.: PLP97-0046 - Canyon Rock Quarry
 Description: Pursuant to an August 17, 2010 settlement agreement, request to
 rescind Zoning Ordinance No. 5667 to the extent it rezoned any
 land outside the 20-year-limit of grading permitted by Use Permit
 PLP997-0046
 Location: 7761, 7779 and 7777 Martinelli Road, Forestville
 Sup Dist.: 5

2:19 Public Hearing opened

2:19 Public Hearing closed

Ordinance No. 5903

28. Ordinance amending the official zoning data base of the County of Sonoma, adopted by reference by section 26-02-110 of the Sonoma County Code, by rescinding Ordinance No. 5667 and reclassifying portion of certain real property located at 7761, 7779, and 7777 Martinelli Road, Forestville, APNs 083-210-006, 083-210-015, 083-210-020, to add the MR (Mineral Resource) combining district to the existing zoning of RRD (Resources and Rural Development), b6-160 acre density, with portions also zoned in the SR (Scenic Resources), BR (Biotic Resource), F2 (Floodplain) and VOH (Valley Oak Habitat) combining districts (PLP 97-0046).

UNANIMOUS

2:20 Board recessed

2:30 Board reconvened

- 2:30 The Board of Supervisors and the Board of Directors of Sonoma County Agricultural Preservation and Open Space District considered File No.: PLP03-0094 and the Roblar Ranch Conservation Easement concurrently.

File No.: PLP03-0094 - John and Andrea Barella, Trust - Roblar Quarry
 Description: Certification of the Final EIR and request for zone change, use permit and
 mining and reclamation plan for an aggregate rock quarry with annual
 production of up to 570,000 cubic yards for 20 years (APN 027-080-009
 and 010)
 Env. Doc.: Environmental Impact Report
 Location: 7601 and 7175 Roblar Road, Sebastopol
 Sup. Dist.: 2

Present: Pete Parkinson, Director, PRMD
 Blake Hillegas, Project Planner, PRMD
 Paul Mitchell, Consultant
 David Hurst, Chief Deputy County Counsel
 Speaker: Sally McGough, Deputy County Counsel

REGULAR CALENDAR (Cont.)

October 19, 2010

File No.: PLP03-0094 (Cont.)

The Board of Supervisors gave direction to staff to remove the Agricultural Preservation and Open Space District proposed easement exchange with the applicant.

- 2:49 Board of Directors of Sonoma County Agricultural Preservation and Open Space District
Roblar Ranch Conservation Easement (APN 027-210-006 and 027-200-003)

Description: Proposed exchange of real property pursuant to Public Resources Code 5540.5 and proposed amendment to conservation easement to allow for establishment of California Tiger Salamander and California Red-Legged Frog preserve.

Present: Maria Cipriani, Agricultural Preservation and Open Space District
Sheri Emerson, Agricultural Preservation and Open Space District

Speaker: Sue Gallagher, Deputy County Counsel

- 3:05 Public Hearing opened

John Barella, Applicant
Jean Kapolchok, J. Kapolchok & Associates
Ted Winfield, Ph.D
Stephen Butler
Pamela Torliatt, Mayor, City of Petaluma
David Glass, Vice Mayor, City of Petaluma
Greg Carr
Jack Buckhorn
Kathleen Tresch
Damon Callegary
Julie Jacobson
Chris Snyder
Mark Lieman, Cotati City Council
Sheryl Bratton, County Counsel
Gerry Lopez
Ann Gilbert
Ralph Miranda
David Spilman
Gail Coughlan
Carol Vinniti
Stan Carpenter
Bruce Norbid
Nick Baretto
Jason Erick
George Stephenson
Donna Norton

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cont.

REGULAR CALENDAR (Cont.)

October 19, 2010

File No.: PLP03-0094 and Roblar Ranch Conservation Easement (Cont.)

- Keith Woods
Susan Barrital
- 4:32 Board recessed
- 4:46 Board reconvened
Supervisor Zane was not present
Susan Kirks
Arthur Niebrief
- 4:51 Supervisor Zane joined the meeting
Bill Baldavitch
Bob Piazza
Jeff Pudruff
Bill Cordum
Jerry Cozzi
Gail Delpid
Donna Spilman
David Petrits
Arthur Slater
Forrest Phine
Alan Nelson
Jackie McMahan
Marcia Sue
Margaret Hanley
Pat O'Haloreen
John Siesien
Tom Siesien
Sue Buckston
Nia Bradford
Gary Reed
- 5:31 Public Hearing closed

Board of Directors of Sonoma County Agricultural Preservation and Open Space District gave direction to staff to return on November 9, 2010 with more information and reopen the public hearing regarding the California Tiger Salamander and California Red-Legged Frog preserve.

Straw vote:

Motion to certify the Final Environmental Impact Report (FEIR) and adopt a Statement of Overriding Considerations subject to findings; approve a Zone Change to add Mineral Resources overlay zone to the proposed 70 acre mining site and a 25 foot perimeter setback area around the parcel; approve the Use Permit and Mining and Reclamation Plan; and approve the certification of the re-circulated portions of the FEIR.

REGULAR CALENDAR (Cont.)

October 19, 2010

File No.: PLP03-0094 and Roblar Ranch Conservation Easement (Cont.)

AYES: Kelley, Kerns, Brown
NOES: Carrillo, Zane

- 10-0759
29. Resolution continuing the final approval for the certification of the Final Environmental Impact Report as recommended by staff for the Roblar Road Quarry at 7601 and 7175 Roblar Road (PLP03-0094) to December 14, 2010 on the consent calendar.

AYES: Kelley, Kerns, Brown
NOES: Carrillo, Zane

- 10-0760
30. Resolution to continue and reopen the public hearing limited to new information to the Roblar Ranch Conservation Easement proposed amendment of the California Tiger Salamander and California Red-Legged Frog preserve to November 9, 2010 at 3:00 p.m.

UNANIMOUS

- 6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS

COMMUNITY DEVELOPMENT COMMISSION

October 19, 2010

The Board of Commissioners of the Community Development Commission met this date in adjourned session at 8:30 a.m., with the following members present:
Commissioners Kerns, Zane, Kelley, Carrillo, Brown

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

CONSENT CALENDAR

DEVELOPMENT SERVICES

- 10-0742
1. Sonoma County Affordable Housing, Inc. Designation as a Community Housing Development Organization for the purposes of the HOME Program
 - a. Approve Concurrent Resolution of the County of Sonoma Board of Supervisors and the Board of Commissioners of the Sonoma County Community Development Commission, designating Sonoma County Affordable Housing, Inc. as a Community Housing Development Organization for the purposes of the HOME Program.

UNANIMOUS

6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS

SONOMA COUNTY WATER AGENCY

October 19, 2010

The Board of Directors of the Sonoma County Water Agency met this date in adjourned session at 8:30 a.m., with the following members present:
Directors Kerns, Zane, Kelley, Carrillo, Brown

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

CONSENT CALENDARDEVELOPMENT SERVICES

2. Willow Creek Fish Passage Enhancement Project
 - a. Authorize Chair to execute the Agreement for Partial Funding of the Willow Creek Fish Passage Enhancement Project between the Sonoma County Water Agency and Trout Unlimited (\$105,000; agreement terminates on November 30, 2011). (Fifth District)

10-0743

 - b. Adopt a Resolution adjusting the Fiscal Year 2010/2011 Budget for the Water Agency General Fund in the amount of \$105,000.

10-0744

 - c. Adopt a Resolution adjusting the Fiscal Year 2010/2011 Budget for the Warm Springs Dam Revenue Fund in the amount of \$105,000.

10-0745
3. 1315 Airport Boulevard Tenant Improvements (Geothermal Ground Loop) - Adopt Plans and Specifications and Award Construction Contract
Adopt a Resolution:
 - a. Finding that the experience requirements are appropriate for the Project.
 - b. Adopting the plans and specifications entitled "1315 Airport Boulevard Tenant Improvements (Geothermal Ground Loop)" as submitted by the Chief Engineer of the Water Agency.
 - c. Authorizing the General Manager of the Water Agency to sign an Agreement and Release of Any and All Claims, with County Counsel review, if any unresolved claims are listed by the contractor.

SPECIAL DISTRICTS (Cont.)

October 19, 2010

CONSENT CALENDAR (Cont.)

SONOMA COUNTY WATER AGENCY (Cont.)

- d. Authorizing the General Manager of the Water Agency to waive the escrow account requirements of Escrow Bid Documents of the Project Manual.
- e. Accepting the lowest responsible and responsive bid for the 1315 Airport Boulevard Tenant Improvements (Geothermal Ground Loop) project and letting the contract for construction to Bertram Drilling, Inc. for \$468,505.
- f. Approving Construction Performance Bond and Document 00620 (Construction Payment Bond).
- g. Authorizing the Chair of the Board to execute the contract with Bertram Drilling, Inc. for the aforesaid work, including the performance and payment bonds attached thereto.

UNANIMOUS

6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

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cont.

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS

SONOMA VALLEY COUNTY SANITATION DISTRICT

October 19, 2010

The Board of Directors of the Sonoma Valley County Sanitation District met this date in adjourned session at 8:30 a.m., with the following members present:

Directors Brown, Carrillo

Absent: Barbose

Chair Brown presiding.

Present: Veronica A. Ferguson, County Administrator
Steven M. Woodside, County Counsel

CONSENT CALENDAR

DEVELOPMENT SERVICES

- 10-0746
4. Glen Ellen Creek Bank Repair Easement Agreement
- a. Adopt a Resolution authorizing the General Manager to execute an easement agreement between the Sonoma Valley County Sanitation District and Brigida Viratos in the form as presented to this Board. (First District)

AYES: Brown, Carrillo
ABSENT: Barbose

6:42 The meeting was adjourned to October 26, 2010 at 8:30 a.m.

Respectfully submitted by,

Michelle Arellano
Deputy County Clerk

Date: November 9, 2010 at 3:00 pm
To: Board of Directors
From: Bill Keene, General Manager
Subject: Roblar Ranch Conservation Easement:
Request for Amendment

I. Background

On May 21, 2004, the Sonoma County Agricultural Preservation and Open Space District (District) acquired a Conservation Easement ("Ranch Easement", on file with clerk) over the 757.7-acre Roblar Ranch property along Roblar Road ("Easement Property", see Attachment 1). The purpose of the acquisition was to preserve the property's agricultural, scenic, and natural resource values. The property is characterized by rolling hills with grassland, oak woodland and riparian woodland, and contains approximately one-half mile of Americano Creek as well as two of its tributaries.

At the time of the acquisition, the Easement Property was owned by the Barella Family Trust. The fee interest was subsequently divided and transferred to two conservation buyers on June 14, 2004, both of whom still hold title. The western 388.7-acre parcel is owned by Ken and Clairette Wilson, who use their property for cattle grazing ("the Wilson Property"); the eastern 368.9-acre parcel is owned by Joe and Kathleen Tresch, who likewise use their property for cattle grazing ("the Tresch Property"). The two parcels remain under the Ranch Easement, the conservation easement jointly held by the two families.

Although the Barella Family Trust no longer owns the Easement Property, it does currently own 200 acres immediately north of the Easement Property. Last month, the Board of Supervisors, by straw vote, tentatively approved the development of a 70-acre commercial quarry on that northerly site ("the Quarry Property").

In connection with the Quarry, John Barella and Ken Wilson have requested a clarification of or amendment to the Ranch Easement to allow for the establishment of a 105-acre California tiger salamander (CTS) and California red-legged frog (CRLF) preserve on the Wilson Property ("Requested Amendment," see Attachments 2,3,4 & 5). The Treschs have indicated that they object to that request, and will be submitting a letter to the Board and the District stating their position.

After evaluating the request, staff determined that the request was inconsistent with the Ranch Easement and would require an amendment. The General Manager recommended that an alternative configuration of the mitigation preserve be considered.

The District's Board of Directors initially considered the Requested Amendment at its October 19th hearing. The Board continued the matter to November 9, 2010, and directed District staff to work

with the project applicant to contact the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) for feedback on the mitigation proposal.

District staff met with the project applicant on October 27, 2010, and submitted a letter to the regulatory agencies on November 2, 2010, requesting an evaluation of the mitigation value of two alternative configurations of the Preserve (Attachment 6). At this point the agencies have not approved either the applicant's configuration or the District's proposed reconfiguration.

II. Requested Amendment

A. Description of Proposed Offsite Mitigation Preserve

The Requested Amendment would allow for the establishment of a 105-acre CTS/CRLF preserve on the Wilson Property as shown on Attachment 7 ("Requested Preserve Area"). The establishment of the Preserve would include (1) the expansion of an existing stock pond on the Wilson Property, (2) the construction of a new stock pond (.15 to .25 acre) on the Wilson Property, and (3) the conveyance of a more restrictive conservation easement over a portion of the Wilson Property to CDFG or USFWS.

Under the Public Resources Code, an amendment to a conservation easement may be approved with a majority vote of the District's Board of Directors.

B. Analysis of Proposed Offsite Mitigation Preserve

1. Inconsistency with Terms of Ranch Easement

At the outset, the construction and expansion of stock ponds is permitted under the terms of the Ranch Easement in connection with agricultural use of the land. The stock ponds are therefore not of concern and would be permitted on the Wilson Property with or without the Requested Amendment.

District staff has determined, however, that the proposed establishment of an off-site mitigation preserve on the Wilson Property is inconsistent with at least two express provisions of the Ranch Easement, and perhaps others.

First, the proposed use of the Wilson Property for a CTS/CRLF preserve will require recordation of a new restrictive easement in favor of CDFG. The Ranch Easement, however, allows recordation of new third-party easements *only* "where they will *remove or significantly lessen the impact of existing easements of record* on the protected values..." (Easement Exhibit B, Paragraph 7). Since the new CDFG easement does not replace or reduce the impact of any existing easement of record, it is not permitted under the plain language of the Ranch Easement.

Second, the Ranch Easement expressly prohibits any non-agricultural commercial use of the Wilson Property (see Exhibit C, paragraph 1). Use of the Wilson Property as mitigation for off-site development is a non-agricultural commercial use, and thus, again, is not permitted.

The proposed mitigation preserve would require an amendment to these provisions and perhaps others.

2. Consideration of an Amendment

The prohibitions against new third party easements and against non-agricultural commercial uses are designed to help to ensure that the primary purpose of the Ranch Easement – preservation of the property for agricultural purposes -- is maintained. The Ranch Easement states plainly that its purpose is to “primarily preserve the Property’s productive agricultural soils, agricultural viability and productivity, and the Property’s size, such that it remains large enough to sustain an economically viable agricultural operation.”

That being said, however, the purpose of the Ranch Easement also includes protection of “the natural resource values of the Property” and prohibits “any use that would impair, degrade, or damage these values”. If the mitigation proposal could be designed to substantially further that purpose, while minimizing adverse impacts to the agricultural values of the Wilson Property, the requested amendment could be deemed consistent with the Ranch Easement.

a. District’s Amendment Policy

The District’s Easement Amendment Policy, set forth in the Board approved 2006 Stewardship Manual (on file with clerk), states that:

- *The District shall approve amendments to conservation easements only where there is a clear benefit to the District and its conservation goals;*
- *The District shall approve amendments to conservation easements only where the amendment is consistent with law, with adopted District policies and with the conservation purpose of the easement; and*
- *Amendments to provide for additional natural resource protection shall be permitted provided that such additional protection does not diminish or otherwise impair the conservation values of the land.*

District staff evaluated the applicant’s proposal to determine if an amendment to the Ranch Easement to allow creation of the Preserve on the Wilson Property would be consistent with the District’s Amendment Policy.

b. Protection of Natural Resources Identified in the Ranch Easement

The proposed Preserve is located at the northernmost extent of the Wilson Property, bounded by Roblar Road to the west and the Tresch Property to the east, and includes upland grassland, oak woodland, seasonal drainages, and portions of Americano Creek and Ranch Tributary that include riparian vegetation such as willow and Oregon ash. The riparian areas and oak woodlands are identified in the Ranch Easement as Natural Resource Areas, within which no structures can be built or permanent crops planted.

Creation of the Preserve would clearly benefit the natural resource values of the Wilson Property by providing additional protection of habitat for CTS and CRLF. On the other hand, establishment of the Preserve could significantly restrict agricultural use of the Wilson Property in perpetuity. Typically, CDFG easements prohibit agricultural activities of any kind except grazing for vegetation management. The proposed configuration of the Preserve includes significant acreage of open

grassland, grassland currently used for dairy and beef cattle grazing. These open lands also present opportunities for other potential future agricultural uses. Recordation of the CDFG easement could eliminate those possibilities, thereby diminishing the agricultural values of the Wilson Property. The District's Amendment Policy prohibits amendments that would "*diminish or otherwise impair the conservation values of the land.*" As currently proposed, the requested amendment therefore would not comply with the District's Amendment Policy.

However, if the proposed Preserve Area were reconfigured to focus on those areas called out for protection under the Ranch Easement, the amendment may enhance rather than diminish the Wilson Property's conservation values. If the Preserve Area were reconfigured to include only the riparian areas and existing oak woodland tree canopy, along with an associated 250-foot buffer that include the created stockpond and some upland grasslands, then the key natural resource values expressly identified in the Ranch Easement would be enhanced while potential impacts to the agricultural values of the Wilson Property would be minimized. The reconfigured Preserve Area, still encompassing approximately 105 acres, would allow for the restoration and regeneration of the riparian and oak woodland habitat, and would strengthen the permanent protection of the Wilson Property's natural resources (See Attachment 8). The reconfigured Preserve Area could therefore be found to be consistent with the Easement Amendment Policy.

Although District staff recognizes the risks of allowing mitigation on protected lands, staff believes that, under these particular circumstances, the Reconfigured Preserve Area – focused solely on the riparian areas, oak woodlands and appropriate associated buffers – could strengthen the permanent protection of the natural resource values specifically called out in the Ranch Easement, without significantly impacting the property's agricultural values. In addition, the reconfigured area would also meet the 105-acre mitigation area requested by the project applicant. Accordingly, the amendment to allow for mitigation could be beneficial to the property's protected values.

c. Property Owners Consent

Any amendment to the Ranch Easement would require approval of all landowners that are party to the easement, in this case including Ken and Clairette Wilson, and Joe and Kathy Tresch. The Ranch Easement is a single easement encompassing both properties. An amendment cannot be recorded without the signature of all property owners.

The District only works with willing landowners, in accordance with voter-approved Measures A and C, adopted in 1990, and Measure F, adopted in 2006. The District is not a regulatory agency, and depends upon good working relationships with its landowners and other partners to protect lands. District staff is concerned that approval of an amendment before the landowners themselves have reached agreement could undermine these relationships.

d. Broader Policy Issues

Allowing use of conservation easement properties for mitigation raises several broader policy implications and has been the subject of considerable debate in recent years. Amending the Ranch Easement to allow for CTS and CRLF mitigation on the Wilson Property may set a precedent for other conservation easements. Lands conserved for agricultural purposes, like the Wilson Property, may be targeted for conversion to mitigation, due to their lower cost (their development values having already sold). Yet many of these conserved lands are recognized as key agricultural resources, important to the continued viability of agriculture in Sonoma County. In individual cases, the

conversion of such conserved lands (or portions of such land) may be seen as insignificant, but together, they may result in a cumulative loss of the County's productive farmland.

Another consideration is that state and federal regulations that protect species do change over time, as does the protected status of a species. For example, the Sonoma County Distinct Population Segment of the California tiger salamander was listed by the U.S. Fish and Wildlife Service as endangered in 2002, but was changed to threatened in 2004. In 2005, the listing was changed back to endangered. The California tiger salamander was proposed for State listing in the 1990s, but was only approved for listing as Threatened by the California Fish and Game Commission in March of 2010. A protected species may recover to the point of delisting under the Endangered Species Act, or conversely might become extinct.

Conservation easements, on the other hand, offer permanent protection for the purchased conservation values, through permanent restrictions on land uses. Once a conservation easement is recorded, unless amended, it provides protection of conservation values in perpetuity. In the case of the proposed mitigation preserve, agricultural uses beyond grazing as determined by a Grazing Management Plan would be prohibited forever on the property now owned by the Wilsons. A future property owner may desire to use the land for other agricultural uses, but would not be allowed to do so.

3. Citizens' Advisory Committee

At their October 28, 2010 meeting, the Citizens' Advisory Committee discussed the request for an amendment to the Ranch Easement. Committee members stated their opposition to the establishment of a mitigation preserve on the Wilson Property, particularly with respect to the precedent that would be set if an amendment were to be approved. They expressed concern that such an action would compromise the integrity of perpetual conservation easements and erode the public's trust. The Committee further expressed concern that the preserve would diminish agricultural uses of the Wilson Property for a limited environmental benefit. Finally, the Committee expressed concern about the private commercial benefit associated with amending the Ranch Easement to allow offsite mitigation for the quarry project. At the meeting, members of the public also spoke out against the amendment. At the conclusion of the meeting, the Committee voted unanimously to send a letter to the Board recommending that the Board deny the applicant's request.

Recommendation

The District General Manager has determined that the proposal for a CTS/CRLF preserve on the Wilson Property is not consistent with the existing terms of the Ranch Easement, and cannot be allowed without an easement amendment.

Further, the General Manager cannot recommend that the District Board of Directors approve an amendment to allow the CTS/CRLF preserve as currently proposed, as it may diminish or impair the protected agricultural values of the Wilson Property.

The General Manager, however, believes that if the Preserve Area is reconfigured as recommended by staff, and both landowners party to the Ranch Easement are in agreement, an amendment to allow establishment of the Preserve would be acceptable.

On File with Clerk

Roblar Ranch Conservation Easement

Staff Report to Board of Directors, April 6, 2004, Acquisition of CE over Roblar Ranch

Staff Report to Board of Directors, October 19, 2010, Request for Exchange and Amendment to the Roblar Ranch Easement

Easement Amendment Policy (excerpt from District Stewardship Manual)

Attachments

1. Site Map: Roblar Ranch Conservation Easement
2. Letter from Stephen Butler dated July 21, 2010
3. Letter from Ken Wilson dated August 12, 2010
4. Letter from Stephen Butler dated September 29, 2010
5. Letter from Stephen Butler dated October 13, 2010
6. Letter from District Staff to USFWS and CDFG dated November 1, 2010
7. Site Map: Requested Preserve Area
8. Site Map: Reconfigured Preserve Area

Hans W. Herb, Esq. (SBN 136018)
LAW OFFICES OF HANS W. HERB
P. O. Box 970
Santa Rosa, California 95402
(707) 576-0757
(707) 575-0364 Fax
hans@tankman.com

*Attorneys for Petitioners Joseph W. Tresch And
Kathleen M. Tresch as Trustees of the Joseph W. and
Kathleen M. Tresch Revocable Trust and Kenneth
Mazzetta and Nancy Mazzetta*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

JOSEPH W. TRESCH AND KATHLEEN M.
TRESCH AS TRUSTEES OF THE JOSEPH W. AND
KATHLEEN M. TRESCH REVOCABLE TRUST, and
KENNETH MAZZETTA AND NANCY MAZZETTA
and CITIZENS ADVOCATING FOR ROBLAR
RURAL QUALITY,

Petitioners,

v.

COUNTY OF SONOMA AGRICULTURAL
PRESERVATION AND OPEN SPACE DISTRICT
BOARD OF DIRECTORS, COUNTY OF SONOMA,
COUNTY OF SONOMA BOARD OF
SUPERVISORS, and

Respondents,

JOHN BARELLA and JOHN E. BARELLA AND
ANDREA M. BARELLA TRUST, and DOES 1
through 25, inclusive,

Real Parties in Interest.

Case No.: SCV 249021

**DECLARATION OF HANS W. HERB IN
SUPPORT OF PETITIONERS TRESCHS' AND
MAZZETTAS' JOINDERS IN PETITIONER
CARRQ'S OPPOSITIONS TO REAL PARTY IN
INTEREST'S DEMURRER AND MOTION TO
STRIKE AND DEMURRER OF COUNTY OF
SONOMA AGRICULTURAL PRESERVATION
AND OPEN SPACE DISTRICT BOARD OF
DIRECTORS, COUNTY OF SONOMA**

Date: June 22, 2011

Time: 3:00 p.m.

Dept: 16

Judge: Hon. Elliot Daum

Date Original

Petition Filed: January 26, 2011

General Civil Case

HANS W. HERB declares as follows:

1 1. I am an attorney at law, duly licensed to practice before all Courts in this State. I am
2 competent to testify, and if called upon to do so, could testify truthfully to the facts contained
3 herein.

4 2. I represent Petitioners Joseph W. Tresch and Kathleen M. Tresch as Trustees of the
5 Joseph W. and Kathleen M. Tresch Revocable Trust and Kenneth Mazzetta and Nancy Mazzetta in
6 this matter.

7 3. Petitioners have filed a Joinder in CARRQ's opposition to the two pending demurrers
8 before this Court. However, in the opposition, reference was made to a record that was then
9 unavailable. Attached hereto as Exhibit A is a true and correct copy of the transcript, provided to
10 me by the Court Reporter with a reporter's certification included.

11 4. As noted in that record, County Open Space District Office staff recommended
12 against the very action that ultimately was undertaken by the Board.

13 5. Further, Mr. Barella appeared at the hearing and directly tied the easement to the
14 quarry, calling them together "the project" and noting the work on the project had been in progress
15 for 7 years!.

16 6. In the transcript on page 4, the District's general counsel asked staff member Sheri
17 Emerson, the Stewardship Program Manager, and Sue Gallagher, a deputy county counsel, to
18 address the issue of the procedure to be used in this proceeding.

19 7. In that regard, the staff noted a number of legal options were available. Specifically,
20 These options include, number one, the interpretation of the conservation easement;
21 and, number two, an amendment to the conservation easement. Before the board
22 today are draft resolutions for each of these two alternatives.

23 The general manager continues to recommend that an amendment to
24 rather than the interpretation of the conservation easement would be the
25 appropriate option to allow for establishment of the preserve.

26 This concludes the staff presentation. Staff – district staff and county counsel
27 staff are available to answer any questions you may have.

28 Thanks.

MADAM CHAIR: Thank you.

Are there any comments by county counsel or by staff? Any questions of the
board?

1 Seeing none. Then I'm going to open it for public hearing and you may come
2 forward.

3 (Emphasis added.)

4 8. Mr. Barella also appeared at the hearing. His testimony is also key to this motion.
5 Specifically, Mr. Barella stated:

6 PUBLIC SPEAKER: Good evening, President Brown and Members of the Board.
7 My name is John Barella. My wife and I are the applicants for the Roblar Road
8 quarry. [Emphasis added.]

9 I want to clarify the record on what we're offering the county for mitigating
10 the red-legged frog and the California Tiger Salamander on the 105 acres of land on
11 the Wilson property which is in the Sonoma County agriculture preservation and
12 open space district.

13 We – to the agriculture and conservation easement, 130 acres adjacent to
14 the quarry site. Then 70 acres after the quarry site reclamation which total is 200
15 acres of land to the Sonoma County agricultural and open space district. [Emphasis
16 added.]

17 Also, we'll put into the open space district an agriculture and conservation
18 easement on our 243 ranch on Lakeville which has 1,600 real feet of Petaluma River
19 frontage and are surrounded by three other ranchers that are already in the open
20 space district.

21 We feel that has an easement of value of approximately \$2 million. We are
22 offering a total of 443 acres to the open space district at no cost to the open space
23 district. I think that's significant.

24 Everybody talks about taking of land. Here we are willing to give up 443 acres
25 of land at no cost to the open space district. On the 105-acre Wilson property, we
26 also offered the open space district to do mitigation work on the riparian and
27 tributary areas at no cost to the open space district. We will put an endowment fund
28 on the entire property in perpetuity to manage and preserve the California Tiger
Salamander and the red-legged frog. This endowment could cost between \$3.5
million to that \$4.5 million.

This open space easement on the Wilson property was to protect not only
agriculture but also the natural resources on the property and this is exactly what
we're trying to do. Because of our due diligence, we found the California Tiger
Salamander and the red-legged frog. We are now trying to do what's being required
by Fish & Game and Fish & Wildlife to protect these endangered species.

This project application has been before the county for over seven years. It
has not been a rushed project. We ask you at this time to decide the fate of this
project. [Emphasis added.]

Also, I'd like to give you a binder here that we mailed to – 10,000 brochures
went out to different households in an 8- to 10-mile radius around the project site.
Of those, we had 524 respondents, more than 2,900 visits to the website. We ended

up with 376 supporters, 127 opponents and 21 undecided. I leave this binder and a CD for each of you board members to review. [Emphasis added.]

Thank you very much.

MADAM CHAIR: Thank you. Your time is up.

9. As can be seen, Mr. Barella himself referred to this specific process as "the project."

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 9th day of June, 2011, at Santa Rosa, California.


Hans W. Herb

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cont.



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BOARD OF SUPERVISORS

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SONOMA COUNTY

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STATE OF CALIFORNIA

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In the Matter of the Roblar
Road Quarry

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BOARD OF SUPERVISORS MEETING

11

DECEMBER 7, 2010

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REPORTER'S TRANSCRIPT TRANSCRIBED FROM AUDIO TAPES

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Reported by:
Cindy E. Pacatte, CSR No. 12839

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DECEMBER 7, 2010

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P R O C E E D I N G S
Page 1

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cont.

ROBLAR EASEMENT_F2[1].txt

3 --oOo--

4 (Beginning of Tape 4 of 4, side 1 of
5 BOS Roblar Quarry Hearing 12/07/10.)

6
7 MADAM CHAIR: It is just a pleasure to be back
8 at 5:30. We're only two and a half hours out from our
9 3:00 o'clock public hearing. But we're going to begin
10 hearing on Roblar Ranch conservation easement. I want
11 to remind those that are here that this is not about the
12 quarry. This is only about the conservation easement.
13 So if you come up to testify, limit your comments to
14 that area alone.

15 And I'm going to turn it over to staff.

16 MARIA CIPRIANI: Good evening, Madam
17 President, Directors. Maria Cipriani, assistant general
18 manager, Sonoma County Agricultural Preservation and
19 Open Space District. With me are Sheri Emerson,
20 stewardship program manager with the district, and Sue
21 Gallagher, deputy county counsel.

22 On October 19th the district's board of
23 directors initially considered the request to interpret
24 and/or amend the Roblar Road Ranch conservation easement
25 to allow for the establishment of the mitigation

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1 preserve on the Roblar Ranch property for protection of
2 California Tiger Salamander and California Red-Legged
3 Frog. The board continued the matter to November
4 9th and directed district staff to work with the project
5 applicant to contact the US Fish & Wildlife Service and
6 California Department of Fish & Game on feedback on

ROBLAR EASEMENT_F2[1].txt

7 alternative configurations for the proposed preserve.
8 The board continued the matter again to
9 December 7th to allow more time for a response from the
10 agencies and to determine what, if any, legal steps
11 might be necessary or appropriate to allow for the
12 proposed preserve.
13 Now I would like to turn the presentation over
14 to Sheri to give a brief summary of the status of the
15 project.
16 SHERI EMERSON: Thank you.
17 On November 2nd, district staff submitted a
18 letter to the regulatory agencies requesting an
19 evaluation of the mitigation value of two alternative
20 configurations -- regulatory agency staff have deeply
21 expressed concerns about both configurations including
22 the proximity of the preserve to both Roblar Road and
23 the quarry itself. However, since a complete --
24 application package has not yet been submitted to either
25 agency for the project, staff from both agencies have

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1 declined to formally respond to inquiries.
2 Staff is aware that there is interest in
3 comparing past conservation easements with the Roblar
4 Ranch easement we have placed several examples on
5 file with the clerk for comparison. It is important to
6 note every incident is somewhat different. Each has
7 its own purpose, and each its own -- each easement needs
8 to be evaluated based upon its own circumstances.

9 The board has expressed interest in
10 considering alternatives to allow for establishment of
Page 3

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cont.

ROBLAR EASEMENT_F2[1].txt

11 the preserve. These options include, number one, the
12 interpretation of the conservation easement; and, number
13 two, an amendment to the conservation easement. Before
14 the board today are draft resolutions for each of these
15 two alternatives.

16 The general manager continues to recommend
17 that an amendment to rather than the interpretation of
18 the conservation easement would be the appropriate
19 option to allow for establishment of the preserve.

20 This concludes the staff presentation.
21 staff -- district staff and county counsel staff are
22 available to answer any questions you may have.

23 Thanks.

24 MADAM CHAIR: Thank you.

25 Are there any comments by county counsel or by
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1 staff? Any questions of the board?

2 Seeing none. Then I'm going to open it for
3 public hearing and you may come forward.

4 PUBLIC SPEAKER: Thank you very much. Member
5 of the board, my name is Pamela Torliatt. I'm the mayor
6 of the city of Petaluma, and I wanted to state for the
7 record that on your November 9th staff report, I think
8 that there's plenty of information included in that
9 report to deny this request. There are few comments,
10 concerns and issues with the proposal. One being that
11 the district depends upon good-working relationships
12 with its landowners and other partners to protect its
13 lands. The land approval of this amendment before the
14 landowners themselves have reached an agreement could

Page 4

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cont.

ROBLAR EASEMENT_F2[1].txt

15 undermine the ability of the district to maintain its
16 reputation of working with -- landowners.

17 Also, the adoption of the -- would compromise
18 the integrity of the perpetual conservation easements
19 and ruin the public's trust.

20 Third, the private commercial development will
21 unfairly benefit at taxpayers' expense by amending the
22 ranch easement to allow off-site mitigation for a
23 development project.

24 Fourth, the advisory committee voted
25 unanimously to recommend denial of the applicant's

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1 request. And as I also recall the listing of the
2 California Tiger Salamander was so concerning to the
3 County of Sonoma and cities in the Santa Rosa plains
4 that they were in fear that it was going to halt all
5 development because of the area that encompassed the
6 Santa Rosa plains.

7 so it seems to me that there is plenty of land
8 out there that could be used as mitigation land for the
9 tiger salamander.

10 I urge you to deny this request. I also would
11 like to state that after the last meeting that was held
12 regarding the quarry project -- Supervisor Kerns accused
13 myself and my colleagues of our comments being political
14 grandstanding. My response is that I consider my
15 presence and comments as representing and protecting the
16 public interest. And I will continue to do so.

17 Thank you very much.

18 MADAM CHAIR: Thank you.
Page 5

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19 Next.

20 PUBLIC SPEAKER: Madam Supervisor, Members of
21 the Board. My name is David Glass, vice-mayor of City
22 of Petaluma, mayor-elect City of Petaluma, past mayor of
23 City of Petaluma. We all campaigned, and I campaigned
24 at the request of Marleen Middlebrook (phonetic) for the
25 extension of this open space district funding. I

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1 campaigned on a promise of a sacred trust with the
2 taxpayers of this county. What you are going to hear is
3 a number of people expressing concern about the
4 violation of that trust. And it's not implied. It's
5 explicit.

6 The conservation easement with the Sonoma
7 County Open Space District, they go into perpetuity.
8 Into perpetuity would lend itself to say that a
9 reasonable person could come to the conclusion that that
10 means it cannot be amended.

11 The agreement is binding. It's entered into
12 by a willing seller. Only a willing seller can enter
13 into an agreement such as this. So it's not whether I'm
14 an attorney or not, because clearly I'm not. But I'm
15 one that has gone out as each of you have and talked to
16 the public about building that public trust. And this
17 is a promise that is made. And it's a reasonable
18 expectation. It's an expectation on the part of the
19 environmental community. It's an expectation on the
20 part of the neighbors here. And, in fact, you don't
21 have a consensus amongst the adjoining property owners
22 that would be affected by this proposed amendment

Page 6

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cont.

ROBLAR EASEMENT_F2[1].txt

23 because you've got the wilsons that may be in favor of
24 it, I suppose. I've seen information lending to that
25 speculation, but you've got the Tresches that are

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1 against it. And then you've got Mr. Barella that is for
2 it.

3 So what you really need here is you need
4 unanimity if you're going to propose amendments to
5 contracts that are entered into into perpetuity. And
6 you certainly don't have. You don't have it from
7 elected officials. You don't have it from the
8 environmental community. You don't have it from the
9 neighboring adjoining property owners. But you do have
10 it from the beneficiary of the man that entered into
11 this contract willingly years ago and accepted the
12 public taxpaying dollars to enter into a contract that
13 is noncancelable and into perpetuity.

14 So I'm simply asking you to make the
15 no-brainer, easy decision and that's to live up to the
16 terms of a contract rather than attempt to find a way to
17 amend it.

18 Thank you very much, and I'll be leaving now.

19 MADAM CHAIR: Next.

20 PUBLIC SPEAKER: Good evening. I'm president
21 Steve -- resident of Santa Rosa. I am a member of the
22 advisory committee. But I'm not here in that capacity
23 tonight. I'm an individual. But I am an individual who
24 has a long history in the district. I was on the
25 steering committee that campaigned in 1990, on the

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1 advisory committee for eight years and on the steering
2 committee again in 2006 and back on the advisory
3 committee once again.

4 MADAM CHAIR: And you are my appointee.

5 PUBLIC SPEAKER: And I am happily Shirlee's
6 appointee. Thank you, Shirlee.

7 I believe this is not a proposal you should go
8 ahead with. I believe that in purchasing this property
9 and the easement you already protected the land. You
10 protected it for primarily agricultural values. And,
11 yes, there are resources on there that are protected as
12 well. So you have done that on this property. The
13 amendment or the change to this agreement, I believe,
14 would potentially impact adversely this agricultural
15 easement. It may lead to practices that are more
16 difficult and which will limit the agricultural value.

17 I think what you really need to look at as
18 anybody in public office is what is the benefit to the
19 public. And if there is a benefit to the private
20 sector, to the people who are going to benefit from
21 changes of this easement, but if you look closely at
22 what the benefit to the public is, I don't think you
23 find it in changing this easement.

24 As I said, the land is protected. The thing I
25 fear is precedent. And it's already being said or we

1 already have precedent to do this, but we don't. There
2 have not been projects like this before. But if you

ROBLAR EASEMENT_F2[1].txt

3 approve this today, we will over and over have
4 applications and requests to go ahead and for every
5 development that needs to mitigate California Tiger
6 salamander or other species, they'll be coming in
7 wanting to use district properties to do so.

8 We need a policy. We clearly need to think
9 this through before we act. So I believe that there are
10 potential risks to the agency. I believe so deeply in
11 it that I've worked many, many years as you all have and
12 many members of the audience. I feel that this could
13 impact adversely the work of the district. It is the
14 public trust. We are only here because the public
15 believed in open space and believed in the district.
16 And that's why we got 75 percent of the vote. And in
17 addition to my colleague Ted Elliot who had something to
18 do with that as well.

19 So I want to thank you all for that. Please
20 vote against because it's not a benefit to the open
21 space district. I appreciate it.

22 MADAM CHAIR: Thank you. Next.

23 PUBLIC SPEAKER: As you just heard, I'm Ted
24 Elliot. And I have sat for two and a half hours on a
25 very hard seat because I really believe in the district.

10

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1 And I wanted to give you my views on this particular
2 opposition in front of you. I very strongly oppose
3 either the amendment or an interpretation which is just
4 another way of getting around having to go through the
5 process of an amendment.

6 I wonder, first of all, what's the rush?

ROBLAR EASEMENT_F2[1].txt

7 California Fish & Game is going to play a role in this
8 no matter what you do. Mitigation has to be -- has to
9 go through their bureaucracy. The landowner hasn't even
10 asked them for an opinion yet.

11 Secondly, Steve just talked about the advisory
12 committee as he is a member of. The advisory committee,
13 it's your advisory committee, is prepared to look at the
14 overall question of, can you use protected lands for
15 mitigation. You have a letter from Ralph Vincent,
16 executive director of the Land Trust in front of you
17 which I think is a superb letter, in which he says it is
18 not possible. Mitigation should not take place on
19 protected lands.

20 Now Ralph is not just a nobody. He's not only
21 the executive director of the Land Trust. He was number
22 two in the trust for public land for many years, and
23 that's the largest land trust in the country. He is a
24 professional in this field. And I urge you to pay very
25 close attention to what he said.

11

1 Also the landowner in question is quoted in
2 the Press Democrat as saying, "Hey, I've got other
3 property that this mitigation could take place on."
4 Have you asked him where that other property is? It
5 seems to me that's the easy out for you in this case.
6 An interpretation or an amendment would violate the
7 current easement on the property because you're going to
8 have a Fish & Game easement on it also to bring it to
9 reality.

10 An amendment also is contrary to your own

ROBLAR EASEMENT_F2[1].txt

11 policy wherein we only amend conservation easements if
12 there is enough positive conservation gain in doing so.

13 We all know various projects where that has
14 happened. One was the -- the pipeline to the Geysers
15 went through in return for which the open space district
16 got the farms in the laguna from the City of Santa Rosa.

17 We know of the more recent project the --
18 project where the district ended up with 18 acres and a
19 trail easement. And --

20 MADAM CHAIR: Ed, I'm sorry.

21 PUBLIC SPEAKER: Let me just close because I
22 want to address one more thing I think --

23 MADAM CHAIR: I know.

24 PUBLIC SPEAKER: -- this is going to be a
25 terrible precedent --

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1 MADAM CHAIR: I understand that.

2 PUBLIC SPEAKER: -- and I want to ask the two
3 retiring members who have given long and excellent
4 service -- one more finishing the sentence, is this the
5 legacy, Supervisor Kelly and Supervisor Kerns --

6 MADAM CHAIR: Time is --

7 PUBLIC SPEAKER: -- that you want to leave in
8 this county?

9 Thank you very much.

10 MADAM CHAIR: Next.

11 PUBLIC SPEAKER: My name is Kathy Tresch. As
12 staff report points out section 2, paragraph 2, the
13 ranch easement states plainly that its purpose is to
14 primarily preserve the property's productive

ROBLAR EASEMENT_F2[1].txt

15 agricultural soils, agricultural viability and
16 productivity. We purchased the Roblar Road Ranch
17 because we are already in agriculture. We currently do
18 own and operate a dairy, but we are also growing apples,
19 hops, olives, and row crops, even some grapes on our
20 ranch.

21 To meet this primary goal to preserve
22 agriculture, one must be able to diversify and follow
23 trends as the grape grower that was here today earlier.
24 He's not making money in grapes. He needs to do a
25 tasting room. There are cows grazing on Roblar Ranch

13

□

1 now. But what are the trends in dairy? When the --
2 creek watershed enhancement plan was written in the
3 1980s there were 32 dairies in our study area. Now
4 there are 12. What will be the economically sustaining
5 ag use in the future? To restrict the use to grazing in
6 perpetuity is not the intent of the easement, and it's
7 not how you preserve agriculture.

8 Staff argues that preserves impacts to that --
9 of the Wilson property will be minimized. We do not see
10 such restrictions as normal. And we surely do not see
11 anywhere in our easement where it states future
12 restrictions -- minimally restrict ag values are
13 allowable. Having said that, it's clear that to adopt a
14 resolution, either resolution, finding the existing
15 easement can be interpreted to allow an additional
16 easement that admittedly limits the ag viability of land
17 is dead wrong. Such an erroneous interpretation will
18 clearly be reversed.

ROBLAR EASEMENT_F2[1].txt

19 The alternative to amend the easement, to
20 allow for an ag restriction is equally flawed. One
21 cannot amend the easement whose purpose is to preserve
22 ag -- viability to not reserve it. This would change
23 the character of the easement from one promoting ag
24 viability to one that forever restricts the ag use to
25 grazing, which may be the least economically rewarding

14

1 use and hence the most likely to force the parcel out of
2 agricultural use.

3 We consider any taking or restrictions to the
4 ag uses in the easement -- to consider any changes or
5 restriction to the ag uses in the easement to be a
6 taking. We oppose these resolutions also because of the
7 broader implications in policy that will be set. The
8 facts, any developer once you use an easement, easement
9 land to mitigate a commercial project and restrict
10 agricultural use against the wishes of an easement
11 holder and says he isn't going to pay the parcel owner
12 for the mitigation. Big picture, even if this doesn't
13 fly, and it probably won't, does this not open the door
14 that developers, not just the quarry applicant, don't
15 have to mind mitigation credits? They are just taking
16 them from any conservation easement even if the
17 landowner objects.

18 MADAM CHAIR: Kathy, good job.

19 Next.

20 PUBLIC SPEAKER: Chair Brown and other members
21 of the board. My name is Michael Marland (phonetic). I
22 am a -- ranch with my wife that my wife ranches about 3

ROBLAR EASEMENT_F2[1].txt

23 or 4 miles from the quarry. And sometimes she lets me
24 ranch with her on the weekends. I'm speaking as a
25 rancher. I'm also speaking on behalf of the citizens

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1 group named CARRQ which has appeared before you before.
2 They're asking me to represent their position on this.

3 I am a landowner. I respect the land
4 especially in the dairy belt. I believe that my
5 neighbors do too. And it's important for us that when
6 that land is preserved, it is preserved forever and not
7 just when a political group thinks that it is convenient
8 for it to be preserved until the next dump or landfill
9 or quarry or gravel mine or -- project comes in next
10 door.

11 There are good reasons to deny both of these
12 resolutions given here -- some of them have been
13 submitted. CARRQ has submitted its objections. I'm not
14 going to repeat all those. I mean, either you're going
15 to listen to the advisory committee that you have
16 appointed to advise you on this, you're going to listen
17 to the district manager that says that a resolution
18 interpreting this is not the way to go. You need to
19 have an amendment. You're going to listen to the Fish &
20 Game or whatever state authorities are going to cover
21 the plan which is going to be submitted if there is
22 going to be one.

23 The key -- is why do it now? And it seems to
24 me that the reason is is because there are -- there may
25 be -- to do it now as opposed to later. And the legacy

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1 of issue which was raised by one of the previous
2 speakers I think is important. Now I believe that this
3 board, and in particular the two outgoing board members
4 believe in their heart, this is the right thing to do.
5 It is the legacy they want to achieve. They've worked
6 on this project for seven years and they want to see it
7 through. And that's the reason that this is being
8 submitted to you.

9 But there is another legacy here I think and
10 that is this: It takes a lot to get environmentalists,
11 agricultural users, farmers, organizers, editors of the
12 newspaper and land trust specialists to stand together.
13 And you got it. And I think that they should be
14 commended for that because that is something that has
15 been very difficult to do in this county, and it's
16 happened. It's not going to go away. The gravel mine
17 is going to be opposed by the same group of people for
18 the next diversion damn or waste water project or dump
19 that gets put into the county is going to be opposed as
20 well.

21 So thank you very much. I appreciate it,
22 Supervisors.

23 MADAM CHAIR: I know there's a long line here.
24 We've been here since 8:30. We have had exactly one
25 half-hour break today. I'm going to ask you to --

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1 rather than me having to tell you your time is up and
2 making you angry and us probably, too, look -- there's a
3 monitor right here on the podium. Watch it. And kind

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4 of monitor yourself, but I'm still going to remind you.
5 That way everybody gets treated the same.

6 Yes, sir.

7 PUBLIC SPEAKER: And I will watch the monitor
8 as well as. Thank you. And I can tell by the anxiety,
9 it's understandable.

10 My name is Mike --- I'm a lawyer in Santa Rosa.
11 I live in Santa Rosa. My office is here in Santa Rosa.
12 And I will acknowledge to you at the outset that I have
13 represented John and Andrew Barella and their company
14 North Bay Construction since the mid 1970's, I and my
15 firm. We have not, however, had any involvement
16 whatsoever in the development and pursuit and the entry
17 of the conservation easement. So while I'm here as a
18 lawyer who represents him it's on other matters. It's
19 not on this matter.

20 But I'm also a person who has an interest
21 because I served on the City of Santa Rosa planning
22 commission for years. I served on the County of Sonoma
23 planning commission and board of zoning adjustments for
24 years. I co-chaired with Ted Elliot, the 2006 Measure F
25 reauthorization campaign of the open space district and
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1 I have strong feelings about it.

2 I'm here to address a very limited issue, and
3 the issue is whether mitigation efforts on protected
4 land for the purposes of protecting endangered species
5 are consistent or inconsistent with or compatible with
6 the goals and policies of the open space district. And
7 I believe they are. I don't think, as hard as it may

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8 be, I don't think that the strong feelings about this
9 quarry application should cloud this very limited issue
10 of whether or not mitigation efforts are consistent or
11 not with the goals and policies of open space.

12 And from my review of what I've seen here,
13 although there were others who were handling this, I
14 think the use of the Wilson property, the 105-acre
15 preserve for purposes of mitigation for endangered
16 species, is consistent with both the easement and the
17 open space policies.

18 Thank you.

19 MADAM CHAIR: Thank you, Mike.

20 Next.

21 PUBLIC SPEAKER: Good afternoon. I'm Liza
22 (inaudible). I have served on the open space authority
23 for over ten years although I understand that next week
24 you will be considering my replacement right up front.

25 UNIDENTIFIED SPEAKER: That was your choice.
19

1 PUBLIC SPEAKER: Yes. I want to be very clear
2 that right now I'm not representing the authority. I am
3 here as an individual. I am very proud, as I'm sure you
4 are too, about what the district has been able to
5 accomplish.

6 And one of those accomplishments that's
7 dearest to my heart has been the many easements that are
8 in place in that southwest dairy belt. These really
9 have enabled family farms to stay intact. And they have
10 also supported some groundbreaking, you know, recognized
11 through the state, environmental projects in the --

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12 creek and the -- Americano watersheds. These are
13 projects that are loved by ranchers. They have resulted
14 in miles of riparian reforestation and actually improved
15 water quality.

16 I add that these projects were done without
17 additional rules. They were done without lawsuits. And
18 they were done even without the incentive of mitigation
19 banks. When the authority approved the appraisal for
20 this property and the cost for the project, we based our
21 price on unlimited agricultural use. Even though the
22 property is now used for grazing. As Kathy Tresch said,
23 the easement allows it to be used for, you know, an
24 olive orchard or a pumpkin farm or whatever next is
25 needed to keep agriculture -- this piece --

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1 The mitigation bank would change that use.
2 It's incompatible to have unlimited ag with the
3 mitigation bank. I feel that we made a promise to the
4 people of the county to protect this land for unlimited
5 agriculture, and we may break that promise. I'm gravely
6 concerned about the damage to the trust the district has
7 worked so long and so hard to build with ranchers and
8 growers and ultimately to the district's ability to
9 continue in the agricultural preservation part of its
10 mission.

11 Thank you.

12 MADAM CHAIR: Thank you.

13 Next.

14 UNIDENTIFIED SPEAKER: And, Liza, for the
15 record, you are irreplaceable.

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16 PUBLIC SPEAKER: Ann Marie -- committee for
17 clean water. I support what Liza just said and the very
18 articulate comments of David Glass. I'm surprised that
19 you would even consider this agreement now without the
20 approval of the current landowners. That just seems to
21 be basic violation of the contract. But the
22 concentration so far has been on bureaucratic maneuvers
23 and impacts on humans. And this is about a mitigation
24 area for a salamander and a frog or salamanders and
25 frogs.

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1 And since you don't have the Department of
2 Fish & Game here to talk about it. I went through the
3 files and as best I could try and find out what exactly
4 would the mitigation area be and how do you know that
5 it's going to work? And it seems to me that it's really
6 just a bureaucratic delineation announcing on a map that
7 this is going to be a preserve area because I'm looking
8 at that one, and it says that the preserve area is going
9 to be around Americano Creek.

10 So I ask you, perhaps you can tell me. Are
11 there any tiger salamanders and frogs already in there?
12 And if water is the key element, that's what I was
13 reading is that the stock ponds facilitate tiger
14 salamander and frog habitat. Well, there's water
15 presumably in the Americano Creek. I don't think it's
16 dried up like Atascadero and Green Valley Creeks. So
17 why wouldn't there be frogs there already in the
18 riparian habitat? So what would you be adding in this
19 mitigation area? And if there are already frogs, what's

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20 the carrying capacity of that area of the riparian zone.
21 Who's going to notify the frogs? Did the frogs weigh in
22 on this?

23 In other words, we can do all we want speaking
24 to each other as humans and create all sorts of
25 interesting diagrams and formulas. But what does it

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1 really amount to? And I think the lack of these
2 answers, it points to exactly what has gone wrong with a
3 lot of our mitigation efforts and environmental
4 restoration work. Over the 25 years that I've lived
5 here, I've watched coho and steelhead go from
6 ridiculously abundant to the endangered and threatened.
7 Green Valley Creek go from habitat for coho salmon to
8 extradited.

9 So what are we doing wrong? I have a feeling
10 it's things like this. We make maps and configurations
11 that satisfy our need for something like this but may
12 not actually provide any benefit in reality.

13 Thank you.

14 MADAM CHAIR: Thank you.

15 Next.

16 PUBLIC SPEAKER: Good evening, Madam Chair and
17 Members of the Board of Supervisors. I'm Richard Dowd.
18 I'm vice president of Pinnacle Homes, a home-building
19 land development company in Sonoma County with a long
20 history both my grandfathers happen to be ranchers in
21 west Sonoma County. And I grew up working for them. So
22 I have a long heritage as it comes to open space and
23 land. I'd like to thank you for the opportunity to

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24 speak to you this evening. And it is evening now.
25 Thank you for hanging in there with us.

23

1 About the Roblar Road quarry and the of
2 potential for multiplying the beneficial public use of
3 this particular piece of properties under question.
4 First of all, in these economic times, I think
5 it's important to look at ways to expand public dollars.
6 And I believe that using this in multiple ways both as
7 open space and as a mitigation bank for an endangered
8 species and actually two as a very, very intriguing
9 thing that the board of supervisors ought to be looking
10 into.

11 Also I'd like to mention that chairman of the
12 board of public utilities for the City of Santa Rosa,
13 I'm aware of discussions going on about our agricultural
14 irrigation property out in the laguna as a possibility
15 for us to multiply its use also for the benefit of our
16 citizens in the City of Santa Rosa and our regional
17 partners, to double up on our agriculture irrigation at
18 the same time possibly putting in endangered species
19 mitigation banks.

20 Thirdly, I'd like to say that one of the
21 things to me that's so important to look at some of the
22 subject matter we see in the paper in terms of climate
23 protection, greenhouse gas emissions, that one essential
24 ingredient that we need to look at why we might think
25 globally we need to act very locally and use our local

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1 resources in the most expeditious and efficient fashion
2 that we can find.

3 I think that the Roblar quarry and the plan
4 before you represents some of those issues.

5 And I thank you for the opportunity to speak
6 to you.

7 MADAM CHAIR: Thank you.

8 Next.

9 PUBLIC SPEAKER: I'm Nancy -- and I come as a
10 representative of an organization called Defense of
11 Place, which is a nation-wide organization that works to
12 stop the overturn of deeds, statutes and contracts upon
13 which preserve spaces have been dedicated for either
14 public or private use. Ironically, I'm also a Sonoma
15 resident with a home on Franz Valley Road. And it was
16 while there in 1997 Defensive Place was founded when we
17 went to battle to save Pepperwood Preserve from being
18 sold by the California Academy of Sciences. And I
19 think, you know, it's actually a Sonoma County resource
20 now. That the idea of 70 homes up there instead of the
21 ecological resource it is. It was a -- Defensive Place
22 started out pretty well.

23 But here we are in Sonoma County, which I just
24 really cannot believe, and because we're based on the
25 premise that any breach of integrity of statutes, deeds
25

1 or contracts renders any future promises imaginary
2 within the idea of preserve space and open space and
3 parklands. If conservation easements are so easily

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4 overturned, what does that say about the future of
5 less -- I keep hearing these 20 years. And I was
6 thinking actually, I guess, at this time of Santa Claus.
7 That's sort of the same. If you think that in the
8 future these will be preserved, it's sort of like Santa
9 Claus.

10 Our organization has dealt with similar issues
11 in Oklahoma and Alabama and Illinois. And I just can't
12 believe that this is going on in Sonoma County, that
13 this amendment of these previously dedicated in
14 perpetuity contracts would be overturned.

15 So I hope that you will not vote for this --
16 amendment, that you'll preserve this space.

17 And thank you very much.

18 MADAM CHAIR: Thank you.

19 Next.

20 PUBLIC SPEAKER: Good evening, Madam Chair and
21 Board. Carol Valentino (phonetic). I am the face of
22 the public who voted the open space district into
23 existence. We paid our tax money into the district.
24 However, we may not if this conservation easement is
25 tampered with.

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1 I am the face of taxpayers who gave
2 \$2.3 million to Mr. Barella for an open space easement
3 to the Roblar Ranch. Now the same Mr. Barella wants the
4 county to allow him to have 300 gravel truck trips a day
5 across the conservation easement he was paid for
6 preserving.

7 Not only that, now Mr. Barella wants to use

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8 his paid-for conservation easement to mitigate for
9 losses of California Tiger salamander and red-legged
10 frog even though property he's suggested hasn't been
11 proven as suitable habitat for either species.

12 So if the county would have allowed the haul
13 road, it would have had a huge effect on the property he
14 is now asking for habitat mitigation.

15 Do you realize how noisy gravel trucks are
16 when traveling on a road? They are more noisy empty
17 than full. Do you think that that would have had an
18 impact on the property that he is proposing for the
19 tiger salamander and red-legged frog? Has he given that
20 any consideration?

21 Native Americans used to put their ear to the
22 ground to hear the approach of buffalo. The ground
23 amplifies sound. If you were a ground -- species, do
24 you think that the roar of heavy trucks would make you
25 stay in your dwelling? I think not.

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1 Mr. Barella has created -- and the Press
2 Democrat is saying, "I feel I am enhancing the property.
3 People ought to be proud we're doing that." Sounds like
4 a slum landlord for endangered species to me.

5 He doesn't live on the land he's proposing for
6 a quarry. He will not be effected by the development.
7 On the other hand, all the property owners, all the
8 farmers who live in the vicinity will.

9 I am giving my support to the Tresch family
10 who are wonderful stewards of the land. I say no
11 preserve for this property. I know the area. I know

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12 the land. I am not just speaking from -- my family had
13 Denucci's restaurant in Valley Ford, not that far away.
14 I have led hikes on the Tresch dairy land. I have
15 visited the quarry area in the rain when flooding
16 occurs. I have visited the land in the spring when
17 wildflowers bloom.

18 So in completion you will set a dangerous path
19 for the future of our district. The public will lose
20 confidence in open space district if this mitigation is
21 accepted. Do not tamper with conserve easements. Say
22 no.

23 Thank you.

24 MADAM CHAIR: Thank you.

25 Next.

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1 PUBLIC SPEAKER: Good evening, Board. My name
2 is Jason Merric (phonetic). I'm a property owner on
3 Roblar Road. And thank you for still sitting here
4 today.

5 I want to talk before you today as a taxpayer
6 of Sonoma County. In 2006 I voted, one of my favorites
7 vote in the world, and that was to extend the financing
8 for the open space district through sales tax.

9 Now I don't enjoy spending money on things.
10 Unless, I guess, it's Christmas. But when I do, I do
11 know that some of that money is going to the open space
12 district and preservation of the agriculture and open
13 space land. And to protect it from development
14 essentially.

15 what this does is allow backdoor development

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16 on a proposal, the quarry itself, and allows for
17 mitigation of the endangered species that will be
18 destroyed. It is a backdoor development policy that
19 would be set here tonight. Nothing less, nothing more.
20 And as a taxpayer, I put faith in this board to protect
21 what -- essentially from the development and for
22 preservation of land for agriculture and open space.

23 This is an indirect policy to allow
24 development. I won't vote for it again as a taxpayer if
25 this the case and the precedent that this board is

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1 setting.

2 And second, the 244 acres that's being dangled
3 like a carrot in front of the board to allow this issue
4 to go forward saying I will preserve this land as well,
5 was the same land that would be allowed for Williamson
6 Act exchange. That's not a benevolent kind of decision
7 by the proponent. It is a smart business decision.

8 Thank you.

9 PUBLIC SPEAKER: My name is Ellen -- and I'm
10 speaking as one of those citizens who may lose trust if
11 this is approved -- will lose trust if this is approved.
12 I think many other people have spoken better to the
13 details than I can at this point. But the commentator
14 who spoke of multiplying the use of the land has his
15 math backwards. To use the same land for two things
16 that are different but not necessarily compatible is not
17 multiplying and subtracting. And I urge you to vote
18 against this and preserve the trust of your
19 constituents.

20 ROBLAR EASEMENT_F2[1].txt
Thank you.
21 MADAM CHAIR: Thank you.
22 Next.
23 PUBLIC SPEAKER: Good evening. Bill --
24 (inaudible) 26 years as board of Sonoma Land Trust and
25 (inaudible) to come up with the open space district 30

1 which was the idea of that came out of that land trust.
2 And I'm very concerned about easements and what's been
3 put (inaudible) to you. I want to congratulate this
4 board for stopping the changing of an easement to be a
5 haul road. That was very historic and very important.
6 And a moment -- and -- that because I came to the
7 conclusion on the haul road issue that the only
8 protection we have to keep the integrity -- was the
9 unanimous vote required of the board of supervisors.
10 That's all we have. A very political thing but
11 difficult to obtain.

12 But think about 50 years from now, nobody is
13 paying attention and supervisors get together and -- get
14 a unanimous vote. Now suddenly you could tinker with an
15 easement with amendments with a simple majority. You
16 have to realize, not you, but board of supervisors 25
17 years from now, 50 years from now, could use a simple
18 majority to use the amendment process -- the easements
19 and you have been told many times tonight that the
20 integrity of those easements is so important. It's so
21 important to the public.

22 If you -- tonight -- and you had to take the
23 open space district back to the board for funding -- you

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24 wouldn't get 75 percent of the vote. I've been out
25 there -- where I see some opposition to the open space
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1 district, oh, they're going to sell that land some day.
2 I mean, there's that much untrust out there that -- by
3 taking over an easement and the whole system comes apart
4 way more as you go down the line -- I see -- hours spent
5 negotiating with landowners over their conservation
6 easements if you start to create this precedent at this
7 time.

8 MADAM CHAIR: Thank you.

9 PUBLIC SPEAKER: Thank you.

10 MADAM CHAIR: Next.

11 PUBLIC SPEAKER: Chairman Brown, Members of
12 the Board. I'm Ralph Benson, executive director of the
13 Sonoma Land Trust. I came out because there's a
14 distinction that I don't think has been mentioned in the
15 comments yet. It's one thing I think when you're
16 setting up a mitigation bank and mitigation is clearly
17 really useful to use conservation easements as a tool to
18 further mitigation. But it's quite another thing after
19 the easement is in place to go back and use that as the
20 easy way with mitigation. They really aren't intended
21 for that. And I think the concerns of a lot of people
22 here is that Sonoma County is the national leader in the
23 protection of agricultural land and open space through
24 easements and the system depends upon public confidence
25 and credibility and the promise of permanence of these.
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1 And so amendments are not things to be undertaken
2 lightly, and particularly when you're using it after the
3 fact for a mitigation. So I'd urge you to take that
4 into consideration.

5 Thank you.

6 MADAM CHAIR: Thank you.

7 Next.

8 PUBLIC SPEAKER: Good evening, Board of
9 Supervisors, Chairman Brown. My name is Chris Snyder.
10 I'm with the operator engineers, Local 3. And I'm here
11 on behalf of the operating engineers to support the
12 amendment and added easement to the existing easement.

13 I had about 12 guys here earlier but most of
14 them left tonight, but they're going to support this as
15 well. And I feel like a broken record when I say this,
16 but we really do have 30 percent unemployment in this
17 county. And I think this is a decision that, relating
18 to this question tonight, is directly related to jobs as
19 well. And I think it's important to take those sorts of
20 things into consideration because, you know, we people
21 live in the environment as well.

22 I don't -- I think the argument that this is
23 precedent setting is a -- my understanding, I guess,
24 there is -- agreement that has similar multiple
25 easements on it. And there's many easements that have

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1 multiple easements on it. And this isn't a
2 precedent-setting situation. So in the public and open
3 space protections, you know, it's going to be a good
4 thing for our environment. It's going to enhance the

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5 CTS and the red-legged frog. And there's still going to
6 be \$3 million that Mr. Barella is still going to have to
7 put up for mitigation. So it's not like this is a free
8 ride or something like that like people are trying to
9 make it out to be.

10 You know, my whole thing is all about jobs.
11 It's been about jobs. And our members are really
12 suffering. If there's a way we can deal with open space
13 and mitigation, and we can all make our environment
14 better and also still have jobs, I mean, it's a win-win,
15 win all the way around. It's good for species. It's
16 good for job creation. It's good for the economy and
17 the environment.

18 And please, you know, we're here in support.
19 And thank you very much.

20 PUBLIC SPEAKER: Good evening, President Brown
21 and Members of the Board. My name is John Barella. My
22 wife and I are the applicants for the Roblar Road
23 quarry.

24 I want to clarify the record on what we're
25 offering the county for mitigating the red-legged frog³⁴

□

1 and the California Tiger Salamander on the 105 acres of
2 land on the Wilson property which is in the Sonoma
3 County agriculture preservation and open space district.

4 We -- to the agriculture and conservation
5 easement, 130 acres adjacent to the quarry site. Then
6 70 acres after the quarry site reclamation which total
7 is 200 acres of land to the Sonoma County agricultural
8 and open space district.

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9 Also, we'll put into the open space district
10 an agriculture and conservation easement on our 243
11 ranch on Lakeville which has 1,600 real feet of Petaluma
12 River frontage and are surrounded by three other
13 ranchers that are already in the open space district.

14 We feel that has an easement of value of
15 approximately \$2 million. We are offering a total of
16 443 acres to the open space district at no cost to the
17 open space district. I think that's significant.

18 Everybody talks about taking of land. Here we
19 are willing to give up 443 acres of land at no cost to
20 the open space district. On the 105-acre Wilson
21 property, we also offered the open space district to do
22 mitigation work on the riparian and tributary areas at
23 no cost to the open space district. We will put an
24 endowment fund on the entire property in perpetuity to
25 manage and preserve the California Tiger Salamander and
35

1 the red-legged frog. This endowment could cost between
2 \$3.5 million to that \$4.5 million.

3 This open space easement on the Wilson
4 property was to protect not only agriculture but also
5 the natural resources on the property and this is
6 exactly what we're trying to do. Because of our due
7 diligence, we found the California Tiger Salamander and
8 the red-legged frog. We are now trying to do what's
9 being required by Fish & Game and Fish & Wildlife to
10 protect these endangered species.

11 This project application has been before the
12 county for over seven years. It has not been a rushed
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13 project. We ask you at this time to decide the fate of
14 this project.

15 Also, I'd like to give you a binder here that
16 we mailed to -- 10,000 brochures went out to different
17 households in an 8- to 10-mile radius around the project
18 site. Of those, we had 524 respondents, more than 2,900
19 visits to the website. We ended up with 376 supporters,
20 127 opponents and 21 undecided. I leave this binder and
21 a CD for each of you board members to review.

22 Thank you very much.

23 MADAM CHAIR: Thank you. Your time is up.

24 Next.

25 STEVEN BUTLER: President Brown, Members of
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1 the Board, Steven Butler representing John and Andrea
2 Barella. We appreciate the efforts of district staff
3 and district counsel in presenting the board with a
4 couple of alternatives. We, like many members of the
5 public tonight, do not favor an amendment to the
6 agreement. We believe that for the reasons set forth in
7 my letter to Sue Gallagher of November 29, and the
8 detailed findings in the proposed resolution, finding an
9 interpretation is appropriate that that is the direction
10 that the board should go.

11 The contract has to be read as a whole.
12 Natural resource protection is one of the articulated
13 conservation purposes of that easement. The easement
14 provides for adaptive management where changed
15 circumstances indicate that other resources come to the
16 fore, in this case two endangered species.

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17 The permitted uses in that document are not
18 deemed to be exhaustive. There's abundant literature
19 and actual agricultural practices in the county that
20 demonstrate the species preservation and grazing are
21 compatible and symbiotic.

22 Nothing will change on the ground. The
23 current grazing operation will be strengthened due to
24 the construction of additional stock and somewhat
25 ironically the district easement doesn't even require
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1 agriculture. So they could just let the properties be
2 fallow. But the Fish & Game easement will require
3 grazing in perpetuity actually ensuring that the portion
4 of the property will remain in agriculture.

5 Additionally, if you examine the documents
6 associated with the acquisition of the easement, there's
7 absolutely no evidence that the district intended to
8 purchase or extinguish species preservation rights in
9 connection with the acquisition of the easement.

10 We would respectfully request that the board
11 interpret its easement as allowing species preservation.
12 we feel comfortable that this is an appropriate and
13 legal course of action and stand ready to indemnify the
14 district should anyone challenge that decision.

15 I do agree with Mr. -- that a policy would be
16 appropriate as the district proceeds forward in the
17 acquisition of easements in the future. But in
18 connection with that, I think there are broad policy
19 considerations.

20 One, there may be public projects like SMART
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21 that need mitigation areas if you completely eliminate
22 publicly owned lands, you eliminate the ability to have
23 public partnerships and public private partnerships for
24 development within urban boundaries, which is where we
25 all want it.

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□

1 So I thank the board for the time. And that's
2 it.

3 MADAM CHAIR: Supervisor Kerns has a question.

4 SUPERVISOR KERNS: Thank you, Madam Chair.

5 Mr. Butler, I recall originally there was talk
6 about establishing an agriculture pond on the Wilson
7 property which would also provide habitat enhancement
8 for CTS. Is that still in the plan for the mitigation?

9 STEVEN BUTLER: Absolutely, yes.

10 SUPERVISOR KERNS: So that pond would be an ag
11 pond which would enhance agriculture on the property but
12 also provide habitat for CTS?

13 STEVEN BUTLER: That's correct.

14 SUPERVISOR KERNS: Okay. Thank you.

15 MADAM CHAIR: Thank you, Mr. Butler.

16 Next.

17 PUBLIC SPEAKER: Donna Morton (phonetic), and
18 I live on Roblar Road right across from where the
19 dairy -- dairy -- where the quarry is going to go
20 possibly.

21 And as far as this particular issue goes,
22 first of all, I think one thing that has been confused
23 over and over again and shouldn't be, because I'm
24 speaking as a voter and how I look on the district and

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25 what this district means to me and there is a difference
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1 between mitigation and conservation.

2 As a voter if I read a proposition or measure
3 that said do I want to pay tax money so that a developer
4 can defray his expenses or mitigate his damages for, you
5 know, conservation destruction basically with my tax
6 dollars, I would never vote for that. You know, it's an
7 assist to developers. And that was not what I
8 originally voted for. And until it's written in a
9 proposition, I don't think the district should start
10 implementing that kind of policy.

11 And let's see -- okay. Also, I think what we
12 see happen here is -- what I'm afraid of is that if
13 developers start seeing this as an easy way to mitigate
14 their damages, then just like what I see here when I'm
15 reading the article that Mr. -- turned out the other day
16 when he discussed with Mr. Barella when he mentioned
17 that he could save \$5- to \$15 million by using open
18 space land. And Barella said or basically indicated
19 that, well, he and his other land he could use -- that
20 could be used if the proposal was turned down.

21 So with the quarry haul route that he wanted,
22 he said -- actually he told me after one of the hearings
23 that he would be perfectly happy with going to Roblar
24 Road. But he said the county actually pushed him into
25 considering using open space. So now he's saying here
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ROBLAR EASEMENT_F2[1].txt

1 that while he has other property he could use if this is
 2 turned down. So what I'm seeing here is that a first
 3 choice, twice in this one proposal, the first choice has
 4 been let's try to go through open space first. It's
 5 cheaper, you know, but I have other alternatives. So he
 6 should use them first.

7 MADAM CHAIR: Okay. Time is up. Thank you
 8 very much.

9 Do I have one on only two on each side, yes?
 10 No?

11 PUBLIC SPEAKER: My name is (inaudible). I
 12 live in Cotati, and I'll try to be as brief as possible.
 13 You've been here for a long time.

14 I grew up in a county where agriculture took a
 15 second step and there isn't much. And after a while it
 16 doesn't really matter whether or not you have jobs
 17 because the living conditions change. And it isn't
 18 pleasant. I moved to this county after I graduated from
 19 Cal Poly with a degree in production agriculture. I
 20 moved here on purpose. I'm a taxpayer. I'd like to
 21 keep the open spaces. I'd like to continue to vote for
 22 that. I don't want to lose trust.

23 That's all I need to say. Thank you.

24 MADAM CHAIR: More on this side, please?

25 PUBLIC SPEAKER: Thanks. Tom (inaudible). 41

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1 Thanks for a couple things I learned today. One, you
 2 weren't ignoring my e-mails. You were here earlier
 3 explaining the process to me. Thank you.

4 MADAM CHAIR: Thank you.

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5 PUBLIC SPEAKER: And second, I finally

6 understood this whole easement process and what it's
7 going through.8 And I'm a taxpayer. I said that earlier. I
9 voted for the open spaces, so as being one of the ones
10 who's funding it, Mr. Barella's arguments hold nothing
11 for me. He says he's going to give out all this extra
12 space. I don't want it. I want what we voted for, what
13 we agreed to and what was promised to us. Everything
14 else is irrelevant to me. And if you violate that,
15 you're violating your trust with me and the taxpayers.16 I was one of the recipients of his 10,000
17 whatever letters. I threw it in the garbage because I
18 want nothing to do with this program, and I don't think
19 you do either. Thank you.

20 MADAM CHAIR: Thank you.

21 Over here, please.

22 PUBLIC SPEAKER: Hi. My name is Ted Winfield,
23 and I'm a biologist working for John Barella. And I
24 just wanted to clarify although John does have
25 additional properties that the agencies prefer to

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1 mitigate in the vicinity of where the impacts occur.
2 And of his other properties it's probably unlikely that
3 you would have a situation where you have both the frog
4 and the salamander within the vicinity.

5 Thank you.

6 MADAM CHAIR: Thank you.

7 Next.

8 PUBLIC SPEAKER: I'm Susan -- and I live on

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9 the corner of Kentfield and Roblar Roads. I, too,
10 received Mr. Barella's letter, and I, too, threw it in
11 the trash because I was insulted by the whole tone of
12 the letter. He is not my neighbor. And the neighbors
13 who surround me in discussing this letter all did the
14 same thing I did. So you may -- if we had responded
15 there would have been a lot more, no, we're not in favor
16 of this.

17 I'm also by -- Sonoma County. And I would
18 just like to put my two cents in with the rest of the
19 people who said that this is a violation of the trust
20 that we hold with the open space district and that it
21 is -- it will shame not just this board but it will
22 shame the precedent that this county has shown in its
23 forward thinking in the preservation of our lands.

24 Thank you.

25 MADAM CHAIR: Thank you.

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cont.

1 Are there any more wishing to come forward to
2 testify on this particular issue? If not, I'm going to
3 close the public hearing.

4 Close the public hearing. I'm going to bring
5 it back to the board.

6 Supervisor Zane.

7 SUPERVISOR ZANE: I know Supervisor Kerns
8 wants to precede me on -- okay.

9 Thank you, Supervisor Kerns.

10 I have read a lot of things about this and
11 really tried to be as fair as possible. But I think the
12 bottomline is that we have to ask what is the benefit to

ROBLAR EASEMENT_F2[1].txt

13 the public here in this amendment. And I think common
 14 sense is not lost on the public. And the common sense
 15 is that endangered species protection applies to
 16 unprotected lands. And this is already protected by an
 17 ag easement.

18 So what is at stake is the trust of the
 19 public, the trust of the ag industry. The willingness
 20 of landowners to work with the open space district and
 21 policy precedent for other land trusts who look to our
 22 land trusts as a shining example around the country.

23 Again, I don't see that there is a gain at
 24 all. In fact, I see that there is a loss. And to quote
 25 Lex McCorvey, the executive director of the Farm Bureau,
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□

1 "maintaining the integrity of the easements is extremely
 2 important." We have a letter from Fish & Game. And
 3 they have said very clearly they will not make a
 4 declaration at this point because there has been no
 5 solicitation on behalf of the proposal. And we have no
 6 guarantee that they will.

7 I think the point about opening a flood gate
 8 of mitigation banks which we know are highly lucrative
 9 is a real, real concern. We have the county counsel,
 10 the open space advisory staff, the general manager's
 11 recommendations that this amendment is not really
 12 legally defensible in court. The PD editorial said,
 13 "Just say no." And I'm going to say no, no, no and no.

14 MADAM CHAIR: Supervisor Carrillo.

15 SUPERVISOR CARRILLO: Thank you, Madam Chair.
 16 Was that a, no, Supervisor Zane?

17 ROBLAR EASEMENT_F2[1].txt
 SUPERVISOR ZANE: Yeah.
 18 SUPERVISOR CARRILLO: Okay. I guess the
 19 challenge for the directors of the open space district
 20 here is you're looking at a policy decision or
 21 interpretation as well as a potential amendment for two
 22 different configurations that I, frankly, don't know
 23 what configuration is going to look like without having
 24 a policy in place whereby the board of directors can
 25 look at these types of projects.

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1 And I think that the added component to
 2 looking at this from an independent perspective aside
 3 from the quarry is that this is a very controversial
 4 project, and I think dividing those two has been the
 5 challenge for the public and has been a challenge for
 6 the directors.

7 You know, I've done -- I've tried to do my
 8 best to listen to all perspectives of this issue --

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 10 (Beginning of Tape 4 of 4, side 2 of
 11 BOS Roblar Quarry Hearing 12/07/10.)

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 13 SUPERVISOR CARRILLO: -- both by the
 14 supporters of the project or supporters of the
 15 interpretation and/or the amendment. But I will have to
 16 agree with staff recommendation that the request isn't
 17 consistent with the ranch -- with the ranch easement as
 18 far as I see it. You know, and the Tuesday perspective
 19 of the alternative for the amendment, you know, I just
 20 have some real reservations given that this conveyance

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21 of the restriction to the conservation easement of the
22 portion of the Wilson property. I just can't agree with
23 that.

24 You know, the potential to cause the
25 irreparable damage on the public's trust is how we look
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1 at the protection of that ag lands as well as open space
2 I think is rather overwhelming for this district. I
3 mean, I hate to continue beating this issue, but I just
4 don't agree with either one as far as the interpretation
5 of the consistency of the easement or the potential
6 amendment moving forward.

7 And quite frankly, I hope that the district
8 staff, as well as the advisory, when it looks at future
9 policy, I mean, if anything, this is a -- I think it's a
10 just one way of saying that we shouldn't have a policy
11 in place that looks at these types of things.

12 Granted my understanding is that an advisory
13 has looked at it. Staff has been, I don't want to say
14 reluctant or hasn't gotten around to bringing this to
15 the board, but I just don't feel comfortable moving in
16 this direction given in the time sensitivity with this
17 proposal in moving forward and making an interpretation
18 or making an amendment to the easement.

19 And my hope, you know, after however this
20 board decides to deliberate on this recommendation from
21 staff and proposal from the applicants that we will look
22 at this issue in a very serious way on how you deal with
23 mitigation bank and open space easements in the future.

24 But I do believe it's rather unfortunate

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25 because I think we would be having a different

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1 conversation if the project weren't so controversial. I
2 mean, I really do believe breaking this apart I think
3 has been the challenge for the public. It has been a
4 challenge for the press. And I think it's been a
5 challenge for this board.

6 But I could not support the interpretation. I
7 think it's inconsistent. And I cannot support the
8 interpretation of the amendment and will agree with
9 staff recommendation.

10 MADAME CHAIR: Thank you, Supervisors.

11 Supervisor Kelly.

12 SUPERVISOR KELLY: Thank you, Madam Chair.

13 Actually, I think that most of my comments as
14 it relates to this were made at the November 2nd
15 hearing. And I guess what I will reiterate today is, as
16 I said then, that if the agriculture operations on the
17 Wilson property went out to install a pond or fencing to
18 be in compliance with its current grazing process,
19 nobody would notice and nobody would be concerned, and
20 we wouldn't be here in a long hearing. Therefore, if
21 there's a mitigation measure in which a pond is
22 installed or fencing is installed and grazing is
23 continued, how is that physically different? It isn't.
24 And therefore, CTS or red-legged frog activities do not
25 do anything to practically or in any way change the

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1 activities of the agriculture operations on the

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2 property.

3 It really does come down to the question, I
4 think one of the speakers mentioned, related to
5 mitigation is it compatible or is it not compatible.
6 And in this case under the actual operations under an
7 agricultural easement, it is compatible. If we make
8 some sort of determination that it's not, then I will
9 not be surprised if we hear from agriculture easement
10 holders saying, why aren't you paying me to restrict
11 that property right. And I think that that is just as
12 challenging of a policy decision that this board has,
13 and that I think we -- that that is a consideration that
14 in the future we need to consider.

15 I actually don't even think that this issue
16 needed to be before us. I don't think it needed a whole
17 board determination as it relates to interpreting an
18 easement in the process of putting a, in this case, a
19 mitigation bank or a mitigation area that is in complete
20 compliance with the agriculture operations.

21 Now I notice, and I know this gets sometimes
22 into the -- but when you got an unlimited agricultural
23 easement that is out there today and if the Wilson
24 property somehow decided that they wanted to change the
25 agriculture operations to install vineyards, then they⁴⁹

1 would run right into the CTS problem, the red-legged
2 frog problem and any other ESA problems then where would
3 they be able to mitigate for it? Probably try to
4 mitigate on their own properties and if somehow we made
5 some determination that you can't do that or that's

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6 incompatible with your agriculture easement use, we then
7 restricted in a backhanded way the agricultural easement
8 operations.

9 And I would say the same of any of those
10 others that have agricultural easements in the ESA
11 covered areas of CTS.

12 So I do think that the board can find that
13 this is an allowable use. I do think we can interpret
14 the easement to allow that use, and that in all of the
15 information that we have before us is the same as the
16 review that I made on November 2nd.

17 So, Madam Chair, I appreciate the opportunity
18 to make my thoughts known.

19 MADAME CHAIR: Thank you.

20 Supervisor Kerns.

21 SUPERVISOR KERNS: Thank you, Madam chair.

22 Supervisor Kelly brought up an excellent
23 point, one which has been discussed in the past. I
24 remember asking that a policy be developed to address
25 this very issue that we're struggling with today.

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1 And Supervisor Carrillo, I agree with you. I
2 wish that we had a policy in place to help give us
3 direction here. But one of the reasons why, I believe I
4 asked and I believe the board directed staff to develop
5 such a policy, was that we recognized the value of
6 allowing certain mitigation preserves to go on district
7 protected land under certain circumstances. And that's
8 why we were asking for that policy.

9 It really hasn't come up in the last couple

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10 years. And that's probably why it kind of got put on
11 the back burner. But I think it is something that the
12 future board is going to have to deal with and should
13 deal with.

14 We have two resolutions before us. One
15 permits the establishment of a mitigation preserve under
16 the current conservation easement. The other resolution
17 before us approves an amendment to the conservation
18 easement to allow the mitigation preserve.

19 I, for one, listened to what -- the speakers
20 have said about amending easements. I think that is a
21 slippery slope. I think at times it probably, because
22 of great public benefit or some other reason, it's
23 probably justified. However, and this isn't. I don't
24 believe that.

25 On the other hand, I do believe that we can
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cont.

1 interpret the current easement to allow for a mitigation
2 preserve and counsel has said that that is legally
3 defensible.

4 I think some people are missing the larger
5 goal here and that is that we're trying to protect two
6 endangered species. How do we do that? Do we just
7 allow people to go out and buy mitigation credits in
8 lord knows where and say, oh, okay, we've bought land
9 here or credits here. The species is protected.

10 Or in this case, do we look at adjacent
11 property to where the species are living and say we have
12 a willing property owner who will allow a mitigation
13 preserve. It's adjacent to where the endangered species

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14 are living.

15 In my mind, what better place to allow
16 mitigation because the goal here under the open space
17 district's goals and priorities -- and Mike Sennif
18 (phonetic) I think summed it up I think perfectly --
19 that mitigation is consistent with the goals and
20 policies of the district.

21 And in this case, we have land that is already
22 protected from development. Ag will continue. And you
23 can argue that it will even be enhanced with this
24 mitigation area on it.

25 So with that, I feel it just makes sense. And
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1 I know this happens to be a quarry site and that kind of
2 development. I know some people are not happy with it.
3 But it's been in our ARM plan for years. It's been in
4 our general plan for years as a quarry site. And if it
5 was some other development or somebody else was doing
6 something else on some other land and they had a willing
7 property owner adjacent to them saying, hey, you got
8 CTS. I'm willing to let you establish a preserve on my
9 land. I think it would make sense to do that.

10 I don't think we're violating any trust under
11 the current easement given those circumstances. I don't
12 think we should just allow mitigation preserves or
13 mitigation banks to go on protected land everywhere.

14 But with CTS this is a huge problem. Much of
15 the critical habitat area for CTS is in and around Santa
16 Rosa. Much of the land around Santa Rosa is in
17 protected status. You want to shut down development in

ROBLAR EASEMENT_F2[1].txt

18 and around Santa Rosa, then a good way to do that is to
19 say, nope, we're not allowing any mitigation preserves
20 on district protected land. I just don't think that's
21 good public policy. But it's something for a future
22 board to wrestle with and deal with.

23 In this instance, you know, I'm going to
24 support approving the resolution which permits the
25 establishment of the mitigation preserve under the

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1 current conservation easement.

2 Thank you, Madam Chair.

3 MADAM CHAIR: Thank you, Supervisor Kerns.

4 Actually, I've been around long enough to know that
5 there's a reason why we don't have a policy to
6 mitigation because it's hard to come to consensus on
7 that, number one.

8 And number two, I think the board in the past
9 and perhaps in the future, although that will be left to
10 the future boards, have believed that each project that
11 comes before us deserves to be treated under an
12 independent basis. And that there are all kinds of
13 issues that develop around a project or, you know,
14 around the parameters of mitigation that I think reflect
15 on the board's decision that is specific to that
16 project.

17 I have to tell you that I have believed in
18 this district. I've walked precincts for this district.
19 I couldn't believe in this district more. But I have a
20 very hard time believing that protecting ag and
21 protecting endangered species can't coexist. I never

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22 have believed that they couldn't coexist. I don't think
23 it's a slap in the face to anybody that's worked to
24 protect 80,000 acres in this county to say that we're
25 going to have tiger salamander, red-legged frog and

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1 cattle or grapes or whatever existing on the same
2 property. It just doesn't make sense to me that you
3 can't do that. I don't think it's a violation of trust.
4 I don't think it's a slap in anybody's face. I think
5 it's a utilization that is appropriate.

6 And I think that, you know -- by the way,
7 Mr. Wilson is not an unwilling participant. He's a
8 willing participant. So it's not like we're going
9 against an owner. And although there are two
10 conservation easements that are side by side, one
11 property owner doesn't tell the other property owner
12 what to do on the those properties. They still got to
13 go through the same kinds of -- you know, the same kinds
14 of issues that everything else does.

15 So I guess -- again, if we were talking about
16 a mitigation bank that I could build 70 homes in a rural
17 residential area, I would probably vote flat out against
18 it. But I'm not talking about that. I'm talking about
19 red-legged frog, cattle and tiger salamander coexisting
20 on a piece of property.

21 So I'm going to support the motion of my
22 colleague Supervisor Kerns.

23 And that provides three votes, and you will
24 bring that back in its final form when, Sue?

25 SUE GALLAGHER: We'll bring it back next
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1 Tuesday, December 14th.

2 MADAME CHAIR: Okay. So it will come back to
3 us on Tuesday, and the direction should be fairly clear.

4 With that, I'm going to at the ripe old time
5 of a quarter til 7:00, adjourn our meeting today in
6 memory of John Rhictor (phonetic), in the memory of
7 Hally (inaudible) and Shirley walker. And we'll see you
8 at 8:30 on Tuesday morning next week.

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10 (End of Tape 4 of 4, side 2 of BOS
11 Roblar Quarry Hearing 12/07/10.)

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CERTIFICATE OF REPORTER

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I, CINDY E. PACATTE, a Certified Shorthand
Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that
the foregoing proceedings were reduced to typewriting,
by computer, under my direction and supervision;

And I further certify that I am not of counsel
or attorney for either or any of the parties to said
hearing nor in any way interested in the outcome.

DATED: _____

CINDY E. PACATTE
RPR, CSR 12839

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3 CERTIFICATE OF REPORTER4 I, CINDY E. PACATTE, a Certified Shorthand
5 Reporter of the State of California, do hereby certify:6 That I am a disinterested person herein; that
7 the foregoing proceedings were reduced to typewriting,
8 by computer, under my direction and supervision;9 And I further certify that I am not of counsel
10 or attorney for either or any of the parties to said
11 hearing nor in any way interested in the outcome.
1213 DATED: 14 5/23/1115 Cindy E. Pacatte16 CINDY E. PACATTE
17 RPR, CSR 12839
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CALIFORNIA

PROOF OF SERVICE

I, the undersigned, declare that:

I am a citizen of the United States, a resident of the County of Sonoma and am over the age of 18 years and not a party to this action. I am employed by the Law Offices of Hans W. Herb and my business address is 740 Fourth Street, Suite 102, Santa Rosa, CA 95404 (Mailing Address: P. O. Box 970, Santa Rosa, CA 95402).

On the date indicated below, I served the attached documents:

DECLARATION OF HANS W. HERB IN SUPPORT OF PETITIONERS TRESH'S AND MAZZETTAS' JOINDERS IN PETITIONER CARRQ'S OPPOSITIONS TO REAL PARTY IN INTEREST'S DEMURRER AND MOTION TO STRIKE AND DEMURRER OF COUNTY OF SONOMA AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT BOARD OF DIRECTORS, COUNTY OF SONOMA

On interested parties in said action by preparing a true copy thereof, and:

X (ELECTRONIC) (1) via electronic transmission to each person listed as follows, at the email address designated for each such person as follows: [Code of Civil Procedure 1013(g); 1010.6(a)(2)]:

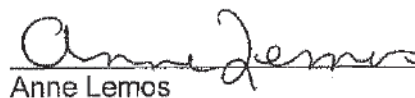
X (MAIL) (2) placing it in a sealed envelope in the United States mail at Santa Rosa, California, with first class postage fully prepaid. [Code of Civil Procedure Sections 1013a(1), 2015.5.]

Said envelope(s) are addressed as follows:

Michael E. Molland Deborah E. Quick Morgan, Lewis & Bockius LLP One Market Street, Spear Street Tower San Francisco, CA 94105-1126	Tel: 415-442-1000 Fax: 415-442-1001 mmolland@morganlewis.com dquick@morganlewis.com rosenblatt@morganlewis.com Attorneys for Petitioner Citizens Advocating for Roblar Rural Quality
--	--

<p>1 Scott B. Garner 2 Morgan, Lewis & Bockius, LLP 3 5 Park Plaza, Suite 1750 4 Irvine, CA 92614</p>	<p>Tel: 949-399-7000 Fax: 949-399-7001 sgarner@morganlewis.com sbeem@morganlewis.com</p> <p>Attorneys for Petitioner Citizens Advocating for Roblar Rural Quality</p>
<p>6 Holly E. Rickett 7 Deputy County Counsel 8 Deputy County Counsel's Office 9 575 Administration Drive, Room 105 10 Santa Rosa, CA 95403</p> <p>Representing County of Sonoma and County of Sonoma Board of Supervisors</p>	<p>Tel: 707-565-2421 hrickett@sonoma-county.org</p> <p>Attorney for Respondents, County of Sonoma; Board of Supervisors</p>
<p>11 Susan Gallagher 12 Deputy County Counsel 13 County of Sonoma 14 575 Administration Drive, Suite 105 15 Santa Rosa, CA 95403</p>	<p>Tel: 707-565-2421 Fax: 707-565-2624 sgallagh@sonoma-county.org</p> <p>Attorney for Respondent County of Sonoma Agricultural Preservation and Open Space District Board of Directors</p>
<p>16 George B. Speir 17 Arthur F. Coon 18 Miller Starr Regalia 19 1331 N. California Boulevard, 5th Floor 20 PO Box 8177 21 Walnut Creek, CA 94596</p>	<p>Tel: 925-935-9400 Fax: 925-933-4126 George.speir@msrlegal.com Arthur.coon@msrlegal.com</p> <p>Attorneys for Real Parties in Interest John Barella and John E. Barella and Andrea M. Barella Trust</p>
<p>22 Clayton E. Clement 23 Clement, Fitzpatrick & Kenworthy, Inc. 24 3333 Mendocino Avenue, Suite 200 25 Santa Rosa, CA 95403</p>	<p>Tel: 707-523-1181 Fax: 707-546-1360 cclement@cfk.com ijefferon@cfk.com</p> <p>Attorneys for Real Parties in Interest John Barella and John E. Barella and Andrea M. Barella Trust</p>

I declare under penalty of perjury, under the laws of the State of California,
that the foregoing is true and correct and that this declaration was executed on
June 9, 2011, at Santa Rosa, California.


Anne Lemos

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cont.

LAW OFFICES OF
CLEMENT, FITZPATRICK & KENWORTHY

INCORPORATED
1233 MENDOCINO AVENUE, SUITE 200
SANTA ROSA, CALIFORNIA 95403

FAX: 707 548-1388

TELEPHONE: (707) 523-1151

STEPHEN K. BUTLER

January 9, 2008

Andrea McKenzie
Director
Sonoma County Agricultural Preservation and Open Space District
747 Mendocino Avenue, Suite 100
Santa Rosa, CA 95401

Re: Roblar Road Quarry / PRMD File No. PLP03-0094 / DEIR Alternatives Analysis

Dear Ms. McKenzie:

Sonoma County PRMD is currently working on the alternatives analysis for the proposed Roblar Road Quarry project. They have asked us whether the applicant would evaluate the feasibility of an alternative circulation proposal in connection with the project to avoid impacts to the creek that would occur from widening Roblar Road. We have determined that a feasible alternative is to construct a temporary haul route across a five acre portion of the adjacent property that is encumbered by a conservation easement in favor of the Sonoma County Agricultural Preservation and Open Space District ("District").

We would propose to enter into an agreement with the District under Public Resources Code Section 5540.5 whereby the District would release its conservation easement on approximately five acres paralleling Roblar Road in the southwest portion of the Former Ranch, in exchange for a 200 +/- acre conservation easement over the entirety of the quarry site.

We would propose to enter into a road easement with the owner of the Former Ranch to improve a haul road across the approximately five acre site for purposes of connecting to Roblar Road. We would then truck west on Roblar Road to the point of the Neve property and then cross the Neve property to Valley Ford Road and then proceed east. This proposal is also contingent on securing the Neve's consent to cross their property.

The 200 +/- acre conservation easement on the quarry site would allow, in addition to any existing uses, quarrying, stockpiling and related activities on approximately 70 acres as described in the project description for the proposed quarry but would otherwise preserve the property for open space purposes only.

At the termination of the quarrying activity, the quarry site would be reclaimed for open space or other public purposes. Although not part of the agreement or conditions, after reclamation, our client is willing to voluntarily make an irrevocable offer to dedicate the underlying fee interest in the quarry site to either the County of Sonoma or the District without compensation for public purposes and will take a charitable contribution deduction for this gift.

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Andrea McKenzie
January 9, 2008
Page 2

As part of the reclamation of the quarry site, we would reclaim the haul road across the approximately five acre area and restore it to its natural condition. Upon restoration of the road, we would release our easement for haul road purposes over the approximately five acres and the owner of that land would reconvey without compensation a conservation easement to the District over such five acres. The contents of this conservation easement would be identical to the existing text of the District easement on that five acres.

The ultimate effect of the foregoing would be to assure that there is no permanent loss of a conservation easement over any portion of the District's holding, result in a required conveyance of a 200 + acre conservation easement and result in the ultimate voluntary conveyance of a 200 +/- site to the County or District for open space or public purposes in reclaimed condition.

PRMD is authorized to consider this alternative haul road proposal in connection with the development and analysis of alternatives for the proposed quarry project. If you have any questions regarding this letter, please feel free to call.

Very truly yours,



STEPHEN K. BUTLER

SKB:cj

c: John Barella
Jennifer Barrett, Assistant Director, PRMD
Scott Briggs, Environmental Review Division Manager
Dave Hurst, County Counsel
Sue Gallagher, County Counsel

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December 17, 2009
Page 18

- (3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use. (Govt. Code §51238.1, subd. (a).)

Staff has determined that the Alternative 2 haul route is consistent with the Williamson Act's principles of compatibility, listed above, in that, the haul route would not significantly compromise the long-term productive agricultural capability of the contracted parcels or other contracted lands; it would not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted parcels or other contracted lands; and it would not result in the significant removal of adjacent contracted land from agricultural or open-space use. Continued grazing on the Wilson Properties (through which Access Road 1 would extend) and (through which Roblar Road would be widened) would not be hindered. The Neve property (through which Access Road 2 would extend) is utilized as a plant nursery. However, the development and operation of Access Road 2 would not disrupt or hinder continued agricultural operation of those facilities.

Staff has determined that the affected lands are currently in compliance with the agricultural production requirements of their respective Williamson Act contracts. The County's Rules for both Type I and Type II preserves, list quarrying operations, not including crushing or other refining of raw materials, as an allowable compatible use on contracted land. Therefore, the temporary access roads and the widening of a 1 mile section of Roblar Road under Alternative 2 can be considered incidental to the agricultural operations and a compatible use. The improvement of Roblar Road and the new access roads would not only provide access to the quarry, but would improve access to agricultural uses in the area. Staff has determined that the proposed Alternative 2 haul route is consistent with the County's Williamson Act Rules and Procedures for Permitting under Williamson Act contracted lands in that the proposed roadways would be compatible and clearly incidental to the primary agricultural and mining uses, the roads would not occupy or isolate more than 5 acres of land on any separate contracted land, and they would not significantly displace land in agricultural production or cause significant loss of prime agricultural soils.

Issue #9: Open Space District Easement - Alternative 2 Haul Route (Access Road 1)

As described in the Alternative 2 haul route description, the land comprising Access Road 1, and a portion of the land adjacent to and/or along the alignment of the proposed improved section of Roblar Road, are currently under an agricultural conservation easement with the County Agricultural and Open Space District (part of the 700-acre Roblar Ranch, pg. IV.A-19 of Draft EIR).

Under this alternative, the applicant proposes to enter into an agreement with the County Agricultural and Open Space District whereby the District would temporarily release its conservation easement on approximately four acres (encompassing the extent of Access Road 1 and adjacent area to the north on the Wilson property that would be cut off and isolated by Access Road 1), in exchange for a permanent open space conservation easement and offer of dedication of the entire project site (198 acres).

As part of the reclamation of the quarry site, the applicant would reclaim the two private off-road haul road segments and restore those areas to their natural condition. Upon restoration of those areas, the applicant would release its easement over the four acres on the Wilson property (Access Road 1) and the property owner would reconvey without compensation a conservation easement over the four acres to the District. Consequently, while there would be a temporary net loss of approximately four acres of land within an Open Space District conservation easement along the alternative haul route (Access Road 1), there would ultimately be a comparatively large net increase (initially 128 acres of the project site and ultimately the 70 acre quarry parcel) in land permanently protected in an agricultural conservation easement.

Issue #10: Geology and Soils

Recent geological/geotechnical evaluations were conducted by John H. Dailey, Consulting Geotechnical Engineer (Dailey 2005). Dailey conducted subsurface exploration, laboratory testing, and engineering analysis on soil and rock samples from the project site (Dailey, 2005), a seismic analysis on the proposed overburden stockpile slopes (Dailey, 2006), and supplemental analysis of rock slope failure mechanics and slope stability at the quarry site (Dailey, 2007). Dailey also completed a preliminary geotechnical evaluation of the site in October 2002 (Dailey, 2002). Miller Pacific Engineering Group (MPEG)

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SREP

PAGE 01/13

From: Sue Dixon

To: Michael Holland

I am sending 4 things

- 1) Julie Turnross letter
- 2) Jason Merrick / Scott Stegman letter
- 3) Nov 9th Carrq letter
which argues that the open space
amendment is connected to the
quarry
- 4) The memo from Bill Keene
Carrq did not submit this
separately because it was
handed out at the meeting.

December 7, 2009

Citizens Against Roblar Road Quarry
200 Vlaardingen Lane
Petaluma, CA 94952

Attn: Ms. Sue Buxton

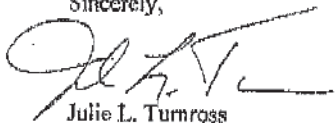
Dear Sue,

Based on my review of the Roblar Road Quarry Final Environmental Impactment Report (FEIR) dated October 2009, and my comments on the Draft EIR, dated July 21, 2008, the following are the two primary areas where I see unresolved concerns.

- Operation of the proposed Roblar Road Quarry requires permitting and oversight by numerous County and State regulatory agencies including, but not limited to, the North Coast Regional Water Quality Control Board (RWQCB), Sonoma County Environmental Health Division (SCEHD) and the Sonoma County Permit & Resource Management Division (SCPRMD). To ensure compliance with the Water Management Plan and other mitigation measures presented in the FEIR, regular oversight will be required of several regulatory agencies. I recommend that a matrix of the involved agencies and required oversight activities be prepared, and that each agency confirms availability of resources to perform the required oversight.
- The effects of the proposed quarry operations on the adjacent Roblar Landfill remain a concern. The groundwater flow and quality at the landfill have not been adequately characterized. Although the FEIR claims that the groundwater flow regime has been characterized, the Solid Waste Water Quality Assessment Test (SWAT)¹ performed at the landfill in 1992 states that groundwater at the site has different geochemical zones, and occurs in different stratigraphic units. The FEIR provides a plan for monitoring potential groundwater flow from the landfill into the quarry; however, until the flow regime is adequately characterized at the landfill, it is not possible to fully characterize the contaminants identified in groundwater and the effects that quarry operation may have on their movement.

Please call me if you have any questions.

Sincerely,



Julie L. Turnross
Principal Environmental Scientist

¹ Kleinfelder, Inc., 1994, *Solid Waste Water Quality Assessment Test (SWAT) Report on the Roblar Landfill, Sonoma County, California*. January 24.

JTEC Environmental

P.O. Box 2218 • Sebastopol • CA 95473 • 707.824.1228 • Fax 707.824.1221 • jtec@sonic.net

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cont.

These are the comments written
by Scott Stegman but submitted by
Jason Merrick under his name 12/14/11

The convoluted effort to salvage the Roblar Road Quarry has resulted in moving targets relative to both Project impacts and mitigations. Various assumptions and conclusions regarding the Alternative 2 conflict with existing County studies, policies, and resolutions. I believe the EIR as most recently reviewed by the Board contains a combination of unmitigated and inconsistent impacts, as well as omitting significant and applicable new information.

The assessment of traffic impacts and mitigations provided some discussion of roadway capacity and condition, including a specific impact finding relative to road wear. The discussion of road wear in the EIR is found in DEIR Sections 4 and 5. DEIR impact E-6 says the original project will have "significant impacts" relative to road wear on both Pepper Road and Roblar Road. This is apparently based on a measure of truck-bearing capacity identified as TI. DEIR Table IV-E-11 assesses TI values for Roblar Road, Valley Ford Road, and Pepper Road. A TI value is consistent with a rural road carrying low volumes of truck traffic, with progressively higher values found with higher truck volumes.

But Section 4 of the DEIR also notes that the TI values "do not account for actual roadway condition (DEIR IV-E-38) and adds a mitigation to determine the condition of the base and subbase of Roblar and Pepper Roads, Valley Ford Road is not listed as having potentially significant impacts relative to road wear, although the DEIR previously described it as a lower level of road. More importantly, the DEIR does not explain how studying the base and subbase provides mitigation, as opposed to simply providing data.

While the applicant is still required to improve a certain amount of Roblar Road, there is no commitment for the long-term implications.

In the later discussion of the Alternative 2, the DEIR compares the TI score for the Project as proposed and the Alternative. It states the Alternative 2 will actually worsen traffic wear on both Valley Ford Road and Pepper Road, yet does not explain why this is not a further impact requiring further mitigation.

The above discussion demonstrates that the Project Alternative will have worse and potentially significant impacts upon Roblar Road, Pepper Road, and Valley Ford Road in terms of road wear and damage.

The significance of this confusion as to road wear impacts is further complicated by two key actions by the Board of Supervisors that have direct bearing upon the Roblar Project. The first is the decision on 2009 to assess a aggregate hauling fee to address road impacts from the gravel trucks. The County contracted for a study to determine the proper fee level to assess upon aggregate haulers, but declined to impose fee determined to be needed to fully mitigate impacts. The Board Resolution that set the reduced fee level specifically stated,

Although the cost analysis indicates a higher mitigation fee is warranted, due to the severe economic recession and the need to encourage local production the mitigation fee should be lower than the cost analysis to maintain a competitive market.

Given the deliberate and confirmed intent to reduce the fee for economic purposes, the fee as now imposed does not mitigate for road wear and damage from aggregate hauling. As a result, the EIR cannot simply rely upon the fee as evidence that the impact is mitigated. The potentially significant impact from Roblar Quarry hauling remains significant, has not been adequately mitigated, and calls for recirculation of the EIR.

Even if the aggregate hauling fee was set at a level to provide mitigation, the payment of such a fee only comprises mitigation when there is a corresponding commitment on the part of the local agency to complete such work in time to provide the associated benefit.

Instead the Board has consciously pulled back from funding a significant number of local roads to concentrate its efforts on those roads that provide the greatest benefit (see attached). The Board has specifically suspended any road repairs and reconstruction on Roblar Road, Pepper Road, and Valley Ford Road. These are all key site access points and will be subjected to greatly accelerated wear and damage. This public decision to not maintain 90% of County roads for the indefinite future clearly shows that payment of a proportionate fee will not guarantee satisfactory mitigation for project impacts, even if the fee provided full mitigation (which this does not).

These two key decisions by the Board of Supervisors, explained in detail in the associated reports and Resolutions, are significant changes in policy that were not accounted for in the Roblar EIR, could not have been anticipated, and raise the prospect of both short and long term traffic impacts associated with this Project, not to mention many others. The EIR therefore needs to be adjusted to reflect these new adopted policies of the County, with associated recirculation of the EIR.

I will close with an excerpt from the hauling fee report, which shows not only the scope of potential road impacts, but the recognized secondary impacts associated with increasing truck traffic while backing away from maintenance and mitigation.

The truck traffic arising from any aggregate operation results in a significant physical impact on the road and the cumulative effect of such truck traffic will shorten the life of the road, cause excessive road damage, and hasten the need for repairs or reconstruction. Such impacts can be determined by the number ESALS delivered to the road by the aggregate haul trucks. A road does not suddenly become impassable or unserviceable on reaching its projected life; rather, the road gradually wears and breaks down, increasing the frequency of cracked pavement, potholes, and ruts. This wear can be partially mitigated by routine road repair and patching. As the pavement surface continues to age and break down, greater driver alertness and lower traffic speeds may be required. Also, the uneven road surfaces may increase public safety hazards, along with reducing design speeds and related levels of service.

Deferred maintenance drives up long-term costs by shortening the cycle of rehabilitation, which often leads to pavement failure and the eventual need to completely reconstruct the road.


CARRQ

Citizens Advocating for Roblar Rural Quality
 Citizens Against Roblar Road Quarry
 200 Vlaardingen Lane, Petaluma, CA 94952
www.carrq.org

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BOARD OF SUPERVISORS
 COUNTY OF SONOMA

November 9, 2010

Sonoma County Board of Supervisors
 Chair Valerie Brown
 Supervisor Mike Kerns
 Supervisor Shirlee Zane
 Supervisor Paul L. Kelley
 Supervisor Efrén Carrillo
 Sonoma County Administration Building
 575 Administration Drive
 Santa Rosa, CA 95403-2823

Re: Roblar Road Quarry

Dear Chair Brown and Commissioners:

Citizens Advocating Roblar Road Quality ("CARRQ") hereby comments and objects to the request for amendment to the Roblar Ranch Conservation Easement (Applicant Wilson/Barella) scheduled for hearing before the Board of Supervisors on November 9, 2010.

As an initial matter, we adopt and endorse the recommendations made by the Citizens' Advisory Committee of the Sonoma County Agricultural Preservation and Open Space District ("District") in their letter dated November 4, 2010, which also opposes the request for an amendment to the Roblar Road Ranch conservation easement on the Wilson Property. We agree with the Open Space District Advisory Board that the amendment to the easement is not consistent with the existing conservation easement on the Wilson property, because:

- The existing conservation easement prohibits non-cultural commercial use.
- The amendment to this easement will diminish the agricultural use on the property in question.
- The amendment provides limited environmental benefit.

The Advisory Committee correctly recognized that the requested amendment is a pretext for the commercial development of the adjoining property owned by the developer (Mr. Barella) of the gravel mine project which this Board has recently approved on October 19, 2010, by straw vote. Accordingly, we agree with the Citizens' Advisory Committee for the District that any approval of

Sonoma County Board of Supervisors
November 9, 2010

Page 2

this proposal to accommodate a commercial private use of adjacent property will undermine public support for the District.

In addition, CARRQ urges the Board of Supervisors to deny approval for the requested amendment for several other independent reasons.

First, the Board's consideration of the requested amendment is premature and violates the requirements CEQA imposes on such consideration. The actual terms of the requested amendment have been a moving target for months. The public has not had sufficient notice of the terms that are subject to the proposed requested amendment. The EIR and supplemental EIR that address the gravel mine project should, but do not, adequately address the requested amendment. The reason for this, at least in part, is that the terms of the requested amendment have been proposed, then modified, and then proposed again in private meetings between the developer's lawyers and County officials. Until recently, they have not been disclosed or discussed with the public — or even (as we understand it) with at least one of the actual holders of the conservation easement (Mr. and Mrs. Tresch) which the developer and his lawyers want the Board to amend.

Second, the beneficiary of the proposed amendment, Mr. Barella, is not the holder of the conservation easement in question. The current conservation easement is held by two parties — the Wilsons and the Tresches. The role of one holder, Mr. Wilson, in "requesting" the amendment from the Board of Supervisors is unclear and should be disclosed to the public. The other easement holders, the Tresches, have not requested the amendment and object to it. Since both holders of the easement subject to the proposed amendment have not requested it, the Board cannot now approve such an amendment.

Third, the beneficiary of the proposed amendment, the developer of the gravel mine, approved by the Board of Directors on a 3-2 vote on October 19, is not the holder of the conservation easement to be amended, nor the public who created the District and pays for its operations. The real purpose of the proposed amendment is to allow the applicant of the gravel mine on the adjoining property (Mr. Barella) to develop his gravel mine easily and cheaply. Now that it is known that the gravel mine will kill endangered species, the gravel mine applicant wishes to mitigate that killing in a way that is least expensive for him. The amendment is his attempt to do so. Accordingly, the proposed amendment violates established District policy. District policy states that the District shall approve amendments to conservation easements only when there is a clear benefit to the District and its conservation goals. None exists here. The beneficiary is the gravel mine applicant. The Open Space District should not be in the business of profiting individual commercial projects under the subterfuge of protecting natural resources.

Fourth, the proposed amendment is inconsistent with the plain language of the existing conservation easements. These conservation easements are set up to maintain agricultural purposes and scenic value of the underlying land. The proposed easement impairs, degrades, and damages those values. As a result, the proposed amendment is inconsistent with the purposes and intent of the Sonoma County Agricultural Preservation Open Space District. The purpose of the District is to permanently preserve agricultural values and scenic preservation of land in Sonoma County. This amendment does the opposite. It converts an existing conservation easement to the needs of a private com-

Sonoma County Board of Supervisors
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Page 3

mercial venture (a private gravel mine) which is inconsistent with those agricultural values of the District and destructive of the scenic value of the land to which the conservation easements apply. It subverts the intent, purpose, and statutory authority of the District and the authority vested in it by the Sonoma County citizens and California state statutes.

Fifth, the public has not been informed about the economic relationship between one of the easement holders, i.e., the Wilsons, and the gravel mine developer. If, as is possible, the Wilsons seek to later sell mitigation credits to the developer through the device of this amendment, this is another commercial use of the easement. The papers and documents the public has seen to date do not discuss and shed no light on the commercial relation between Mr. Wilson and Mr. Barella relative to the requested amendment. This should be disclosed to the public before the Board acts on the request.

Sixth, the amendment to the conservation easement is not consistent with other adopted District policies. It is not consistent with the conservation purposes of the easement. The proposed amendment would restrict, not advance, the agricultural and scenic values and purposes of conservation easements. The proposed easement also restricts the agriculture uses of the land subject to existing conservation easement and all future uses to which land could be put under the amended easements. This is inconsistent with the purpose, policies, and statutory mandates of the Open Space District and the conservation easements that they grant and acquire.

For all of the foregoing reasons, the current Board should not decide the request for amendment at the present time. The fact that two of the proponents of the gravel mine, Mr. Kelly and Mr. Kerns, will leave the Board at the end of the year and will not be available to vote for it thereafter is not a legitimate reason why the Board should rush to a decision on this request for amendment now. For the reasons stated in CARRQ's opposition to the gravel mine, dated October 19, 2010, which we incorporate here in full, we respectfully request that, should the Board chose consider this amendment now, Supervisor Kerns recuse himself from voting on this requested amendment.

Respectfully submitted,

Sue Buxton
President

Date: November 9, 2010 at 3:00 pm
To: Board of Directors
From: Bill Keene, General Manager
Subject: Roblar Ranch Conservation Easement:
Request for Amendment

I. Background

On May 21, 2004, the Sonoma County Agricultural Preservation and Open Space District (District) acquired a Conservation Easement ("Ranch Easement", on file with clerk) over the 757.7-acre Roblar Ranch property along Roblar Road ("Easement Property", see Attachment 1). The purpose of the acquisition was to preserve the property's agricultural, scenic, and natural resource values. The property is characterized by rolling hills with grassland, oak woodland and riparian woodland, and contains approximately one-half mile of Americano Creek as well as two of its tributaries.

At the time of the acquisition, the Easement Property was owned by the Barella Family Trust. The fee interest was subsequently divided and transferred to two conservation buyers on June 14, 2004, both of whom still hold title. The western 388.7-acre parcel is owned by Ken and Clairette Wilson, who use their property for cattle grazing ("the Wilson Property"); the eastern 368.9-acre parcel is owned by Joe and Kathleen Tresch, who likewise use their property for cattle grazing ("the Tresch Property"). The two parcels remain under the Ranch Easement, the conservation easement jointly held by the two families.

Although the Barella Family Trust no longer owns the Easement Property, it does currently own 200 acres immediately north of the Easement Property. Last month, the Board of Supervisors, by straw vote, tentatively approved the development of a 70-acre commercial quarry on that northerly site ("the Quarry Property").

In connection with the Quarry, John Barella and Ken Wilson have requested a clarification of or amendment to the Ranch Easement to allow for the establishment of a 105-acre California tiger salamander (CTS) and California red-legged frog (CRLF) preserve on the Wilson Property ("Requested Amendment," see Attachments 2, 3, 4 & 5). The Treschs have indicated that they object to that request, and will be submitting a letter to the Board and the District stating their position.

After evaluating the request, staff determined that the request was inconsistent with the Ranch Easement and would require an amendment. The General Manager recommended that an alternative configuration of the mitigation preserve be considered.

The District's Board of Directors initially considered the Requested Amendment at its October 19th hearing. The Board continued the matter to November 9, 2010, and directed District staff to work with the project applicant to contact the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) for feedback on the mitigation proposal.

District staff met with the project applicant on October 27, 2010, and submitted a letter to the regulatory agencies on November 2, 2010, requesting an evaluation of the mitigation value of

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two alternative configurations of the Preserve (Attachment 6). At this point the agency has not approved either the applicant's configuration or the District's proposed reconfiguration.

II. Requested Amendment

A. Description of Proposed Offsite Mitigation Preserve

The Requested Amendment would allow for the establishment of a 105-acre CTS/CRLF preserve on the Wilson Property as shown on Attachment 7 ("Requested Preserve Area"). The establishment of the Preserve would include (1) the expansion of an existing stock pond on the Wilson Property, (2) the construction of a new stock pond (.15 to .25 acre) on the Wilson Property, and (3) the conveyance of a more restrictive conservation easement over a portion of the Wilson Property to CDFG or USFWS.

Under the Public Resources Code, an amendment to a conservation easement may be approved with a majority vote of the District's Board of Directors.

B. Analysis of Proposed Offsite Mitigation Preserve

1. Inconsistency with Terms of Ranch Easement

At the outset, the construction and expansion of stock ponds is permitted under the terms of the Ranch Easement in connection with agricultural use of the land. The stock ponds are therefore not of concern and would be permitted on the Wilson Property with or without the Requested Amendment.

District staff has determined, however, that the proposed establishment of an off-site mitigation preserve on the Wilson Property is inconsistent with at least two express provisions of the Ranch Easement, and perhaps others.

First, the proposed use of the Wilson Property for a CTS/CRLF preserve will require recordation of a new restrictive easement in favor of CDFG. The Ranch Easement, however, allows recordation of new third-party easements *only* "where they will remove or significantly lessen the impact of existing easements of record on the protected values..." (Easement Exhibit B, Paragraph 7). Since the new CDFG easement does not replace or reduce the impact of any existing easement of record, it is not permitted under the plain language of the Ranch Easement.

Second, the Ranch Easement expressly prohibits any non-agricultural commercial use of the Wilson Property (see Exhibit C, paragraph 1). Use of the Wilson Property as mitigation for off-site development is a non-agricultural commercial use, and thus, again, is not permitted.

The proposed mitigation preserve would require an amendment to these provisions and perhaps others.

2. Consideration of an Amendment

The prohibitions against new third party easements and against non-agricultural commercial uses are designed to help to ensure that the primary purpose of the Ranch Easement – preservation of the property for agricultural purposes – is maintained. The Ranch Easement states plainly that its purpose is to "primarily preserve the Property's productive agricultural soils, agricultural viability and productivity, and the Property's size, such that it remains large enough to sustain an economically viable agricultural operation."

That being said, however, the purpose of the Ranch Easement also includes protection of "the natural resource values of the Property" and prohibits "any use that would impair, degrade, or damage these values". If the mitigation proposal could be designed to substantially further that

purpose, while minimizing adverse impacts to the agricultural values of the Wilson Property, the requested amendment could be deemed consistent with the Ranch Easement.

a. District's Amendment Policy

The District's Easement Amendment Policy, set forth in the Board approved 2006 Stewardship Manual (on file with clerk), states that:

- *The District shall approve amendments to conservation easements only where there is a clear benefit to the District and its conservation goals;*
- *The District shall approve amendments to conservation easements only where the amendment is consistent with law, with adopted District policies and with the conservation purpose of the easement; and*
- *Amendments to provide for additional natural resource protection shall be permitted provided that such additional protection does not diminish or otherwise impair the conservation values of the land.*

District staff evaluated the applicant's proposal to determine if an amendment to the Ranch Easement to allow creation of the Preserve on the Wilson Property would be consistent with the District's Amendment Policy.

b. Protection of Natural Resources Identified in the Ranch Easement

The proposed Preserve is located at the northernmost extent of the Wilson Property, bounded by Roblar Road to the west and the Tresch Property to the east, and includes upland grassland, oak woodland, seasonal drainages, and portions of Americano Creek and Ranch Tributary that include riparian vegetation such as willow and Oregon ash. The riparian areas and oak woodlands are identified in the Ranch Easement as Natural Resource Areas, within which no structures can be built or permanent crops planted.

Creation of the Preserve would clearly benefit the natural resource values of the Wilson Property by providing additional protection of habitat for CTS and CRLF. On the other hand, establishment of the Preserve could significantly restrict agricultural use of the Wilson Property in perpetuity. Typically, CDFG easements prohibit agricultural activities of any kind except grazing for vegetation management. The proposed configuration of the Preserve includes significant acreage of open grassland, grassland currently used for dairy and beef cattle grazing. These open lands also present opportunities for other potential future agricultural uses. Recordation of the CDFG easement could eliminate those possibilities, thereby diminishing the agricultural values of the Wilson Property. The District's Amendment Policy prohibits amendments that would "diminish or otherwise impair the conservation values of the land." As currently proposed, the requested amendment therefore would not comply with the District's Amendment Policy.

However, if the proposed Preserve Area were reconfigured to focus on those areas called out for protection under the Ranch Easement, the amendment may enhance rather than diminish the Wilson Property's conservation values. If the Preserve Area were reconfigured to include only the riparian areas and existing oak woodland tree canopy, along with an associated 250-foot buffer that include the created stockpond and some upland grasslands, then the key natural resource values expressly identified in the Ranch Easement would be enhanced while potential impacts to the agricultural values of the Wilson Property would be minimized. The reconfigured Preserve Area, still encompassing approximately 105 acres, would allow for the restoration and regeneration of the riparian and oak woodland habitat, and would strengthen the permanent protection of the Wilson Property's natural resources (See Attachment 8). The reconfigured Preserve Area could therefore be found to be consistent with the Easement Amendment Policy.

Although District staff recognizes the risks of allowing mitigation on protected lands, staff believes that, under these particular circumstances, the Reconfigured Preserve Area – focused solely on the riparian areas, oak woodlands and appropriate associated buffers – could strengthen the permanent protection of the natural resource values specifically called out in the Ranch Easement, without significantly impacting the property's agricultural values. In addition, the reconfigured area would also meet the 105-acre mitigation area requested by the project applicant. Accordingly, the amendment to allow for mitigation could be beneficial to the property's protected values.

c. Property Owners Consent

Any amendment to the Ranch Easement would require approval of all landowners that are party to the easement, in this case including Ken and Clairette Wilson, and Joe and Kathy Tresch. The Ranch Easement is a single easement encompassing both properties. An amendment cannot be recorded without the signature of all property owners.

The District only works with willing landowners, in accordance with voter-approved Measures A and C, adopted in 1990, and Measure F, adopted in 2006. The District is not a regulatory agency, and depends upon good working relationships with its landowners and other partners to protect lands. District staff is concerned that approval of an amendment before the landowners themselves have reached agreement could undermine these relationships.

d. Broader Policy Issues

Allowing use of conservation easement properties for mitigation raises several broader policy implications and has been the subject of considerable debate in recent years. Amending the Ranch Easement to allow for CTS and CRLF mitigation on the Wilson Property may set a precedent for other conservation easements. Lands conserved for agricultural purposes, like the Wilson Property, may be targeted for conversion to mitigation, due to their lower cost (their development values having already sold). Yet many of these conserved lands are recognized as key agricultural resources, important to the continued viability of agriculture in Sonoma County. In individual cases, the conversion of such conserved lands (or portions of such land) may be seen as insignificant, but together, they may result in a cumulative loss of the County's productive farmland.

Another consideration is that state and federal regulations that protect species do change over time, as does the protected status of a species. For example, the Sonoma County Distinct Population Segment of the California tiger salamander was listed by the U.S. Fish and Wildlife Service as endangered in 2002, but was changed to threatened in 2004. In 2005, the listing was changed back to endangered. The California tiger salamander was proposed for State listing in the 1990s, but was only approved for listing as Threatened by the California Fish and Game Commission in March of 2010. A protected species may recover to the point of delisting under the Endangered Species Act, or conversely might become extinct.

Conservation easements, on the other hand, offer permanent protection for the purchased conservation values, through permanent restrictions on land uses. Once a conservation easement is recorded, unless amended, it provides protection of conservation values in perpetuity. In the case of the proposed mitigation preserve, agricultural uses beyond grazing as determined by a Grazing Management Plan would be prohibited forever on the property now owned by the Wilsons. A future property owner may desire to use the land for other agricultural uses, but would not be allowed to do so.

3. Citizens' Advisory Committee

At their October 28, 2010 meeting, the Citizens' Advisory Committee discussed the request for an amendment to the Ranch Easement. Committee members stated their opposition to the establishment of a mitigation preserve on the Wilson Property, particularly with respect to the precedent that would be set if an amendment were to be approved. They expressed concern that such an action would compromise the integrity of perpetual conservation easements and erode the public's trust. The Committee further expressed concern that the preserve would diminish agricultural uses of the Wilson Property for a limited environmental benefit. Finally, the Committee expressed concern about the private commercial benefit associated with amending the Ranch Easement to allow offsite mitigation for the quarry project. At the meeting, members of the public also spoke out against the amendment. At the conclusion of the meeting, the Committee voted unanimously to send a letter to the Board recommending that the Board deny the applicant's request.

Recommendation

The District General Manager has determined that the proposal for a CTS/CRLF preserve on the Wilson Property is not consistent with the existing terms of the Ranch Easement, and cannot be allowed without an easement amendment.

Further, the General Manager cannot recommend that the District Board of Directors approve an amendment to allow the CTS/CRLF preserve as currently proposed, as it may diminish or impair the protected agricultural values of the Wilson Property.

The General Manager, however, believes that if the Preserve Area is reconfigured as recommended by staff, and both landowners party to the Ranch Easement are in agreement, an amendment to allow establishment of the Preserve would be acceptable.

MICHAEL E. MOLLAND

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BOARD OF SUPERVISORS
SONOMA COUNTY
STATE OF CALIFORNIA

In the Matter of the Roblar }
Road Quarry }

BOARD OF SUPERVISORS MEETING
DECEMBER 7, 2010

REPORTER'S TRANSCRIPT TRANSCRIBED FROM AUDIO TAPES

Reported by:
Cindy E. Pacatte, CSR No. 12839

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4 (Beginning of Tape 4 of 4, side 1 of
5 BOS Roblar Quarry Hearing 12/07/10.)

6
7 MADAM CHAIR: It is just a pleasure to be back
8 at 5:30. We're only two and a half hours out from our
9 3:00 o'clock public hearing. But we're going to begin
10 hearing on Roblar Ranch conservation easement. I want
11 to remind those that are here that this is not about the
12 quarry. This is only about the conservation easement.
13 So if you come up to testify, limit your comments to
14 that area alone.

15 And I'm going to turn it over to staff.

16 MARIA CIPRIANI: Good evening, Madam
17 President, Directors. Maria Cipriani, assistant general
18 manager, Sonoma County Agricultural Preservation and
19 Open Space District. With me are Sheri Emerson,
20 stewardship program manager with the district, and Sue
21 Gallagher, deputy county counsel.

22 On October 19th the district's board of
23 directors initially considered the request to interpret
24 and/or amend the Roblar Road Ranch conservation easement
25 to allow for the establishment of the mitigation

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1 preserve on the Roblar Ranch property for protection of
2 California Tiger Salamander and California Red-Legged
3 Frog. The board continued the matter to November
4 9th and directed district staff to work with the project
5 applicant to contact the US Fish & Wildlife Service and
6 California Department of Fish & Game on feedback on

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7 alternative configurations for the proposed preserve.

8 The board continued the matter again to

9 December 7th to allow more time for a response from the
10 agencies and to determine what, if any, legal steps
11 might be necessary or appropriate to allow for the
12 proposed preserve.

13 Now I would like to turn the presentation over
14 to Sheri to give a brief summary of the status of the
15 project.

16 SHERI EMERSON: Thank you.

17 On November 2nd, district staff submitted a
18 letter to the regulatory agencies requesting an
19 evaluation of the mitigation value of alternative
20 configurations -- regulatory agency staff have deeply
21 expressed concerns about both configurations including
22 the proximity of the preserve to both Roblar Road and
23 the quarry itself. However, since a complete --
24 application package has not yet been submitted to either
25 agency for the project, staff from both agencies have

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1 declined to formally respond to inquiries.

2 Staff is aware that there is interest in
3 comparing past conservation easements with the Roblar
4 Ranch easement -- several examples on file -- for
5 comparison. It is important to note every incident is
6 somewhat different. Each has its own purpose, and each
7 its own -- each easement needs to be evaluated based
8 upon its own circumstances.

9 The board has expressed interest in
10 considering alternatives to allow for establishment of

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11 the preserve. These options include, number one, the
12 interpretation of the conservation easement; and, number
13 two, an amendment to the conservation easement. Before
14 the board today are draft resolutions for each of these
15 two alternatives.

16 The general manager continues to recommend
17 that an amendment to the -- the interpretation of the
18 conservation easement would be the appropriate option to
19 allow for establishment of the preserve.

20 This concludes the staff presentation.
21 Staff -- district staff and county counsel staff are
22 available to answer any questions you may have.

23 Thanks.

24 MADAM CHAIR: Thank you.

25 Are there any comments by county counsel or by
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1 staff? Any questions of the board?

2 Seeing none. Then I'm going to open it for
3 public hearing and you may come forward.

4 PUBLIC SPEAKER: Thank you very much. Member
5 of the board, my name is Pamela Torliatt. I'm the mayor
6 of the city of Petaluma, and I wanted to state for the
7 record that on your November 9th staff report, I think
8 that there's plenty of information included in that
9 report to deny this request. There are few comments,
10 concerns and issues with the proposal. One being that
11 the district depends upon good-working relationships
12 with its landowners and other partners to protect its
13 lands. The land approval of this amendment before the
14 landowners themselves have reached an agreement could

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15 undermine the ability of the district to maintain its
16 reputation of working with -- landowners.

17 Also, the adoption of the -- would compromise
18 the integrity of the perpetual conservation easements
19 and ruin the public's trust.

20 Third, the private commercial development will
21 unfairly benefit at taxpayers' expense by amending the
22 ranch easement to allow off-site mitigation for a
23 development project.

24 Fourth, the advisory committee voted
25 unanimously to recommend denial of the applicant's

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1 request. And as I also recall the listing of the
2 California Tiger Salamander was so concerning to the
3 County of Sonoma and cities in the Santa Rosa plains
4 that they were in fear that it was going to halt all
5 development because of the area that encompassed the
6 Santa Rosa plains.

7 So it seems to me that there is plenty of land
8 out there that could be used as mitigation land for the
9 tiger salamander.

10 I urge you to deny this request. I also would
11 like to state that after the last meeting that was held
12 regarding the quarry project -- Supervisor Kerns accused
13 myself and my colleagues of our comments being political
14 grandstanding. My response is that I consider my
15 presence and comments as representing and protecting the
16 public interest. And I will continue to do so.

17 Thank you very much.

18 MADAM CHAIR: Thank you.

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19 Next.

20 PUBLIC SPEAKER: Madam Supervisor, Members of
21 the Board. My name is David Glass, vice-mayor of City
22 of Petaluma, mayor-elect City of Petaluma, past mayor of
23 City of Petaluma. We all campaigned, and I campaigned
24 at the request of Marleen Middlebrook (phonetic) for the
25 extension of this open space district funding. I

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1 campaigned on a promise of a sacred trust with the
2 taxpayers of this county. What you are going to hear is
3 a number of people expressing concern about the
4 violation of that trust. And it's not implied. It's
5 explicit.

6 The conservation easement with the Sonoma
7 County Open Space District, they go into perpetuity.
8 Into perpetuity would lend itself to say that a
9 reasonable person could come to the conclusion that that
10 means it cannot be amended.

11 The agreement is binding. It's entered into
12 by a willing seller. Only a willing seller can enter
13 into an agreement such as this. So it's not whether I'm
14 an attorney or not, because clearly I'm not. But I'm
15 one that has gone out as each of you have and talked to
16 the public about building that public trust. And this
17 is a promise that is made. And it's a reasonable
18 expectation. It's an expectation on the part of the
19 environmental community. It's an expectation on the
20 part of the neighbors here. And, in fact, you don't
21 have a consensus amongst the adjoining property owners
22 that would be affected by this proposed amendment

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23 because you've got the Wilsons that may be in favor of
24 it, I suppose. I've seen information lending to that
25 speculation, but you've got the Tresches that are

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1 against it. And then you've got Mr. Barella that is for
2 it.

3 So what you really need here is you need
4 unanimity if you're going to propose amendments to
5 contracts that are entered into into perpetuity. And
6 you certainly don't have. You don't have it from
7 elected officials. You don't have it from the
8 environmental community. You don't have it from the
9 neighboring adjoining property owners. But you do have
10 it from the beneficiary of the man that entered into
11 this contract willingly years ago and accepted the
12 public taxpaying dollars to enter into a contract that
13 is noncancelable and into perpetuity.

14 So I'm simply asking you to make the
15 no-brainer, easy decision and that's to live up to the
16 terms of a contract rather than attempt to find a way to
17 amend it.

18 Thank you very much, and I'll be leaving now.

19 MADAM CHAIR: Next.

20 PUBLIC SPEAKER: Good evening. I'm president
21 Steve -- resident of Santa Rosa. I am a member of the
22 advisory committee. But I'm not here in that capacity
23 tonight. I'm an individual. But I am an individual who
24 has a long history in the district. I was on the
25 steering committee that campaigned in 1990, on the

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1 advisory committee for eight years and on the steering
2 committee again in 2006 and back on the advisory
3 committee once again.

4 MADAM CHAIR: And you are my appointee.

5 PUBLIC SPEAKER: And I am happily Shirlee's
6 appointee. Thank you, Shirlee.

7 I believe this is not a proposal you should go
8 ahead with. I believe that in purchasing this property
9 and the easement you already protected the land. You
10 protected it for primarily agricultural values. And,
11 yes, there are resources on there that are protected as
12 well. So you have done that on this property. The
13 amendment or the change to this agreement, I believe,
14 would potentially impact adversely this agricultural
15 easement. It may lead to practices that are more
16 difficult and which will limit the agricultural value.

17 I think what you really need to look at as
18 anybody in public office is what is the benefit to the
19 public. And if there is a benefit to the private
20 sector, to the people who are going to benefit from
21 changes of this easement, but if you look closely at
22 what the benefit to the public is, I don't think you
23 find it in changing this easement.

24 As I said, the land is protected. The thing I
25 fear is precedent. And it's already being said or we₉

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1 already have precedent to do this, but we don't. There
2 have not been projects like this before. But if you

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3 approve this today, we will over and over have
4 applications and requests to go ahead and for every
5 development that needs to mitigate California Tiger
6 Salamander or other species, they'll be coming in
7 wanting to use district properties to do so.
8 We need a policy. We clearly need to think
9 this through before we act. So I believe that there are
10 potential risks to the agency. I believe so deeply in
11 it that I've worked many, many years as you all have and
12 many members of the audience. I feel that this could
13 impact adversely the work of the district. It is the
14 public trust. We are only here because the public
15 believed in open space and believed in the district.
16 And that's why we got 75 percent of the vote. And in
17 addition to my colleague Ted Elliot who had something to
18 do with that as well.

19 So I want to thank you all for that. Please
20 vote against because it's not a benefit to the open
21 space district. I appreciate it.

22 MADAM CHAIR: Thank you. Next.

23 PUBLIC SPEAKER: As you just heard, I'm Ted
24 Elliot. And I have sat for two and a half hours on a
25 very hard seat because I really believe in the district.
10

1 And I wanted to give you my views on this particular
2 opposition in front of you. I very strongly oppose
3 either the amendment or an interpretation which is just
4 another way of getting around having to go through the
5 process of an amendment.

6 I wonder, first of all, what's the rush?

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7 California Fish & Game is going to play a role in this
8 no matter what you do. Mitigation has to be -- has to
9 go through their bureaucracy. The landowner hasn't even
10 asked them for an opinion yet.

11 Secondly, Steve just talked about the advisory
12 committee as he is a member of. The advisory committee,
13 it's your advisory committee, is prepared to look at the
14 overall question of, can you use protected lands for
15 mitigation. You have a letter from Ralph Vincent,
16 executive director of the Land Trust in front of you
17 which I think is a superb letter, in which he says it is
18 not possible. Mitigation should not take place on
19 protected lands.

20 Now Ralph is not just a nobody. He's not only
21 the executive director of the Land Trust. He was number
22 two in the trust for public land for many years, and
23 that's the largest land trust in the country. He is a
24 professional in this field. And I urge you to pay very
25 close attention to what he said.

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1 Also the landowner in question is quoted in
2 the Press Democrat as saying, "Hey, I've got other
3 property that this mitigation could take place on."
4 Have you asked him where that other property is? It
5 seems to me that's the easy out for you in this case.
6 An interpretation or an amendment would violate the
7 current easement on the property because you're going to
8 have a Fish & Game easement on it also to bring it to
9 reality.

10 An amendment also is contrary to your own

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11 policy wherein we only amend conservation easements if
12 there is enough positive conservation gain in doing so.

13 we all know various projects where that has
14 happened. One was the -- the pipeline to the Geysers
15 went through in return for which the open space district
16 got the farms in the laguna from the City of Santa Rosa.

17 We know of the more recent project the --
18 project where the district ended up with 18 acres and a
19 trail easement. And --

20 MADAM CHAIR: Ed, I'm sorry.

21 PUBLIC SPEAKER: Let me just close because I
22 want to address one more thing I think --

23 MADAM CHAIR: I know.

24 PUBLIC SPEAKER: -- this is going to be a
25 terrible precedent --

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1 MADAM CHAIR: I understand that.

2 PUBLIC SPEAKER: -- and I want to ask the two
3 retiring members who have given long and excellent
4 service -- one more finishing the sentence, is this the
5 legacy, Supervisor Kelly and Supervisor Kerns --

6 MADAM CHAIR: Time is --

7 PUBLIC SPEAKER: -- that you want to leave in
8 this county?

9 Thank you very much.

10 MADAM CHAIR: Next.

11 PUBLIC SPEAKER: My name is Kathy Tresch. As
12 staff report points out section 2, paragraph 2, the
13 ranch easement states plainly that its purpose is to
14 primarily preserve the property's productive

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15 agricultural soils, agricultural viability and
16 productivity. We purchased the Roblar Road Ranch
17 because we are already in agriculture. We currently do
18 own and operate a dairy, but we are also growing apples,
19 hops, olives, and row crops, even some grapes on our
20 ranch.

21 To meet this primary goal to preserve
22 agriculture, one must be able to diversify and follow
23 trends as the grape grower that was here today earlier.
24 He's not making money in grapes. He needs to do a
25 tasting room. There are cows grazing on Roblar Ranch

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1 now. But what are the trends in dairy? When the --
2 creek watershed enhancement plan was written in the
3 1980s there were 32 dairies in our study area. Now
4 there are 12. What will be the economically sustaining
5 ag use in the future? To restrict the use to grazing in
6 perpetuity is not the intent of the easement, and it's
7 not how you preserve agriculture.

8 Staff argues that preserves impacts to that --
9 of the Wilson property will be minimized. We do not see
10 such restrictions as normal. And we surely do not see
11 anywhere in our easement where it states future
12 restrictions -- minimally restrict ag values are
13 allowable. Having said that, it's clear that to adopt a
14 resolution, either resolution, finding the existing
15 easement can be interpreted to allow an additional
16 easement that admittedly limits the ag viability of land
17 is dead wrong. Such an erroneous interpretation will
18 clearly be reversed.

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19 The alternative to amend the easement, to
20 allow for an ag restriction is equally flawed. One
21 cannot amend the easement whose purpose is to preserve
22 ag -- viability to not reserve it. This would change
23 the character of the easement from one promoting ag
24 viability to one that forever restricts the ag use to
25 grazing, which may be the least economically rewarding

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1 use and hence the most likely to force the parcel out of
2 agricultural use.

3 We consider any taking or restrictions to the
4 ag uses in the easement -- to consider any changes or
5 restriction to the ag uses in the easement to be a
6 taking. We oppose these resolutions also because of the
7 broader implications in policy that will be set. The
8 facts, any developer once you use an easement, easement
9 land to mitigate a commercial project and restrict
10 agricultural use against the wishes of an easement
11 holder and says he isn't going to pay the parcel owner
12 for the mitigation. Big picture, even if this doesn't
13 fly, and it probably won't, does this not open the door
14 that developers, not just the quarry applicant, don't
15 have to mind mitigation credits? They are just taking
16 them from any conservation easement even if the
17 landowner objects.

18 MADAM CHAIR: Kathy, good job.

19 Next.

20 PUBLIC SPEAKER: Chair Brown and other members
21 of the board. My name is Michael Marland (phonetic). I
22 am a -- ranch with my wife that my wife ranches about 3

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23 or 4 miles from the quarry. And sometimes she lets me
24 ranch with her on the weekends. I'm speaking as a
25 rancher. I'm also speaking on behalf of the citizens

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1 group named CARRQ which has appeared before you before.
2 They're asking me to represent their position on this.
3 I am a landowner. I respect the land
4 especially in the dairy belt. I believe that my
5 neighbors do too. And it's important for us that when
6 that land is preserved, it is preserved forever and not
7 just when a political group thinks that it is convenient
8 for it to be preserved until the next dump or landfill
9 or quarry or gravel mine or -- project comes in next
10 door.

11 There are good reasons to deny both of these
12 resolutions given here -- some of them have been
13 submitted. CARRQ has submitted its objections. I'm not
14 going to repeat all those. I mean, either you're going
15 to listen to the advisory committee that you have
16 appointed to advise you on this, you're going to listen
17 to the district manager that says that a resolution
18 interpreting this is not the way to go. You need to
19 have an amendment. You're going to listen to the Fish &
20 Game or whatever state authorities are going to cover
21 the plan which is going to be submitted if there is
22 going to be one.

23 The key -- is why do it now? And it seems to
24 me that the reason is is because there are -- there may
25 be -- to do it now as opposed to later. And the legacy

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1 of issue which was raised by one of the previous
2 speakers I think is important. Now I believe that this
3 board, and in particular the two outgoing board members
4 believe in their heart, this is the right thing to do.
5 It is the legacy they want to achieve. They've worked
6 on this project for seven years and they want to see it
7 through. And that's the reason that this is being
8 submitted to you.

9 But there is another legacy here I think and
10 that is this: It takes a lot to get environmentalists,
11 agricultural users, farmers, organizers, editors of the
12 newspaper and land trust specialists to stand together.
13 And you got it. And I think that they should be
14 commended for that because that is something that has
15 been very difficult to do in this county, and it's
16 happened. It's not going to go away. The gravel mine
17 is going to be opposed by the same group of people for
18 the next diversion damn or waste water project or dump
19 that gets put into the county is going to be opposed as
20 well.

21 So thank you very much. I appreciate it,
22 Supervisors.

23 MADAM CHAIR: I know there's a long line here.
24 We've been here since 8:30. We have had exactly one
25 half-hour break today. I'm going to ask you to --

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1 rather than me having to tell you your time is up and
2 making you angry and us probably, too, look -- there's a
3 monitor right here on the podium. Watch it. And kind

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4 of monitor yourself, but I'm still going to remind you.
5 That way everybody gets treated the same.

6 Yes, sir.

7 PUBLIC SPEAKER: And I will watch the monitor
8 as well as. Thank you. And I can tell by the anxiety,
9 it's understandable.

10 My name is Mike -- I'm a lawyer in Santa Rosa.
11 I live in Santa Rosa. My office is here in Santa Rosa.
12 And I will acknowledge to you at the outset that I have
13 represented John and Andrew Barella and their company
14 North Bay Construction since the mid 1970's, I and my
15 firm. We have not, however, had any involvement
16 whatsoever in the development and pursuit and the entry
17 of the conservation easement. So while I'm here as a
18 lawyer who represents him it's on other matters. It's
19 not on this matter.

20 But I'm also a person who has an interest
21 because I served on the City of Santa Rosa planning
22 commission for years. I served on the County of Sonoma
23 planning commission and board of zoning adjustments for
24 years. I co-chaired with Ted Elliot, the 2006 Measure F
25 reauthorization campaign of the open space district and
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1 I have strong feelings about it.

2 I'm here to address a very limited issue, and
3 the issue is whether mitigation efforts on protected
4 land for the purposes of protecting endangered species
5 are consistent or inconsistent with or compatible with
6 the goals and policies of the open space district. And
7 I believe they are. I don't think, as hard as it may

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8 be, I don't think that the strong feelings about this
9 quarry application should cloud this very limited issue
10 of whether or not mitigation efforts are consistent or
11 not with the goals and policies of open space.

12 And from my review of what I've seen here,
13 although there were others who were handling this, I
14 think the use of the Wilson property, the 105-acre
15 preserve for purposes of mitigation for endangered
16 species, is consistent with both the easement and the
17 open space policies.

18 Thank you.

19 MADAM CHAIR: Thank you, Mike.

20 Next.

21 PUBLIC SPEAKER: Good afternoon. I'm Liza
22 (inaudible). I have served on the open space authority
23 for over ten years although I understand that next week
24 you will be considering my replacement right up front.

25 UNIDENTIFIED SPEAKER: That was your choice.
19

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1 PUBLIC SPEAKER: Yes. I want to be very clear
2 that right now I'm not representing the authority. I am
3 here as an individual. I am very proud, as I'm sure you
4 are too, about what the district has been able to
5 accomplish.

6 And one of those accomplishments that's
7 dearest to my heart has been the many easements that are
8 in place in that southwest dairy belt. These really
9 have enabled family farms to stay intact. And they have
10 also supported some groundbreaking, you know, recognized
11 through the state, environmental projects in the --

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12 creek and the --Americano watersheds. These are
13 projects that are loved by ranchers. They have resulted
14 in miles of riparian reforestation and actually improved
15 water quality.

16 I add that these projects were done without
17 additional rules. They were done without lawsuits. And
18 they were done even without the incentive of mitigation
19 banks. When the authority approved the appraisal for
20 this property and the cost for the project, we based our
21 price on unlimited agricultural use. Even though the
22 property is now used for grazing. As Kathy Tresch said,
23 the easement allows it to be used for, you know, an
24 olive orchard or a pumpkin farm or whatever next is
25 needed to keep agriculture -- this piece --

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1 The mitigation bank would change that use.
2 It's incompatible to have unlimited ag with the
3 mitigation bank. I feel that we made a promise to the
4 people of the county to protect this land for unlimited
5 agriculture, and we may break that promise. I'm gravely
6 concerned about the damage to the trust the district has
7 worked so long and so hard to build with ranchers and
8 growers and ultimately to the district's ability to
9 continue in the agricultural preservation part of its
10 mission.

11 Thank you.

12 MADAM CHAIR: Thank you.

13 Next.

14 UNIDENTIFIED SPEAKER: And, Liza, for the
15 record, you are irreplaceable.

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16 PUBLIC SPEAKER: Ann Marie -- committee for
17 clean water. I support what Liza just said and the very
18 articulate comments of David Glass. I'm surprised that
19 you would even consider this agreement now without the
20 approval of the current landowners. That just seems to
21 be basic violation of the contract. But the
22 concentration so far has been on bureaucratic maneuvers
23 and impacts on humans. And this is about a mitigation
24 area for a salamander and a frog or salamanders and
25 frogs.

21

1 And since you don't have the Department of
2 Fish & Game here to talk about it. I went through the
3 files and as best I could try and find out what exactly
4 would the mitigation area be and how do you know that
5 it's going to work? And it seems to me that it's really
6 just a bureaucratic delineation announcing on a map that
7 this is going to be a preserve area because I'm looking
8 at that one, and it says that the preserve area is going
9 to be around Americano Creek.

10 So I ask you, perhaps you can tell me. Are
11 there any tiger salamanders and frogs already in there?
12 And if water is the key element, that's what I was
13 reading is that the stock ponds facilitate tiger
14 salamander and frog habitat. Well, there's water
15 presumably in the Americano Creek. I don't think it's
16 dried up like Atascadero and Green Valley Creeks. So
17 why wouldn't there be frogs there already in the
18 riparian habitat? So what would you be adding in this
19 mitigation area? And if there are already frogs, what's

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20 the carrying capacity of that area of the riparian zone.
21 who's going to notify the frogs? Did the frogs weigh in
22 on this?

23 In other words, we can do all we want speaking
24 to each other as humans and create all sorts of
25 interesting diagrams and formulas. But what does it

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1 really amount to? And I think the lack of these
2 answers, it points to exactly what has gone wrong with a
3 lot of our mitigation efforts and environmental
4 restoration work. Over the 25 years that I've lived
5 here, I've watched coho and steelhead go from
6 ridiculously abundant to the endangered and threatened.
7 Green Valley Creek go from habitat for coho salmon to
8 extradited.

9 So what are we doing wrong? I have a feeling
10 it's things like this. We make maps and configurations
11 that satisfy our need for something like this but may
12 not actually provide any benefit in reality.

13 Thank you.

14 MADAM CHAIR: Thank you.

15 Next.

16 PUBLIC SPEAKER: Good evening, Madam Chair and
17 Members of the Board of Supervisors. I'm Richard Dowd.
18 I'm vice president of Pinnacle Homes, a home-building
19 land development company in Sonoma County with a long
20 history both my grandfathers happen to be ranchers in
21 west Sonoma County. And I grew up working for them. So
22 I have a long heritage as it comes to open space and
23 land. I'd like to thank you for the opportunity to

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24 speak to you this evening. And it is evening now.
25 Thank you for hanging in there with us.

23

1 About the Roblar Road quarry and the of
2 potential for multiplying the beneficial public use of
3 this particular piece of properties under question.

4 First of all, in these economic times, I think
5 it's important to look at ways to expand public dollars.
6 And I believe that using this in multiple ways both as
7 open space and as a mitigation bank for an endangered
8 species and actually two as a very, very intriguing
9 thing that the board of supervisors ought to be looking
10 into.

11 Also I'd like to mention that chairman of the
12 board of public utilities for the City of Santa Rosa,
13 I'm aware of discussions going on about our agricultural
14 irrigation property out in the laguna as a possibility
15 for us to multiply its use also for the benefit of our
16 citizens in the City of Santa Rosa and our regional
17 partners, to double up on our agriculture irrigation at
18 the same time possibly putting in endangered species
19 mitigation banks.

20 Thirdly, I'd like to say that one of the
21 things to me that's so important to look at some of the
22 subject matter we see in the paper in terms of climate
23 protection, greenhouse gas emissions, that one essential
24 ingredient that we need to look at why we might think
25 globally we need to act very locally and use our local

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1 resources in the most expeditious and efficient fashion
2 that we can find.

3 I think that the Roblar quarry and the plan
4 before you represents some of those issues.

5 And I thank you for the opportunity to speak
6 to you.

7 MADAM CHAIR: Thank you.

8 Next.

9 PUBLIC SPEAKER: I'm Nancy -- and I come as a
10 representative of an organization called Defense of
11 Place, which is a nation-wide organization that works to
12 stop the overturn of deeds, statutes and contracts upon
13 which preserve spaces have been dedicated for either
14 public or private use. Ironically, I'm also a Sonoma
15 resident with a home on Franz Valley Road. And it was
16 while there in 1997 Defensive Place was founded when we
17 went to battle to save Pepperwood Preserve from being
18 sold by the California Academy of Sciences. And I
19 think, you know, it's actually a Sonoma County resource
20 now. That the idea of 70 homes up there instead of the
21 ecological resource it is. It was a -- Defensive Place
22 started out pretty well.

23 But here we are in Sonoma County, which I just
24 really cannot believe, and because we're based on the
25 premise that any breach of integrity of statutes, deeds
25

1 or contracts renders any future promises imaginary
2 within the idea of preserve space and open space and
3 parklands. If conservation easements are so easily

ROBLAR EASEMENT_F2.txt

4 overturned, what does that say about the future of
5 less -- I keep hearing these 20 years. And I was
6 thinking actually, I guess, at this time of Santa Claus.
7 That's sort of the same. If you think that in the
8 future these will be preserved, it's sort of like Santa
9 Claus.

10 Our organization has dealt with similar issues
11 in Oklahoma and Alabama and Illinois. And I just can't
12 believe that this is going on in Sonoma County, that
13 this amendment of these previously dedicated in
14 perpetuity contracts would be overturned.

15 So I hope that you will not vote for this --
16 amendment, that you'll preserve this space.

17 And thank you very much.

18 MADAM CHAIR: Thank you.

19 Next.

20 PUBLIC SPEAKER: Good evening, Madam Chair and
21 Board. Carol Valentino (phonetic). I am the face of
22 the public who voted the open space district into
23 existence. We paid our tax money into the district.
24 However, we may not if this conservation easement is
25 tampered with.

26

□

1 I am the face of taxpayers who gave
2 \$2.3 million to Mr. Barella for an open space easement
3 to the Roblar Ranch. Now the same Mr. Barella wants the
4 county to allow him to have 300 gravel truck trips a day
5 across the conservation easement he was paid for
6 preserving.

7 Not only that, now Mr. Barella wants to use

ROBLAR EASEMENT_F2.txt

8 his paid-for conservation easement to mitigate for
9 losses of California Tiger Salamander and red-legged
10 frog even though property he's suggested hasn't been
11 proven as suitable habitat for either species.

12 So if the county would have allowed the haul
13 road, it would have had a huge effect on the property he
14 is now asking for habitat mitigation.

15 Do you realize how noisy gravel trucks are
16 when traveling on a road? They are more noisy empty
17 than full. Do you think that that would have had an
18 impact on the property that he is proposing for the
19 tiger salamander and red-legged frog? Has he given that
20 any consideration?

21 Native Americans used to put their ear to the
22 ground to hear the approach of buffalo. The ground
23 amplifies sound. If you were a ground -- species, do
24 you think that the roar of heavy trucks would make you
25 stay in your dwelling? I think not.

27

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cont.

1 Mr. Barella has created -- and the Press
2 Democrat is saying, "I feel I am enhancing the property.
3 People ought to be proud we're doing that." Sounds like
4 a slum landlord for endangered species to me.

5 He doesn't live on the land he's proposing for
6 a quarry. He will not be effected by the development.
7 On the other hand, all the property owners, all the
8 farmers who live in the vicinity will.

9 I am giving my support to the Tresch family
10 who are wonderful stewards of the land. I say no
11 preserve for this property. I know the area. I know

ROBLAR EASEMENT_F2.txt

12 the land. I am not just speaking from -- my family had
13 Denucci's restaurant in Valley Ford, not that far away.
14 I have led hikes on the Tresch dairy land. I have
15 visited the quarry area in the rain when flooding
16 occurs. I have visited the land in the spring when
17 wildflowers bloom.

18 So in completion you will set a dangerous path
19 for the future of our district. The public will lose
20 confidence in open space district if this mitigation is
21 accepted. Do not tamper with conserve easements. Say
22 no.

23 Thank you.

24 MADAM CHAIR: Thank you.

25 Next.

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1 PUBLIC SPEAKER: Good evening, Board. My name
2 is Jason Merric (phonetic). I'm a property owner on
3 Roblar Road. And thank you for still sitting here
4 today.

5 I want to talk before you today as a taxpayer
6 of Sonoma County. In 2006 I voted, one of my favorites
7 vote in the world, and that was to extend the financing
8 for the open space district through sales tax.

9 Now I don't enjoy spending money on things.
10 Unless, I guess, it's Christmas. But when I do, I do
11 know that some of that money is going to the open space
12 district and preservation of the agriculture and open
13 space land. And to protect it from development
14 essentially.

15 what this does is allow backdoor development

ROBLAR EASEMENT_F2.txt

16 on a proposal, the quarry itself, and allows for
17 mitigation of the endangered species that will be
18 destroyed. It is a backdoor development policy that
19 would be set here tonight. Nothing less, nothing more.
20 And as a taxpayer, I put faith in this board to protect
21 what -- essentially from the development and for
22 preservation of land for agriculture and open space.

23 This is an indirect policy to allow
24 development. I won't vote for it again as a taxpayer if
25 this the case and the precedent that this board is

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1 setting.

2 And second, the 244 acres that's being dangled
3 like a carrot in front of the board to allow this issue
4 to go forward saying I will preserve this land as well,
5 was the same land that would be allowed for Williamson
6 Act exchange. That's not a benevolent kind of decision
7 by the proponent. It is a smart business decision.

8 Thank you.

9 PUBLIC SPEAKER: My name is Ellen -- and I'm
10 speaking as one of those citizens who may lose trust if
11 this is approved -- will lose trust if this is approved.
12 I think many other people have spoken better to the
13 details than I can at this point. But the commentator
14 who spoke of multiplying the use of the land has his
15 math backwards. To use the same land for two things
16 that are different but not necessarily compatible is not
17 multiplying and subtracting. And I urge you to vote
18 against this and preserve the trust of your
19 constituents.

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20 Thank you.

21 MADAM CHAIR: Thank you.

22 Next.

23 PUBLIC SPEAKER: Good evening. Bill --

24 (inaudible) 26 years as board of Sonoma Land Trust and

25 (inaudible) to come up with the open space district 30

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1 which was the idea of that came out of that land trust.

2 And I'm very concerned about easements and what's been

3 put (inaudible) to you. I want to congratulate this

4 board for stopping the changing of an easement to be a

5 haul road. That was very historic and very important.

6 And a moment -- and -- that because I came to the

7 conclusion on the haul road issue that the only

8 protection we have to keep the integrity -- was the

9 unanimous vote required of the board of supervisors.

10 That's all we have. A very political thing but

11 difficult to obtain.

12 But think about 50 years from now, nobody is

13 paying attention and supervisors get together and -- get

14 a unanimous vote. Now suddenly you could tinker with an

15 easement with amendments with a simple majority. You

16 have to realize, not you, but board of supervisors 25

17 years from now, 50 years from now, could use a simple

18 majority to use the amendment process -- the easements

19 and you have been told many times tonight that the

20 integrity of those easements is so important. It's so

21 important to the public.

22 If you -- tonight -- and you had to take the

23 open space district back to the board for funding -- you

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24 wouldn't get 75 percent of the vote. I've been out
25 there -- where I see some opposition to the open space 31

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1 district, oh, they're going to sell that land some day.
2 I mean, there's that much untrust out there that -- by
3 taking over an easement and the whole system comes apart
4 way more as you go down the line -- I see -- hours spent
5 negotiating with landowners over their conservation
6 easements if you start to create this precedent at this
7 time.

8 MADAM CHAIR: Thank you.

9 PUBLIC SPEAKER: Thank you.

10 MADAM CHAIR: Next.

11 PUBLIC SPEAKER: Chairman Brown, Members of
12 the Board. I'm Ralph Benson, executive director of the
13 Sonoma Land Trust. I came out because there's a
14 distinction that I don't think has been mentioned in the
15 comments yet. It's one thing I think when you're
16 setting up a mitigation bank and mitigation is clearly
17 really useful to use conservation easements as a tool to
18 further mitigation. But it's quite another thing after
19 the easement is in place to go back and use that as the
20 easy way with mitigation. They really aren't intended
21 for that. And I think the concerns of a lot of people
22 here is that Sonoma County is the national leader in the
23 protection of agricultural land and open space through
24 easements and the system depends upon public confidence
25 and credibility and the promise of permanence of these. 32

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1 And so amendments are not things to be undertaken
2 lightly, and particularly when you're using it after the
3 fact for a mitigation. So I'd urge you to take that
4 into consideration.

5 Thank you.

6 MADAM CHAIR: Thank you.

7 Next.

8 PUBLIC SPEAKER: Good evening, Board of
9 Supervisors, Chairman Brown. My name is Chris Snyder.
10 I'm with the operator engineers, Local 3. And I'm here
11 on behalf of the operating engineers to support the
12 amendment and added easement to the existing easement.

13 I had about 12 guys here earlier but most of
14 them left tonight, but they're going to support this as
15 well. And I feel like a broken record when I say this,
16 but we really do have 30 percent unemployment in this
17 county. And I think this is a decision that, relating
18 to this question tonight, is directly related to jobs as
19 well. And I think it's important to take those sorts of
20 things into consideration because, you know, we people
21 live in the environment as well.

22 I don't -- I think the argument that this is
23 precedent setting is a -- my understanding, I guess,
24 there is -- agreement that has similar multiple
25 easements on it. And there's many easements that have

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1 multiple easements on it. And this isn't a
2 precedent-setting situation. So in the public and open
3 space protections, you know, it's going to be a good
4 thing for our environment. It's going to enhance the

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5 CTS and the red-legged frog. And there's still going to
6 be \$3 million that Mr. Barella is still going to have to
7 put up for mitigation. So it's not like this is a free
8 ride or something like that like people are trying to
9 make it out to be.

10 You know, my whole thing is all about jobs.
11 It's been about jobs. And our members are really
12 suffering. If there's a way we can deal with open space
13 and mitigation, and we can all make our environment
14 better and also still have jobs, I mean, it's a win-win,
15 win all the way around. It's good for species. It's
16 good for job creation. It's good for the economy and
17 the environment.

18 And please, you know, we're here in support.
19 And thank you very much.

20 PUBLIC SPEAKER: Good evening, President Brown
21 and Members of the Board. My name is John Barella. My
22 wife and I are the applicants for the Roblar Road
23 quarry.

24 I want to clarify the record on what we're
25 offering the county for mitigating the red-legged frog
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1 and the California Tiger Salamander on the 105 acres of
2 land on the Wilson property which is in the Sonoma
3 County agriculture preservation and open space district.

4 We -- to the agriculture and conservation
5 easement, 130 acres adjacent to the quarry site. Then
6 70 acres after the quarry site reclamation which total
7 is 200 acres of land to the Sonoma County agricultural
8 and open space district.

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9 Also, we'll put into the open space district
10 an agriculture and conservation easement on our 243
11 ranch on Lakeville which has 1,600 real feet of Petaluma
12 River frontage and are surrounded by three other
13 ranchers that are already in the open space district.

14 We feel that has an easement of value of
15 approximately \$2 million. We are offering a total of
16 443 acres to the open space district at no cost to the
17 open space district. I think that's significant.

18 Everybody talks about taking of land. Here we
19 are willing to give up 443 acres of land at no cost to
20 the open space district. On the 105-acre Wilson
21 property, we also offered the open space district to do
22 mitigation work on the riparian and tributary areas at
23 no cost to the open space district. We will put an
24 endowment fund on the entire property in perpetuity to
25 manage and preserve the California Tiger Salamander and³⁵

1 the red-legged frog. This endowment could cost between
2 \$3.5 million to that \$4.5 million.

3 This open space easement on the Wilson
4 property was to protect not only agriculture but also
5 the natural resources on the property and this is
6 exactly what we're trying to do. Because of our due
7 diligence, we found the California Tiger Salamander and
8 the red-legged frog. We are now trying to do what's
9 being required by Fish & Game and Fish & Wildlife to
10 protect these endangered species.

11 This project application has been before the
12 county for over seven years. It has not been a rushed

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13 project. We ask you at this time to decide the fate of
14 this project.

15 Also, I'd like to give you a binder here that
16 we mailed to -- 10,000 brochures went out to different
17 households in an 8- to 10-mile radius around the project
18 site. Of those, we had 524 respondents, more than 2,900
19 visits to the website. We ended up with 376 supporters,
20 127 opponents and 21 undecided. I leave this binder and
21 a CD for each of you board members to review.

22 Thank you very much.

23 MADAM CHAIR: Thank you. Your time is up.

24 Next.

25 STEVEN BUTLER: President Brown, Members of 36

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1 the Board, Steven Butler representing John and Andrea
2 Barella. We appreciate the efforts of district staff
3 and district counsel in presenting the board with a
4 couple of alternatives. We, like many members of the
5 public tonight, do not favor an amendment to the
6 agreement. We believe that for the reasons set forth in
7 my letter to Sue Gallagher of November 29, and the
8 detailed findings in the proposed resolution, finding an
9 interpretation is appropriate that that is the direction
10 that the board should go.

11 The contract has to be read as a whole.
12 Natural resource protection is one of the articulated
13 conservation purposes of that easement. The easement
14 provides for adaptive management where changed
15 circumstances indicate that other resources come to the
16 fore, in this case two endangered species.

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17 The permitted uses in that document are not
18 deemed to be exhaustive. There's abundant literature
19 and actual agricultural practices in the county that
20 demonstrate the species preservation and grazing are
21 compatible and symbiotic.

22 Nothing will change on the ground. The
23 current grazing operation will be strengthened due to
24 the construction of additional stock and somewhat
25 ironically the district easement doesn't even require
37

1 agriculture. So they could just let the properties be
2 fallow. But the Fish & Game easement will require
3 grazing in perpetuity actually ensuring that the portion
4 of the property will remain in agriculture.

5 Additionally, if you examine the documents
6 associated with the acquisition of the easement, there's
7 absolutely no evidence that the district intended to
8 purchase or extinguish species preservation rights in
9 connection with the acquisition of the easement.

10 We would respectfully request that the board
11 interpret its easement as allowing species preservation.
12 We feel comfortable that this is an appropriate and
13 legal course of action and stand ready to indemnify the
14 district should anyone challenge that decision. ✓

15 I do agree with Mr. -- that a policy would be
16 appropriate as the district proceeds forward in the
17 acquisition of easements in the future. But in
18 connection with that, I think there are broad policy
19 considerations.

20 One, there may be public projects like SMART
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21 that need mitigation areas if you completely eliminate
22 publicly owned lands, you eliminate the ability to have
23 public partnerships and public private partnerships for
24 development within urban boundaries, which is where we
25 all want it.

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1 So I thank the board for the time. And that's
2 it.

3 MADAM CHAIR: Supervisor Kerns has a question.

4 SUPERVISOR KERNS: Thank you, Madam Chair.

5 Mr. Butler, I recall originally there was talk
6 about establishing an agriculture pond on the Wilson
7 property which would also provide habitat enhancement
8 for CTS. Is that still in the plan for the mitigation?

9 STEVEN BUTLER: Absolutely, yes.

10 SUPERVISOR KERNS: So that pond would be an ag
11 pond which would enhance agriculture on the property but
12 also provide habitat for CTS?

13 STEVEN BUTLER: That's correct.

14 SUPERVISOR KERNS: Okay. Thank you.

15 MADAM CHAIR: Thank you, Mr. Butler.

16 Next.

17 PUBLIC SPEAKER: Donna Morton (phonetic), and
18 I live on Roblar Road right across from where the
19 dairy -- dairy -- where the quarry is going to go
20 possibly.

21 And as far as this particular issue goes,
22 first of all, I think one thing that has been confused
23 over and over again and shouldn't be, because I'm
24 speaking as a voter and how I look on the district and

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25 what this district means to me and there is a difference
39

1 between mitigation and conservation.

2 As a voter if I read a proposition or measure
3 that said do I want to pay tax money so that a developer
4 can defray his expenses or mitigate his damages for, you
5 know, conservation destruction basically with my tax
6 dollars, I would never vote for that. You know, it's an
7 assist to developers. And that was not what I
8 originally voted for. And until it's written in a
9 proposition, I don't think the district should start
10 implementing that kind of policy.

11 And let's see -- okay. Also, I think what we
12 see happen here is -- what I'm afraid of is that if
13 developers start seeing this as an easy way to mitigate
14 their damages, then just like what I see here when I'm
15 reading the article that Mr. -- turned out the other day
16 when he discussed with Mr. Barella when he mentioned
17 that he could save \$5- to \$15 million by using open
18 space land. And Barella said or basically indicated
19 that, well, he and his other land he could use -- that
20 could be used if the proposal was turned down.

21 So with the quarry haul route that he wanted,
22 he said -- actually he told me after one of the hearings
23 that he would be perfectly happy with going to Roblar
24 Road. But he said the county actually pushed him into
25 considering using open space. So now he's saying here
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1 that while he has other property he could use if this is
 2 turned down. So what I'm seeing here is that a first
 3 choice, twice in this one proposal, the first choice has
 4 been let's try to go through open space first. It's
 5 cheaper, you know, but I have other alternatives. So he
 6 should use them first.

7 MADAM CHAIR: Okay. Time is up. Thank you
 8 very much.

9 Do I have one on only two on each side, yes?
 10 No?

11 PUBLIC SPEAKER: My name is (inaudible). I
 12 live in Cotati, and I'll try to be as brief as possible.
 13 You've been here for a long time.

14 I grew up in a county where agriculture took a
 15 second step and there isn't much. And after a while it
 16 doesn't really matter whether or not you have jobs
 17 because the living conditions change. And it isn't
 18 pleasant. I moved to this county after I graduated from
 19 Cal Poly with a degree in production agriculture. I
 20 moved here on purpose. I'm a taxpayer. I'd like to
 21 keep the open spaces. I'd like to continue to vote for
 22 that. I don't want to lose trust.

23 That's all I need to say. Thank you.

24 MADAM CHAIR: More on this side, please?

25 PUBLIC SPEAKER: Thanks. Tom (inaudible). 41

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1 Thanks for a couple things I learned today. One, you
 2 weren't ignoring my e-mails. You were here earlier
 3 explaining the process to me. Thank you.

4 MADAM CHAIR: Thank you.

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5 PUBLIC SPEAKER: And second, I finally
6 understood this whole easement process and what it's
7 going through.

8 And I'm a taxpayer. I said that earlier. I
9 voted for the open spaces, so as being one of the ones
10 who's funding it, Mr. Barella's arguments hold nothing
11 for me. He says he's going to give out all this extra
12 space. I don't want it. I want what we voted for, what
13 we agreed to and what was promised to us. Everything
14 else is irrelevant to me. And if you violate that,
15 you're violating your trust with me and the taxpayers.

16 I was one of the recipients of his 10,000
17 whatever letters. I threw it in the garbage because I
18 want nothing to do with this program, and I don't think
19 you do either. Thank you.

20 MADAM CHAIR: Thank you.

21 Over here, please.

22 PUBLIC SPEAKER: Hi. My name is Ted Winfield,
23 and I'm a biologist working for John Barella. And I
24 just wanted to clarify although John does have
25 additional properties that the agencies prefer to

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1 mitigate in the vicinity of where the impacts occur.
2 And of his other properties it's probably unlikely that
3 you would have a situation where you have both the frog
4 and the salamander within the vicinity.

5 Thank you.

6 MADAM CHAIR: Thank you.

7 Next.

8 PUBLIC SPEAKER: I'm Susan -- and I live on

ROBLAR EASEMENT_F2.txt

9 the corner of Kentfield and Roblar Roads. I, too,
10 received Mr. Barella's letter, and I, too, threw it in
11 the trash because I was insulted by the whole tone of
12 the letter. He is not my neighbor. And the neighbors
13 who surround me in discussing this letter all did the
14 same thing I did. So you may -- if we had responded
15 there would have been a lot more, no, we're not in favor
16 of this.

17 I'm also by -- Sonoma County. And I would
18 just like to put my two cents in with the rest of the
19 people who said that this is a violation of the trust
20 that we hold with the open space district and that it
21 is -- it will shame not just this board but it will
22 shame the precedent that this county has shown in its
23 forward thinking in the preservation of our lands.

24 Thank you.

25 MADAM CHAIR: Thank you.

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cont.

1 Are there any more wishing to come forward to
2 testify on this particular issue? If not, I'm going to
3 close the public hearing.

4 Close the public hearing. I'm going to bring
5 it back to the board.

6 Supervisor Zane.

7 SUPERVISOR ZANE: I know Supervisor Kerns
8 wants to precede me on -- okay.

9 Thank you, Supervisor Kerns.

10 I have read a lot of things about this and
11 really tried to be as fair as possible. But I think the
12 bottomline is that we have to ask what is the benefit to

ROBLAR EASEMENT_F2.txt
13 the public here in this amendment. And I think common
14 sense is not lost on the public. And the common sense
15 is that endangered species protection applies to
16 unprotected lands. And this is already protected by an
17 ag easement.

18 So what is at stake is the trust of the
19 public, the trust of the ag industry. The willingness
20 of landowners to work with the open space district and
21 policy precedent for other land trusts who look to our
22 land trusts as a shining example around the country.

23 Again, I don't see that there is a gain at
24 all. In fact, I see that there is a loss. And to quote
25 Lex McCorvey, the executive director of the Farm Bureau,
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1 "maintaining the integrity of the easements is extremely
2 important." We have a letter from Fish & Game. And
3 they have said very clearly they will not make a
4 declaration at this point because there has been no
5 solicitation on behalf of the proposal. And we have no
6 guarantee that they will.

7 I think the point about opening a flood gate
8 of mitigation banks which we know are highly lucrative
9 is a real, real concern. We have the county counsel,
10 the open space advisory staff, the general manager's
11 recommendations that this amendment is not really
12 legally defensible in court. The PD editorial said,
13 "Just say no." And I'm going to say no, no, no and no.

14 MADAM CHAIR: Supervisor Carrillo.

15 SUPERVISOR CARRILLO: Thank you, Madam Chair.
16 was that a, no, Supervisor Zane?

17 ROBLAR EASEMENT_F2.txt
 SUPERVISOR ZANE: Yeah.
 18 SUPERVISOR CARRILLO: Okay. I guess the
 19 challenge for the directors of the open space district
 20 here is you're looking at a policy decision or
 21 interpretation as well as a potential amendment for two
 22 different configurations that I, frankly, don't know
 23 what configuration is going to look like without having
 24 a policy in place whereby the board of directors can
 25 look at these types of projects.

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1 And I think that the added component to
 2 looking at this from an independent perspective aside
 3 from the quarry is that this is a very controversial
 4 project, and I think dividing those two has been the
 5 challenge for the public and has been a challenge for
 6 the directors.

7 You know, I've done -- I've tried to do my
 8 best to listen to all perspectives of this issue --

9

10 (Beginning of Tape 4 of 4, side 2 of
 11 BOS Roblar Quarry Hearing 12/07/10.)

12

13 SUPERVISOR CARRILLO: -- both by the
 14 supporters of the project or supporters of the
 15 interpretation and/or the amendment. But I will have to
 16 agree with staff recommendation that the request isn't
 17 consistent with the ranch -- with the ranch easement as
 18 far as I see it. You know, and the Tuesday perspective
 19 of the alternative for the amendment, you know, I just
 20 have some real reservations given that this conveyance

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21 of the restriction to the conservation easement of the
22 portion of the wilson property. I just can't agree with
23 that.

24 You know, the potential to cause the
25 irreparable damage on the public's trust is how we took
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1 at the protection of that ag lands as well as open space
2 I think is rather overwhelming for this district. I
3 mean, I hate to continue beating this issue, but I just
4 don't agree with either one as far as the interpretation
5 of the consistency of the easement or the potential
6 amendment moving forward.

7 And quite frankly, I hope that the district
8 staff, as well as the advisory, when it looks at future
9 policy, I mean, if anything, this is a -- I think it's a
10 just one way of saying that we shouldn't have a policy
11 in place that looks at these types of things.

12 Granted my understanding is that an advisory
13 has looked at it. Staff has been, I don't want to say
14 reluctant or hasn't gotten around to bringing this to
15 the board, but I just don't feel comfortable moving in
16 this direction given in the time sensitivity with this
17 proposal in moving forward and making an interpretation
18 or making an amendment to the easement.

19 And my hope, you know, after however this
20 board decides to deliberate on this recommendation from
21 staff and proposal from the applicants that we will look
22 at this issue in a very serious way on how you deal with
23 mitigation bank and open space easements in the future.

24 But I do believe it's rather unfortunate

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25 because I think we would be having a different

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1 conversation if the project weren't so controversial. I
2 mean, I really do believe breaking this apart I think
3 has been the challenge for the public. It has been a
4 challenge for the press. And I think it's been a
5 challenge for this board.

6 But I could not support the interpretation. I
7 think it's inconsistent. And I cannot support the
8 interpretation of the amendment and will agree with
9 staff recommendation.

10 MADAME CHAIR: Thank you, Supervisors.

11 Supervisor Kelly.

12 SUPERVISOR KELLY: Thank you, Madam Chair.

13 Actually, I think that most of my comments as
14 it relates to this were made at the November 2nd
15 hearing. And I guess what I will reiterate today is, as
16 I said then, that if the agriculture operations on the
17 Wilson property went out to install a pond or fencing to
18 be in compliance with its current grazing process,
19 nobody would notice and nobody would be concerned, and
20 we wouldn't be here in a long hearing. Therefore, if
21 there's a mitigation measure in which a pond is
22 installed or fencing is installed and grazing is
23 continued, how is that physically different? It isn't.
24 And therefore, CTS or red-legged frog activities do not
25 do anything to practically or in any way change the

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□

1 activities of the agriculture operations on the

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cont.

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2 property.

3 It really does come down to the question, I
4 think one of the speakers mentioned, related to
5 mitigation is it compatible or is it not compatible.
6 And in this case under the actual operations under an
7 agricultural easement, it is compatible. If we make
8 some sort of determination that it's not, then I will
9 not be surprised if we hear from agriculture easement
10 holders saying, why aren't you paying me to restrict
11 that property right. And I think that that is just as
12 challenging of a policy decision that this board has,
13 and that I think we -- that that is a consideration that
14 in the future we need to consider.

15 I actually don't even think that this issue
16 needed to be before us. I don't think it needed a whole
17 board determination as it relates to interpreting an
18 easement in the process of putting a, in this case, a
19 mitigation bank or a mitigation area that is in complete
20 compliance with the agriculture operations.

21 Now I notice, and I know this gets sometimes
22 into the -- but when you got an unlimited agricultural
23 easement that is out there today and if the wilson
24 property somehow decided that they wanted to change the
25 agriculture operations to install vineyards, then they₄₉

1 would run right into the CTS problem, the red-legged
2 frog problem and any other ESA problems then where would
3 they be able to mitigate for it? Probably try to
4 mitigate on their own properties and if somehow we made
5 some determination that you can't do that or that's

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6 incompatible with your agriculture easement use, we then
7 restricted in a backhanded way the agricultural easement
8 operations.

9 And I would say the same of any of those
10 others that have agricultural easements in the ESA
11 covered areas of CTS.

12 So I do think that the board can find that
13 this is an allowable use. I do think we can interpret
14 the easement to allow that use, and that in all of the
15 information that we have before us is the same as the
16 review that I made on November 2nd.

17 So, Madam Chair, I appreciate the opportunity
18 to make my thoughts known.

19 MADAME CHAIR: Thank you.

20 Supervisor Kerns.

21 SUPERVISOR KERNS: Thank you, Madam chair.

22 Supervisor Kelly brought up an excellent
23 point, one which has been discussed in the past. I
24 remember asking that a policy be developed to address
25 this very issue that we're struggling with today.

50

1 And Supervisor Carrillo, I agree with you. I
2 wish that we had a policy in place to help give us
3 direction here. But one of the reasons why, I believe I
4 asked and I believe the board directed staff to develop
5 such a policy, was that we recognized the value of
6 allowing certain mitigation preserves to go on district
7 protected land under certain circumstances. And that's
8 why we were asking for that policy.

9 It really hasn't come up in the last couple
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10 years. And that's probably why it kind of got put on
11 the back burner. But I think it is something that the
12 future board is going to have to deal with and should
13 deal with.

14 We have two resolutions before us. One
15 permits the establishment of a mitigation preserve under
16 the current conservation easement. The other resolution
17 before us approves an amendment to the conservation
18 easement to allow the mitigation preserve.

19 I, for one, listened to what -- the speakers
20 have said about amending easements. I think that is a
21 slippery slope. I think at times it probably, because
22 of great public benefit or some other reason, it's
23 probably justified. However, and this isn't. I don't
24 believe that.

25 On the other hand, I do believe that we can
51

1 interpret the current easement to allow for a mitigation
2 preserve and counsel has said that that is legally
3 defensible.

4 I think some people are missing the larger
5 goal here and that is that we're trying to protect two
6 endangered species. How do we do that? Do we just
7 allow people to go out and buy mitigation credits in
8 lord knows where and say, oh, okay, we've bought land
9 here or credits here. The species is protected.

10 Or in this case, do we look at adjacent
11 property to where the species are living and say we have
12 a willing property owner who will allow a mitigation
13 preserve. It's adjacent to where the endangered species

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14 are living.

15 In my mind, what better place to allow
16 mitigation because the goal here under the open space
17 district's goals and priorities -- and Mike Sennif
18 (phonetic) I think summed it up I think perfectly --
19 that mitigation is consistent with the goals and
20 policies of the district.

21 And in this case, we have land that is already
22 protected from development. Ag will continue. And you
23 can argue that it will even be enhanced with this
24 mitigation area on it.

25 So with that, I feel it just makes sense. And
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1 I know this happens to be a quarry site and that kind of
2 development. I know some people are not happy with it.
3 But it's been in our ARM plan for years. It's been in
4 our general plan for years as a quarry site. And if it
5 was some other development or somebody else was doing
6 something else on some other land and they had a willing
7 property owner adjacent to them saying, hey, you got
8 CTS. I'm willing to let you establish a preserve on my
9 land. I think it would make sense to do that.

10 I don't think we're violating any trust under
11 the current easement given those circumstances. I don't
12 think we should just allow mitigation preserves or
13 mitigation banks to go on protected land everywhere.

14 But with CTS this is a huge problem. Much of
15 the critical habitat area for CTS is in and around Santa
16 Rosa. Much of the land around Santa Rosa is in
17 protected status. You want to shut down development in

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18 and around Santa Rosa, then a good way to do that is to
19 say, nope, we're not allowing any mitigation preserves
20 on district protected land. I just don't think that's
21 good public policy. But it's something for a future
22 board to wrestle with and deal with.

23 In this instance, you know, I'm going to
24 support approving the resolution which permits the
25 establishment of the mitigation preserve under the

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1 current conservation easement.

2 Thank you, Madam Chair.

3 MADAM CHAIR: Thank you, Supervisor Kerns.

4 Actually, I've been around long enough to know that
5 there's a reason why we don't have a policy to
6 mitigation because it's hard to come to consensus on
7 that, number one.

8 And number two, I think the board in the past
9 and perhaps in the future, although that will be left to
10 the future boards, have believed that each project that
11 comes before us deserves to be treated under an
12 independent basis. And that there are all kinds of
13 issues that develop around a project or, you know,
14 around the parameters of mitigation that I think reflect
15 on the board's decision that is specific to that
16 project.

17 I have to tell you that I have believed in
18 this district. I've walked precincts for this district.
19 I couldn't believe in this district more. But I have a
20 very hard time believing that protecting ag and
21 protecting endangered species can't coexist. I never

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22 have believed that they couldn't coexist. I don't think
23 it's a slap in the face to anybody that's worked to
24 protect 80,000 acres in this county to say that we're
25 going to have tiger salamander, red-legged frog and

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1 cattle or grapes or whatever existing on the same
2 property. It just doesn't make sense to me that you
3 can't do that. I don't think it's a violation of trust.
4 I don't think it's a slap in anybody's face. I think
5 it's a utilization that is appropriate.

6 And I think that, you know -- by the way,
7 Mr. Wilson is not an unwilling participant. He's a
8 willing participant. So it's not like we're going
9 against an owner. And although there are two
10 conservation easements that are side by side, one
11 property owner doesn't tell the other property owner
12 what to do on the those properties. They still got to
13 go through the same kinds of -- you know, the same kinds
14 of issues that everything else does.

15 So I guess -- again, if we were talking about
16 a mitigation bank that I could build 70 homes in a rural
17 residential area, I would probably vote flat out against
18 it. But I'm not talking about that. I'm talking about
19 red-legged frog, cattle and tiger salamander coexisting
20 on a piece of property.

21 So I'm going to support the motion of my
22 colleague Supervisor Kerns.

23 And that provides three votes, and you will
24 bring that back in its final form when, Sue?

25 SUE GALLAGHER: We'll bring it back next
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1 Tuesday, December 14th.

2 MADAME CHAIR: Okay. So it will come back to
3 us on Tuesday, and the direction should be fairly clear.

4 With that, I'm going to at the ripe old time
5 of a quarter til 7:00, adjourn our meeting today in
6 memory of John Rhictor (phonetic), in the memory of
7 Hally (inaudible) and Shirley walker. And we'll see you
8 at 8:30 on Tuesday morning next week.

9
10 (End of Tape 4 of 4, side 2 of BOS
11 Roblar Quarry Hearing 12/07/10.)

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CERTIFICATE OF REPORTER

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I, CINDY E. PACATTE, a Certified Shorthand
Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that
the foregoing proceedings were reduced to typewriting,
by computer, under my direction and supervision;

And I further certify that I am not of counsel
or attorney for either or any of the parties to said
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DATED: _____

CINDY E. PACATTE
RPR, CSR 12839

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Received
MAR 26 2012

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

JOSEPH W. TRESCH AND KATHLEEN M. TRESCH etc., et. al. and CITIZENS
ADVOCATING FOR ROBLAR RURAL
QUALITY,

No. A133472

Appellants and Petitioners,

v.

COUNTY OF SONOMA AGRICULTURAL
PRESERVATION AND OPEN SPACE
DISTRICT BOARD OF DIRECTORS, et. al.,

Respondents.

JOHN BARELLA AND JOHN E. BARELLA
AND ANDREA M. BARELLA TRUST,

Respondents and Real Parties in Interest.

RESPONDENT'S BRIEF OF
COUNTY OF SONOMA AGRICULTURAL PRESERVATION
AND OPEN SPACE DISTRICT

On Appeal from the Sonoma County Superior Court
Honorable Elliot Lee Daum
Superior Court No. SCV-249021

BRUCE D. GOLDSTEIN, #135970
County Counsel
SUE A. GALLAGHER, #121469
Deputy County Counsel
County of Sonoma
575 Administration Drive, #105A
Santa Rosa, CA 95403-2881
Telephone: (707) 565-2421
Attorneys for Sonoma County Agricultural
Preservation and Open Space District

**Court of Appeal
State of California
First Appellate District**

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Court of Appeal Case Number: A133472

Division 4

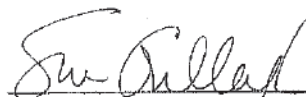
Case Name: Joseph W. Tresch v. County of Sonoma Agricultural Preservation & Open Space Dist

Please check the applicable box:

- ☒ There are no interested entities or persons to list in this Certificate per California Rules of Court, rule 8.208(d)(3).
- ☐ Interested entities or persons are listed below:

Name of Interested Entity or Person	Nature of Interest
1.	
2.	
3.	
4.	

Please attach additional sheets with Entity or Person information if necessary.



Signature of Attorney/Party Submitting Form

Printed Name: Sue A. Gallagher, Deputy Co. Counsel
Address: 575 Administration Drive, Room 105-A
Santa Rosa CA 95403
State Bar No: 121469
Party Represented: County of Sonoma

**IF SUBMITTED AS A STAND-ALONE DOCUMENT, SUBMIT A SEPARATE PROOF OF SERVICE
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I.
INTRODUCTION

By this action, Appellants seek to compel the Sonoma County Agricultural Preservation and Open Space District ("District") to undertake environmental review before it honors its pre-existing contractual commitments. There are no grounds upon which it might do so.

At issue is the District's Resolution No. 10-0925. The question there posed and answered was simply this: Do the terms of the conservation easement recorded in 2004 on property owned by Kenneth and Clairette Wilson permit the establishment of a habitat preserve for California Tiger Salamander and California Red-Legged Frog? The answer to that question must be found within the four corners of the easement itself.

The question posed was no different than the numerous inquiries the District routinely receives from property owners and others regarding the uses permitted and prohibited under the District's many and varied conservation easements. In answering each of those inquiries, the District must follow established legal principles of contract interpretation and has no discretion to depart from the contract's terms to address current environmental or community concerns – its answers are determined entirely and solely by the existing provisions of the easement at issue.

The District thus, step-by-step, read the Wilsons' conservation easement, reviewing relevant easement terms. The District acknowledged differences of opinion, but in the end, determined that the language of that easement would permit the establishment of a habitat preserve, provided the preserve was configured so as to preserve the protected agricultural and natural resource values of the Wilsons' property. No particular habitat preserve was approved; rather the District set forth the parameters for review of future proposals – parameters drawn directly from the provisions of the existing conservation easement itself.

In their Petition for Writ of Mandate, Appellants do not challenge the substance of the District's determination, but instead ask that the District be compelled to undertake environmental review under the California Environmental Quality Act ("CEQA") before it honors the existing easement. CEQA review, however, would serve no purpose. The terms of the conservation easement were established in 2004 when the easement was recorded. Resolution No. 10-0925 merely memorializes what the parties to the conservation easement agreed upon eight years ago. The District has no discretion but to apply principles of contract law, to read the conservation easement reasonably and in accordance with its language.

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Environmental review cannot change what the easement says. CEQA does not and cannot play a role.

The Superior Court dismissed this action on three independent grounds. Each is well supported by the record and each, *standing on its own*, is sufficient for sustaining the demurrers without leave to amend:

- (1) The District's adoption of Resolution No. 10-0925 was purely a matter of contract interpretation and thus does not constitute a "project" subject to CEQA;
- (2) The District's adoption of Resolution No. 10-0925 did not commit the District to any definite course of action and thus does not constitute "approval" of a project subject to CEQA; and
- (3) Appellants have failed to name indispensable parties, Kenneth and Clairette Wilson, owners of the real property at issue and parties to the District's conservation easement.

Appellants' Appendix ("AA"), vol. 2, at 481-506.

All three trial court findings are of fundamental importance to the District in its day-to-day management of its conservation easement program. In this brief, the District will focus its discussion on the first finding, as it has the most far-reaching significance for the District --

potentially affecting all of the District's varied conservation easements. As to the second and third findings of the trial court, the District joins in the Respondents' Brief of Real Parties In Interest and here writes separately only to highlight issues of particular concern to the District.

The District respectfully requests that the Court affirm the trial court's order and judgment in full, on each of the three independent grounds. Appellants' failure to state a cause of action under CEQA is incurable, and the statute of limitations has run on naming indispensable parties Kenneth and Clairette Wilson. This action cannot move forward.

II. FACTUAL BACKGROUND

In their opening statement of facts, Appellants attempt to create an air of suspicion. They blur the lines between the two public entity respondents – the actions and responsibilities of the District and the County of Sonoma. They question the right of the District's Board of Directors to act by majority vote. They look askance at the authority of District Directors to vote on District matters during the *entirety* of their term of office. They seek to turn legitimate differences of opinion into sinister maneuverings. Stripped of hyperbole, however, the relevant facts

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surrounding the District's adoption of Resolution No. 10-0925 are simple.¹

A. The District

The District is a California special district created by the voters of Sonoma County in 1990 to provide for the permanent protection and preservation of agricultural, natural resource and open space lands in Sonoma County. (See Measures A and C, approved by the voters of Sonoma County in 1990, attached as Exhibits A and B, respectively, to the District's Request for Judicial Notice, filed herewith ("DRJN").)

The District was formed pursuant to Public Resources Code Section 5506.5. (FAP ¶ 14; AA 1:136.) Pursuant to that statute, the members of the Sonoma County Board of Supervisors sit *ex officio* as the District's Board of Directors. Pub. Resources Code § 5506.5.

The District's fiscal operations are overseen by the Sonoma County Open Space Fiscal Oversight Commission. (See Measure F: Sonoma County Open Space, Clean Water and Farmland Protection Measure, Section 4, approved by the voters in 2006, attached as Exhibit C, to DRJN.) A District Advisory Committee may offer advice or opinions on matters before the District when requested by the District's General Manager or its

¹ The facts are drawn from Appellants' First Amended Petition ("FAP"), the exhibits thereto, and matters judicially noticable. See *infra* Section III (standard of review on demurrer).

Board of Directors. (See District Resolution No. 99-0962, attached as Exhibit D to DRJN.)

The District is governed by Public Resources Code sections 5500 et seq., and by its enabling local Measures A, C, and F. (See DRJN, Exhibits A, B, and C.) The District has no regulatory authority, but rather protects agricultural and open space lands through the acquisition of conservation easements and fee lands from willing sellers. (*Ibid.*)

The District's acquisition of conservation easements is authorized by Civil Code sections 815 et seq. By statute, conservation easements are perpetual easements, binding on successor owners, "the purpose of which is to retain land predominately in its natural, scenic, historical, agricultural, forested, or open-space condition." Civil Code § 815.1. The District currently holds more than 150 conservation easements, protecting approximately 80,000 acres of land across Sonoma County. (AOB at 6, see also www.sonomaopenspace.org) Each of these easements is a voluntary agreement negotiated with the individual landowner as part of a contractual transaction. Civil Code §§ 815 and 815.2. Each is a binding contract. *Id.* §§ 815.2, 815.7.

B. The Ranch Easement

In May 2004, the District purchased a conservation easement ("the

Conservation Easement” or “Ranch Easement”² over approximately 758 acres of land located on Roblar Road, Sebastopol, commonly known as Roblar Ranch (“the Property”). (FAP ¶¶ 25- 26; AA 1: 138-139; see also Resolution No. 10-0925 (“Resolution”), FAP Attachment B, AA 1: 163-171.) The stated purpose of the Conservation Easement is to preserve the agricultural and natural resource values of the Property. (Resolution ¶ 2 (quoting the Conservation Easement statement of purpose); AA 1: 163-164; see also FAP ¶ 26 (emphasizing agricultural protections); AA 1: 139.)

The Property consists of two parcels. At the time of purchase and recordation of the Conservation Easement, both parcels were owned by the Real Parties. (FAP ¶ 26; AA 1: 139.) In June 2004, shortly after recordation of the Easement, the Real Parties sold both parcels. (FAP ¶ 28; AA 1: 139.) The eastern parcel was purchased, and is still owned, by Appellants Joseph and Kathleen Tresch. (*Ibid.*) The western parcel was purchased, and is still owned, by Kenneth and Clairette Wilson (“the Wilsons”), not named in this lawsuit. (*Ibid.*) The two parcels remain under the Conservation Easement held by the District. (*Ibid.*)

² The FAP identifies the subject easement as the “Conservation Easement.” The District’s Resolution No. 10-0925 identifies the same easement as the “Ranch Easement.” The District will here use the term “Conservation Easement” in the body of this brief, but when quoting the Resolution will retain the language as written.

C. The Quarry Project on Adjacent Lands

The Real Parties retained 200 acres of land north of the Property, on which they propose to develop a quarry. (FAP ¶ 29; AA 1: 140.) There is no conservation easement on those 200 acres, and the District has no jurisdiction over that land or the proposed quarry project.

Pursuant to the Sonoma County General Plan and Zoning Ordinance, Real Parties applied to the County of Sonoma ("the County") for approval of the proposed quarry.³ (FAP ¶¶ 29-30; AA 1: 140.) In the course of its regulatory review of the proposal, the County determined that the quarry project would potentially impact the habitat of the California Tiger Salamander ("CTS") and California Red Legged Frog ("CRLF"), and that some form of mitigation would be required. (FAP ¶ 35; AA 1: 141-142.) The County did not direct how or where that mitigation would or could occur.

Pursuant to CEQA, the County prepared an Environmental Impact Report ("EIR") for the proposed quarry project. (FAP ¶ 30; AA 1: 140.) On December 14, 2010, the County Board of Supervisors certified the EIR and

³ The County of Sonoma is a political subdivision of the State of California and, by statute and its independent police powers, has regulatory authority over planning and zoning matters within the County's boundaries. Gov. Code §§ 460; 65100, et seq.

issued County land use approvals for the quarry project. (FAP ¶ 50; AA 1: 149.) Appellant CARRQ has filed a separate CEQA lawsuit in Superior Court challenging the adequacy of the County's EIR. (AOB at 40, fn. 27.) The County's actions in certifying the EIR and approving the quarry project are not at issue in this action. (See FAP ¶¶ 58 -65 (claims limited to District's adoption of Resolution No. 10-0925); AA 1:151-153.)

D. Permitted Use Request

As Real Parties explored options for mitigation of the quarry's impacts to CTS and CRLF, they looked to nearby lands, including the Wilsons' property. On July 21, 2010, Real Parties submitted a letter to the District requesting:

clarification or amendment of the Easement of Record [the Conservation Easement] to allow, concurrent with grazing, 105 acres of the Easement of Record parcel to be utilized as a California Tiger Salamander ("CTS") and California Red Legged Frog ("CRLF") preserve.

(FAP ¶ 36 and Attachment 2; AA 1: 142-143, 179-180.) The letter explained that the improvements associated with the proposed preserve would "consist primarily of expanding the size of an existing stock pond

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and constructing an additional stock pond, both of which could be used by cattle and as habitat for the two special-status species.” (*Ibid.*, AA 1: 179.)

The letter further stated that “no mitigation banking is proposed.” (*Ibid.*)

Property owner Kenneth Wilson joined in that request by letter dated

August 12, 2010. (FAP ¶ 37 and Attachment 3; AA 1: 143, 181.)

The inquiry was further refined by letter dated September 29, 2010, in which the Real Parties requested:

that the District acknowledge that the preservation of California Tiger Salamander (“CTS”) and California Red-Legged Frog (“CRLF”), in tandem with historic grazing activities, and the enhancement of historic grazing activities and species preservation through the construction of a .15 to .25 acre stock pond *are consistent and permitted uses under the easement on the Wilson property.*

(FAP, Attachment 4, page 1 (emphasis added); AA 1: 182; see also FAP ¶ 40; AA 1: 144.) The Real Parties reiterated: “We firmly believe that such uses are consistent and allowable under the existing terms of the easement.” (FAP, Attachment 4, page 1; AA 1: 182; see also FAP ¶ 41; AA 1: 144.)

In response to these inquiries and in accordance with its standard practice, District staff evaluated the Conservation Easement to determine

whether the proposed use would be permissible under the existing easement terms. Staff initially concluded that the proposed use was not within the scope of the terms of the easement and that an amendment to the easement would be required. (See FAP ¶ 44 and Attachment 1, page 1; AA 1:146 and 172.)

Real Parties acknowledged staff's position, but continued to assert the preserve's consistency with the existing easement terms: "We continue to believe that the existing terms of the easement over the Wilson ranch allow species preservation in tandem with the historic grazing operation, but realize that District staff does not share this opinion." (FAP, Attachment 5, page 1; AA 1: 189.)

The matter was referred to the District's governing body, its Board of Directors, for final determination of the permissibility of the proposed preserve under the Conservation Easement. On December 7, 2010, the Board of Directors held a noticed public hearing to consider the permissibility of a CTS/CRLF preserve under the terms of the Conservation Easement. (See FAP ¶ 47; AA 1: 148; AOB at 13 (correcting date).)

On December 14, 2010, after full consideration, the District's Board adopted Resolution No. 10-0925 memorializing its decision. (FAP ¶¶ 47 - 48, and Attachment B; AA 1: 148-149 and 163-171.)

The Board explained the task before it:

The Ranch Easement is silent, however, as to use of the Property as a mitigation preserve, neither expressly permitting nor expressly prohibiting such use. [¶] In the absence of express language, this Board looks to the conservation purpose of the Ranch Easement, to the provisions of the Ranch Easement's Exhibits "B" [a listing of permitted uses] and "C" [a listing of prohibited uses], and to the whole of the Ranch Easement to determine the permissibility of the use. (Resolution ¶¶ 16-17; AA 1: 167.)

The District's Board carefully reviewed the terms, conditions and purposes of the Conservation Easement, discussing each applicable provision. (See, e.g., Resolution ¶ 2 (conservation purpose), ¶ 11 (allowance for use of property "consistent with the conservation purpose"), ¶ 12 (purpose includes "protect[ion of] the natural resource values of the Property"); ¶ 13 (allowance for evolution of agricultural and natural resources management of the Property consistent with the conservation purpose); ¶ 14 (discussing the scope of permitted uses); ¶ 15 (noting that permitted improvements include stock ponds and fencing); ¶ 18 (discussing prohibited uses); AA 1: 163-168.)

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The Board acknowledged the concerns raised by District staff and the public, but in the end, it found those concerns to be unwarranted. (Resolution ¶ 18 (a) - (c) (addressing each primary concern); AA 1: 167-168.) Resolution No. 10-0925 concluded by memorializing the District's understanding of the permissibility of the proposed preserve under the Conservation Easement:

Under the unique circumstances and particular facts of this case, the Board finds that the establishment of the Preserve on the northwest corner of the Property *is permissible under the terms and conditions of the Ranch Easement*, provided that:

- a. The Preserve is established and maintained in accordance with sound, generally accepted conservation and agricultural practices;
- b. The Preserve is established and maintained in accordance with all applicable laws, ordinances and regulations;
- c. The Preserve is established and maintained in a manner consistent with the conservation purpose of the Ranch Easement;

- d. The Preserve does not significantly impair the agricultural use of the Property;
- e. The Preserve area is, to the greatest extent feasible, configured to minimize restrictions on existing open grasslands, so as to permit continued unrestricted agricultural operations on those productive pasture lands;
- f. If the Preserve area includes any open grasslands, any restrictive easement or covenant placed on the Property in connection with the Preserve shall expressly permit continued livestock grazing within those areas, at historic levels and at levels that are commercially viable and productive;
- g. Any restrictive easement or covenant placed on the Property in connection with the Preserve shall be and shall remain subordinate to the Ranch Easement; and
- h. No mitigation credits shall be sold.

(Resolution ¶ 19 (emphasis added); AA 1: 169.)

The District's Board considered the statutory provisions of CEQA,
and found that:

[T]he findings and determinations of the Board,
as set forth in this Resolution, *constitute this
Board's interpretation of a previously executed
conservation easement and, as such, are not*

*subject to the requirements of the California
Environmental Quality Act . . . because they are
neither a discretionary act nor a project as that
word is defined in Public Resources Code
21065 [or the State CEQA Guidelines].*

(Resolution ¶ 5 (emphasis added); AA 1: 170.)⁴ The District posted its Notice of Exemption on December 22, 2010, pursuant to Public Resources Code § 21152(b) and (c) and § 21167(d), thereby triggering a 35 day statute of limitations. (FAP ¶ 51, and Exhibit A; AA 1:150 and 160.)

E. Petition for Writ of Mandate

On January 26, 2011, Appellants filed a Petition for Writ of Mandate, alleging that the District failed to comply with CEQA in its adoption of Resolution No. 10-0925 (“the Initial Petition”). (AA 1: 1 - 25.) The Initial Petition named as respondents not only the District, whose Board adopted Resolution No. 10-0925, but also the County of Sonoma.⁵

⁴ In addition, the Board found that its findings and determinations were exempt from CEQA pursuant to Section 15317 of Title 14 of the California Code of Regulations “because the purpose of the Board’s action is to maintain the open space character of the Property,” and pursuant to Section 15325(a) and (c) of Title 14 “because the purpose of the Board’s action is to allow preservation and restoration of natural conditions, including plant and animal habitats.” (*Ibid.*) These exemptions provide additional grounds upon which the Petition could be denied.

⁵ The District and the County are separate and distinct legal entities. It is the *District’s* action, adopting Resolution No. 10-0925, that is at issue (continued...)

(*Ibid.*) John Barella and the John E. Barella and Andrea M. Barella Trust were named as Real Parties in Interest. (*Ibid.*) The Initial Petition did not name Kenneth or Clairette Wilson, although Appellants acknowledged within that Petition that the Wilsons are parties to the Conservation Easement and owners of the property on which the CTS / CRLF preserve was proposed. (Initial Petition ¶ 27; AA 10; see also FAP ¶ 28; AA 139.)

Real Parties filed a demurrer to the Initial Petition on March 23, 2011. (AA 1: 102-107.) Shortly after service of the Real Parties' demurrer, Appellants filed a First Amended Petition for Writ of Mandate. (AA 1: 129-199.) The Amended Petition still failed to name the Wilsons or to address the issues raised by the Real Parties. (*Ibid.*) On April 19, 2011, the Real Parties filed a Demurrer and Motion to Strike directed to the Amended Petition. (AA 1: 200-201.)

On May 12, 2011, the District filed its demurrer to the First Amended Petition. (AA 1: 249-251.) Both demurrers – that of the District and that of the Real Parties – were set for hearing on June 22, 2011. After

⁵(...continued)
in this lawsuit. (See FAP ¶¶ 58-65.) The *County* is not a party to the Conservation Easement and had no role in the adoption of Resolution No. 10-0925. It is unclear why the County has been named as a respondent herein, and, to date, it has not participated in this lawsuit. The County did not join in the demurrers below, and has not appeared in this appeal.

briefing was complete, the trial court, on its own accord, continued the hearing date to June 27, 2011. (AA 2: 403-480.) After full oral argument, the trial court took the matter under submission. On July 29, 2011, the court filed its 26-page Order, sustaining the demurrers without leave to amend on three independent grounds:

- (1) The court found that the District's interpretation of the Conservation Easement was a matter of contract, not a discretionary "project" subject to CEQA (Order, at 17:24 - 18:2; 19:1 - 20:19, 21:21 - 22:2; AA 2: 481-506.);
- (2) The court found that Resolution No. 10-0925 was not the "approval of a project" subject to CEQA, as, on its face, the Resolution did not commit the District to any definite course of action, but rather merely amounted to an "advisory opinion as to land uses that could lawfully occur [under the Conservation Easement] if certain conditions are met." (Order, at 18:13 - 27; AA 2: 498); and
- (3) The court found that Appellants had failed to name necessary and indispensable parties, Ken and Clairette Wilson, owners of the subject property and parties to the Conservation Easement

interpreted by Resolution No. 10-0925. (Order, at 23:14 - 24:24; AA 2: 503-504.)⁶

On October 11, 20011, Appellants filed their Notice of Appeal.

III. STANDARD OF REVIEW

A. Order Sustaining Demurrer for Failure to State CEQA Claim

The trial court's determination that Resolution No. 10-0925 does not constitute the "approval" of a "project" subject to CEQA is a matter of law, which may be reviewed de novo by this Court. *Black Property Owners Ass'n v. City of Berkeley* (1994) 22 Cal.App.4th 974, 984 ("Whether a particular activity constitutes a project in the first instance is a question of law.")

As a ruling on demurrer, the scope of the inquiry is limited to the allegations of the complaint, attachments to the complaint and matters subject to judicial notice. *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318. In reviewing the sufficiency of a complaint against demurrer, the court treats

⁶ The trial court also found that, to the extent that the FAP challenged the County's approval of the quarry project or the adequacy of the associated EIR, that challenge was barred by the 30 day statute of limitations of Public Resources Code § 21167(c). (Order, at 6:15-21, 22:3-18.; AA 2: 486, 502.) Appellants mistakenly state that the trial court found the *entire* action barred by the statute of limitations. (AOB at 18, fn 7.)

the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. *Ibid.*; see also *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 277. Conclusory allegations of law or fact, however, cannot sustain a complaint, and may be disregarded. *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166, 180.

A demurrer is proper where a defense that would bar recovery is disclosed on the face of the complaint, in exhibits attached to the complaint, or in matters judicially noticed. *Blank v. Kirwan, supra*, 39 Cal.3d at 318. If any conflict appears between the allegations of the complaint and the exhibits and matters judicially noticed, the exhibits and matters judicially noticed take precedence. *Dodd v. Citizens Bank of Costa Mesa* (1990) 222 Cal.App.3d 1624, 1627 (“[F]acts appearing in exhibits attached to the complaint will also be accepted as true and, if contrary to the allegations in the pleading, will be given precedence.”); *City of Chula Vista v. County of San Diego* (1994) 23 Cal.App.4th 1713, 1719 (“[J]udicially noticable facts may supersede any inconsistent factual allegations in a complaint.”); see also *Barnett v. Fireman's Fund Ins. Co.* (2001) 90 Cal.App.4th 500, 505 (priority of exhibits). Thus,

[t]he courts . . . will not close their eyes to

situations where a complaint contains allegations of fact inconsistent with attached documents, or allegations contrary to fact which are judicially noticed. [citations.] Thus a pleading valid on its face may nevertheless be subject to demurrer when matters judicially noticed by the court render the complaint meritless.

Del E. Webb Corp. v. Structural Materials Co. (1981) 123 Cal.App.3d 593, 604.

B. Order Sustaining Demurrer for Failure to Name Indispensable Party.

While this Court may review de novo the trial court's findings under CEQA, the trial court's dismissal of the action for failure to name indispensable parties is reviewed only for abuse of discretion. *County of San Joaquin v. State Water Resources Control Board* (1997) 54 Cal.App.4th 1144, 1149. Under Code of Civil Procedure section 389, "the decision whether to proceed with the action in the absence of a particular party is one within the court's discretion . . ." *Id.* at 1151 (quoting *Sierra Club, Inc. v. California Coastal Com.* (1979) 95 Cal.App.3d 495, 500); see also *County of Imperial v. Superior Court* (2007) 152 Cal.App.4th 13, 35. The courts have explained that Section 389,

"[C]alls for a pragmatic decision based on

practical consideration in the context of a particular litigation . . . [T]he district court has ‘substantial discretion in considering which factors to weigh and how heavily to emphasize certain considerations in deciding whether the action should go forward.’ [citation] . . . ‘The [district] court’s trial management ‘should not be impeded by second guessing at the appellate level except in those rare instances when a clear abuse of discretion is firmly shown.’”

County of San Joaquin, supra, 54 Cal.App.4th at 1152-1153 (quoting *Kickapoo Tribe of Indians in Kansas v. Babbitt* (D.C.Cir. 1995) 43 F.3d 1491, 1495, and *Interspira USA, Inc. v. Figgie Intern, Inc.* (Fed.Cir. 1994) 18 F.3d 927, 932.)

C. Denial of Leave to Amend.

The trial court’s denial of leave to amend is also subject to review under the deferential “abuse of discretion” standard. *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150, 1159; *Blank v. Kirwan, supra*, 39 Cal.3d at 318. “It is proper to sustain a demurrer without leave to amend if it is probable from the nature of the defects and previous unsuccessful attempts to plead that plaintiff cannot state a cause of action.” *Lee v. Interinsurance Exchange* (1996) 50 Cal.App.4th 694, 724. Appellants bears the burden of “showing in what manner it can amend its

complaint and how that amendment will change the legal effect of its pleading.” *Lee v. Bank of America* (1990) 218 Cal.App.3d 914, 919 (quoting *Von Batsch v. America Dist. Telegraph* (1985) 175 Cal.App.3d 1111, 1117-1118); see also *Blank v. Kirwan*, *supra*, 39 Cal.3d at 318 (Burden of proving a reasonable possibility that the defects can be cured is “squarely on the plaintiff.”). If there is no liability as a matter of law, leave to amend should be denied. *Schonfeldt v. State of California* (1998) 61 Cal.App.4th 1462, 1465.

“On appeal, [t]he judgment must be affirmed ‘if any one of the several grounds of demurrer is well taken.’ ” *Cedar Fair*, *supra*, 194 Cal.App.4th at 1159 (quoting *Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967; citations omitted). Here, complete defenses to the First Amended Petition are present on the face of the Petition and its exhibits, defenses that Appellants cannot cure.⁷

⁷ Appellants suggest that the District prepare an administrative record in this matter before a decision is issued on the District’s and Real Parties’ demurrers. A demurrer, however, tests the adequacy of the Petition itself, and no reference to a record is required. If Appellants are unable to state a cause of action under CEQA, the case simply cannot move forward. The preparation of an administrative record would be an unnecessary expenditure of time and public resources. See *City of Santee v. County of San Diego* (2010) 186 Cal.App.4th 55, 67-68 (“[T]he trial court was not required to wait until the parties had prepared an administrative record before determining whether environmental review was required.”)

IV.
LEGAL ARGUMENT

A. Resolution No. 10-0925 Is Not a "Project" Subject to CEQA.

1. The District's Interpretation of the Existing Conservation Easement is a Matter of Contract.

Appellants' CEQA claim is premised on a misapprehension of the nature of the District's action. Resolution No. 10-0925 is, on its face, merely a memorialization of the District's contractual understanding of the existing Conservation Easement.

A conservation easement is a form of contract, an interest in real property "voluntarily created and freely transferable." Civil Code § 815.2. "The particular characteristics of a conservation easement *shall be those granted or specified in the instrument creating or transferring the easement.*" *Id.* § 815.2, subd. (d) (emphasis added); see also *id.* at § 806 ("The extent of a servitude is determined by the terms of the grant . . .").

Like any contract, conservation easements are subject to general principles of contract interpretation. See Civil Code § 1066 ("Grants are to be interpreted in like manner with contracts in general, except so far as its

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otherwise provided in this article.”).⁸

Thus, in considering whether the Conservation Easement would permit the establishment of a habitat preserve, the District was obligated, pursuant to set canons, to review the written terms of the Conservation Easement and to give effect to the intent of the parties. See Restatement of the Law, Third, Property (Servitudes) §4.1 (1)(“A servitude should be interpreted to give effect to the intention of the parties ascertained from the language used in the instrument, or the circumstances surrounding creation of the servitude, and to carry out the purpose for which it was created.”); see also *Greater Middleton Association v. Holmes Lumber Co.* (1990) 222 Cal.App.3d 980, 989 (“The interpretation of a written instrument [a restrictive covenant] . . . is essentially a judicial function to be exercised according to the generally accepted canons of interpretation so that the purposes of the instrument may be given effect.”).

Moreover, the District was obligated to recognize that, under state law, the land restrictions imposed by the Conservation Easement are

⁸ The exceptions set forth in the article are unremarkable and the list is short: Civil Code § 1067 (clear limitation prevails over words less clear); § 1068 (recitals may be used to assist interpretation of ambiguities); § 1069 (grants to be interpreted in favor of grantee) § 1070 (if provisions are irreconcilable, the earliest prevails); and § 1072 (words of inheritance or succession are not required).

circumscribed:

All interests not transferred and conveyed by the instrument creating the easement shall remain in the grantor of the easement, including the right to engage in all uses of the land not affected by the easement nor prohibited by the easement or by law.

Civil Code § 815.4.

A conservation easement thus divides the bundle of rights that attach to real property, extinguishing certain rights of development, while reserving to the landowner all remaining rights. As a recorded contract, that division of property rights is enforceable by law. Civil Code § 815.7 (terms of conservation easement enforceable by either grantor or holder of the easement).

District currently holds over 150 conservation easements. (AOB at 6.) In administering those easements, the District routinely receives inquiries as to the scope of uses and improvements permitted on the subject properties. A farmer might ask if he can build a new barn. A homeowner might ask if he can open a home business. A rancher might ask if he can construct additional employee housing. In each case, the task for the District is to determine, *based upon the language of the particular*

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easement, whether the proposed use is restricted under the recorded document, or is a property right retained by the landowner.

Here, the task was no different, although the controversy was admittedly unusual. Shed of the rhetoric, the question posed to the District's Board of Directors was simply this: Does the Conservation Easement, recorded on the Property in 2004, permit the establishment of a mitigation preserve for California Tiger Salamander and California Red Legged Frog? As a matter of law, the District was bound to answer that question solely by reference to the terms and conditions of the easement itself – terms and conditions that were negotiated years earlier. The parameters for use of the Property were contractually set with the easement's recordation in 2004. Civil Code § 806 ("The extent of a servitude is determined by the terms of the grant."). For better or for worse, in 2010, the District had no discretion to insert its personal preferences, or to go beyond the four corners of the recorded document to address current community concerns.

**2. District's Interpretation of the Existing
Conservation Easement Is Not a "Discretionary"
Action Subject to CEQA.**

There are no grounds upon which Appellants might push this matter of contract interpretation into the realm of CEQA. CEQA applies only to

“discretionary projects proposed to be carried out or approved by public agencies” Public Resources Code § 21080 (a) (emphasis added); see also 14 Cal.Code Regs. §§ 15002(i). A project is “discretionary” for purposes of CEQA if it:

requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

14 Cal.Code Regs. §15357. Discretionary projects include only those actions in which “a governmental agency can *use its judgment in deciding whether and how to carry out or approve a project.*” 14 Cal. Code of Regs. § 15002(i) (emphasis added). These are actions in which the public agency has some freedom of choice.

In contrast, CEQA has no application to ministerial projects. Pub. Resources Code § 21080(b)(1). Ministerial projects are those in which “a governmental decision involv[es] little or no personal judgment by the public official as to the wisdom or manner of carrying out the project,” where “[t]he public official merely applies the law to the facts as presented . . .” 14 Cal. Code of Regs. § 15369; see also *ibid.* (“A ministerial decision

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involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.”)

The reason for the distinction between discretionary and ministerial projects under CEQA is clear:

The statutory distinction between discretionary and purely ministerial projects implicitly recognizes that *unless a public agency can shape the project in a way that would respond to concerns raised in an EIR, or its functional equivalent, environmental review would be a meaningless exercise.*

Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105, 117 (emphasis added). See also *Friends of the Juana Briones House v. City of Palo Alto* (2010) 190 Cal.App.4th 286, 302 (question is “whether the agency has the power to shape the project in ways that are responsive to environmental concerns. [citations.] Under this functional test, a project qualifies as ministerial ‘when a private party can legally compel approval without any changes in the design of its project which might alleviate adverse environmental consequences.’”)(emphasis added, citations omitted)(quoting *Friends of Westwood Inc. v. City of Los Angeles*, 191 Cal.App.3d 256, 267).

The court in *Friends of Westwood* explained it bluntly:

To properly draw the line between 'discretionary' and 'ministerial' decisions in this context, we must ask why it makes sense to exempt the ministerial ones from the EIR requirement. The answer is that for truly ministerial permits an EIR is irrelevant. *No matter what the EIR might reveal about the terrible environmental consequences of going ahead with a given project the government agency would lack the power (that is, the discretion) to stop or modify it in any relevant way. . . Thus, to require the preparation of an EIR would constitute a useless – and indeed wasteful – gesture.*

Friends of Westwood, supra, 191 Cal.App.3d at 272 (emphasis added); see also *Prentiss v. City of South Pasadena* (1993) 15 Cal.App.4th 85, 90 ("[i]f under the applicable substantive law, an agency's approval is ministerial rather than discretionary, evaluation of environmental impact is unnecessary and CEQA does not apply.").⁹

⁹ Thus the court look to the nature of the public agency's discretion before triggering CEQA. "CEQA does not apply to an agency decision simply because the agency may exercise *some* discretion in approving the project or undertaking. Instead to trigger CEQA compliance, the discretion must be of a certain kind; it must provide the agency with the ability and (continued...)

The interpretation of a contract is quintessentially a “ministerial” action – the application of fixed standards, the lack of authority to insert personal judgment, the right to judicial enforcement of the contract terms as written.

In analogous situations, the courts have confirmed that the interpretation and implementation of *existing legal obligations* are not “projects” subject to CEQA. Thus, for example, in *Wollmer v. City of Berkeley* (2009) 179 Cal.App.4th 933, 947-948, this Court held that a City Attorney’s memorandum setting forth the City’s interpretation of the provisions of the State Density Bonus Law was not a “project” subject to CEQA. The Court rejected petitioner’s argument that the memo constituted a “de facto amendment” to the Berkeley Municipal Code, stating “the alleged ‘change in policy’ he references was nothing more than a memorandum confirming the City’s interpretation of subdivision (n) to [Government Code] section 65915.” *Id.* at 948. See also, *Black Property Owners Ass’n*, *supra*, 22 Cal.App.4th at 985-986 (CEQA does not apply to

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mitigate . . . environmental damage’ to some degree.”
ry Broadway Complex Coalition v. City of San Diego (2010)
4th 924, 934 (rejecting CEQA claim seeking review of climate
agency’s discretion was limited to aesthetic issues)(emphasis

the City's ratification and restatement of existing ordinances in the update of its Housing Element).

Under circumstances parallel to those presented here, this Court, in *Northwood Homes, Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197, rejected a CEQA challenge to guidelines adopted by the town council to implement a voter-approved initiative measure. The new guidelines defined terms contained in the initiative, provided application procedures, and established specific parameters by which future projects would be evaluated. *Id.* at 1206 -1207 (see particularly footnote 10, at page 1206, setting forth the guidelines' detailed criteria for determining whether an area is "high risk area" for purposes of the initiative). Citing to the CEQA exemption for "continuing administrative activities," the court found that the new guidelines were not subject to CEQA. The court concluded that "the guidelines were essentially ministerial – designed to implement the land use policy decisions already reflected in [the initiative]." *Id.* at 1207. Like the District here, the town council was simply interpreting existing legal obligations (an initiative in the case of the Town, a conservation easement in the case of the District), and giving guidance for their implementation. See also *Health First v. March Joint Powers Authority* (2009) 174 Cal.App.4th 1135, 1144 (JPA's review of grocer's design plan

for consistency with previously approved military base reuse plan was ministerial).

With the District contractually bound by the terms of the Conservation Easement, environmental review of the proposed preserve under CEQA could serve no purpose. See *Friends of Westwood, Inc.*, *supra*, 191 Cal.App.3d at 267 (“[T]he touchstone is whether the approval process involved allows the government to shape the project in any way which could respond to any of the concerns which might be identified in an environmental impact report.”). See also *Leach v. City of San Diego* (1990) 220 Cal.App.3d 389, 394-395 (since the City was obligated to follow applicable legal rules governing reservoir system, it was unable to address environmental concerns; its controversial decision to draw down the reservoir was thus ministerial and not subject to CEQA, despite potentially significant adverse environmental impacts on an ecosystem untouched for ten years); *San Diego Navy Broadway Complex Coalition*, *supra*, 185 Cal.App.4th at 938 (“Where an agency has no authority to modify a project based on the analysis contained in the EIR, there is no basis for requiring the agency to prepare the EIR,” and rejecting call for supplemental environmental review relative to global climate change where agency’s discretion was limited to aesthetic issues).

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The adoption of Resolution No. 10-0925 did not create new policies nor approve new land uses. The District simply determined whether, and under what circumstances, a wildlife preserve might be *permissible under the existing terms and conditions of the Conservation Easement*. (See

Resolution ¶ 19; AA 1: 169.) Appellants are correct when they state that an action will be deemed ministerial when a private party (here, the property owner) may legally compel approval (here, compliance with the terms of the Conservation Easement).¹⁰ Appellants err, however, when they suggest that the District had discretion to deny or condition that contract compliance. See Civil Code §§ 806 (extent of servitude determined by terms of easement); 815.4 (rights not transferred are retained); 815.7 (enforceable by grantor).

Resolution No. 10-0925 sets forth the District's understanding of the terms of the Conservation Easement, and nothing more. That fact – clear on the face of Resolution No. 10-0925 as attached to the Amended Petition – is fatal to Appellants' claims and cannot be remedied by further pleadings. Appellants have failed to state a cause of action under CEQA.

¹⁰ Compare AOB at 27, fn. 20, with Civil Code §815.7 (conservation easements enforceable by grantor).

B. Appellants Have Identified No Grounds Upon Which Resolution No. 10-0925 Might Be Rendered Subject to CEQA.

Unhappy with the District's contractual determination, Appellants attempt to conjure grounds for CEQA review by pointing to disagreement among staff and the Board of Directors as to the proper interpretation of the language of the Conservation Easement. They assert that "policy concerns" – concerns about the quarry or about mitigation in general – should have shaped the District's determination. They caution that the neighboring quarry project may be the likely beneficiary of a preserve on the Property. They assert that the Resolution's description of existing rights could somehow change the physical environment. None of those assertions change the ministerial nature of the determinations set forth in Resolution No. 10-0925 nor render that Resolution appropriate for environmental review under CEQA.

1. The Language of the Debate Does Not Change the Nature of Resolution No. 10-0925.

Appellants try to draw legitimacy for their CEQA claim from some of the language used in the public hearings. Staff, members of the public and even some of the District's Directors suggested that the interpretation of the Conservation Easement could, or should, be shaped by "policy concerns." See, e.g., AOB at 13, 29. Whatever policy concerns may have

been present – concerns that establishment of a habitat preserve could further the adjacent quarry or that others might seek mitigation opportunities on other easement lands – in the end, the District was bound by the terms and conditions of the existing Conservation Easement. As a matter of law, the District had no flexibility to decide the permissibility of a preserve on *this* Property under *this* Easement on grounds of policy, rather than contract.¹¹

2. The Surrounding Controversy Does Not Transform Resolution No. 10-0925 from Ministerial to Discretionary.

The fact that there was some controversy about the District's contractual determination does not render it a discretionary action subject to CEQA. As the holder of the Conservation Easement, the District was obligated to respond to inquiries regarding the scope of uses permitted on the burdened property. In doing so, it was obligated to use its best efforts to understand the meaning and intent of the existing provisions of the Conservation Easement. In the process, the District listened to the concerns and views of all, and then diligently and in good faith analyzed the terms

¹¹ Policy concerns might shape the language of future easements, but this easement was negotiated and recorded almost eight years ago. If the District did not, at that time, purchase away the property owners' right to establish a habitat preserve, the District cannot now deny that right on grounds of policy preference. Civil Code §§ 806, 815.4, 815.7.

and conditions of the Conservation Easement in accordance with established principles of contract law. (See Resolution ¶¶ 11 - 18; AA 1: 166-168.)

The District recognizes that there were differences of opinion regarding the permissibility of a mitigation preserve under the Conservation Easement – differences of opinion among the public and among District’s own staff and Directors. But the controversy does not transform the contractual nature of the conclusions reached in Resolution No. 10-0925.

The Resolution was decided, and had to be decided, within the four corners of the Conservation Easement. And that fact – clear on the face of the Resolution – is fatal to Appellants’ claim.¹² See *Barnett v. Fireman’s Fund Ins. Co.* (2001) 90 Cal.App.4th supra at 505 (“[T]o the extent the factual allegations conflict with the content of the exhibits to the complaint, we rely on and accept as true the contents of the exhibits and treat as surplusage the pleader’s allegations as to the legal effect of the exhibits.”).

¹² Nor is Appellants’ claim furthered by their suggestion that the inclusion of provisos in Resolution No 10-0925 indicates an exercise of discretion. (See Resolution ¶ 19; AA 1: 169.) The provisos are drawn from and directly reflect the terms and conditions of the Conservation Easement itself. Compare *Northwood Homes, supra*, 216 Cal.App.3d at 1206-1207 (where detailed guidelines simply implement an existing ordinance, CEQA does not apply).

Appellants flatly misstate the decision of the California Supreme Court in *Mountain Lion Foundation v. Fish and Game Commission*, *supra*, 16 Cal.4th 105. They suggest that the Court there found that the decision of the Fish and Game Commission to depart from its staff's recommendation could *itself* trigger CEQA review. To the contrary, the Court found that CEQA applied to the Commission's decision to remove the Mojave ground squirrel from the threatened species list because:

The numerous statutory provisions and administrative regulations governing the listing and delisting process leave no doubt as to the discretionary nature of the Commission's delisting decision. (See, e.g., Fish & G Code § 2074.2, 2075 [Commission shall *consider* petition]; Cal. Code Regs, tit. 14 § 670.1, subd. (I)(1)(B) [species *may* be delisted if Commission determines its existence no longer threatened by enumerated factors.]

16 Cal.4th at 118 (brackets and emphasis in original). In evaluating the applicability of CEQA to the Commission's decision, the question posed was whether the statutory directives of the California Endangered Species Act ("CESA") were "so fixed and objective as to eliminate the need for judgment and deliberation on the Commission's part." *Ibid.* The Court found that they were not. *Id.* at 118 -119. The Court gave no weight or

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significance to the difference of opinion between the staff of the
Department and the Commission itself.

Indeed, such a rule would result in an absurdity – the application of CEQA could depend, not upon the nature of the action taken, but upon whether the decision-making body agreed with the recommendations of its staff. Appellants have come forward with nothing to suggest that a difference of opinion among the public, staff or even the Board of Directors could itself trigger a need for CEQA review, where none otherwise exists.¹³

**3. Neither the Source of the Contract
Inquiry, nor Its Potential Beneficiaries
Have Relevance Here.**

Appellants also express concern that the Real Parties initiated the inquiry to the District and could benefit if a habitat preserve were ever to be established on the Easement Property. The contractual nature of the District's Resolution, however, is not altered by source of the initial inquiry or its potential beneficiaries. Whether the property owner, the Real Parties in Interest, or a member of the public asks the question, the answer, and the process by which one finds the answer, remains the same. As noted above,

¹³ Oddly, in their Opening Brief, Appellants also assert that, despite the open debate, the District's action avoided public participation. In fact, the FAP itself confirms that the District's Board of Directors held a notice public hearing on this matter, and the Appellants repeat that statement in their opening brief. See FAP ¶ 47; AA 1: 148; AOB at 13.

the District receives numerous inquiries every year regarding the types of uses permitted or prohibited under its conservation easements. Those inquiries come from a variety of sources, most from property owners and prospective property owners, but some from neighbors, developers, appraisers, real estate agents and others. The answers to those inquiries depend, *and by law must depend*, upon the terms of the particular conservation easement at issue, *not* upon the identity of inquirer or who may benefit. See Civil Code §§ 806, 1066; see also Restatement of the Law, Third, Property (Servitudes), Section 4.1.

4. The District Has No CEQA Obligations with Respect to the Quarry Project.

In an attempt to expand the scope of the District's role, Appellants assert that Resolution No. 10-0925 was a "component" of the neighboring quarry project. For purposes of CEQA, however, the courts have confirmed that an agency's action may be deemed a "component" of or "integral" to a project, only if the agency has "exercised its *discretionary* authority as a public agency to approve a *part of the . . . project*." *Riverwatch v. Olivehain Municipal Water District* (2009) 170 Cal.App. 4th 1186, 1206 (emphasis added). Not only is the District's interpretation of the Conservation Easement *not* a part of the quarry project, but absent a discretionary approval, CEQA simply does not apply.

Given the fixed nature of the Conservation Easement, the District had no discretionary authority over *either* the permissibility of the proposed preserve *or* any aspect of the quarry project. See 14 Cal. Code Regs. § 15357 (no discretion if the public agency “merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.”). References to the quarry project in letters and staff reports thus have no particular significance for purposes of CEQA.

A ministerial act does not become a “project” subject to CEQA merely because it might advantage the discretionary project of *another agency*. An action exempt from CEQA – the ministerial issuance of a building or grading permit, for example – remains exempt, even if it is requested and issued in connection with a broader development. To find otherwise would lead to absurd results: public agencies with no power to deny or condition a ministerial permit could nevertheless see themselves embroiled in a broad controversy over the merits and impacts of a project not within their authority or jurisdiction.¹⁴

Moreover, the courts have confirmed that a public agency will not be drawn into the environmental review of a project merely because it has

¹⁴ Indeed, that is what Appellants here request. See FAP at page 25: 8-13 (prayer for relief, seeking to compel Respondents to prepare new EIR *for the quarry project*); AA 1:154.

authority over a proposed off-site mitigation measure. Thus, even if Resolution No. 10-0925 *had* approved a habitat preserve, it would still not bring the District into the environmental review of the quarry project.

As the trial court recognized, *Lexington Hills Association v. State of California* (1988) 200 Cal.App.3d 415, analyzes a situation almost identical to that presented here. The court in *Lexington Hills* rejected a petitioner's efforts to bring Caltrans into an environmental review concerning the California Department of Forestry's ("CDF") approval of a timber harvesting plan, on the basis of its approval authority over certain off-site mitigation measures. The timber harvest was to take place in the Santa Cruz Mountains, adjacent to Highway 17. *Id.* at 421. To mitigate safety concerns regarding trucks entering onto the Highway, CDF required the applicant to implement certain safety measures within the right of way and to obtain an encroachment permit from Caltrans to do so. *Ibid.* Based upon Caltrans' approval of the encroachment permit, petitioners alleged that Caltrans was subject to CEQA and obligated to participate in environmental review of the timber harvesting plan.

The court rejected petitioners' claim on two separate grounds. First, the court held that an approval issued by a public agency solely to implement a project's *off-site mitigation* will *not* constitute an activity

“integral” to the project and will not require that the agency trace back and conduct an environmental analysis of the project itself. *Id.* at 433. “It would be an untenable extension of CEQA to impose comprehensive review and reporting responsibilities upon an agency involved in the approval process only to the extent of implementing the desired mitigation measures.” *Ibid.*

Second, the court found that where an agency’s actions are exempt from CEQA, as were the encroachment permits, the fact that they were issued as a mitigation measure for a discretionary project would not render those permits subject to the CEQA. Finding that Caltrans had no “real discretion” to deny or condition the requested encroachment permits based upon the environmental concerns, the Court rejected any CEQA responsibilities. *Id.* at 430 and 433. Standing alone, the Caltrans encroachment permits were exempt from CEQA review, and the court confirmed that they would remain so, despite the fact that they were approved and issued as a mitigation measure for the adjacent timber project. *Id.* at 433 and 438.

As the trial court *here* concluded:

Just as with the encroachment permits issued in
Lexington Hills, the District’s memorialization
of its contractual understanding in Resolution

No. 10-0925, otherwise exempt from CEQA, is not transformed into a “project” subject to CEQA by the mere fact that it may “advantage” the adjacent quarry project by providing a possible avenue for required off-site mitigation.¹⁵

AA 2: 500.

The cases cited by Appellants do not suggest a different result. Both *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, and *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, concerned the scope of environmental impact reports prepared by Lead Agencies with primary approval authority for the project. Neither addresses, in any way, what CEQA obligations might attach to *other* agencies in connection with off-site mitigation measures.

Nor is Appellants’ claim furthered by their citation to *Riverwatch v. Olivehain Municipal Water District* (2009) 170 Cal.App.4th 1186. *Riverwatch* concerned the approval of a new water service contract by the

¹⁵ Moreover, as has been pointed out by both the trial court and the Real Parties, the role that Resolution No. 10-0925 might play in the mitigation of quarry impacts is speculative. At most, the Resolution suggests only a *possible* avenue by which the quarry applicant *might* seek to provide off-site mitigation of the quarry’s impacts to CTS and CRLF.

Olivehain Municipal Water District ("OMWD"), under which OMWD agreed to provide up to 244,000 gallons of recycled water per day to a local landfill for a term of 60 years. *Id.* at 1196-1197. The new service contract provided for the construction of new capital facilities, including a roadway, a loading pad, water handling facilities and "other ancillary appurtenances." *Ibid.* The new contract was expected to generate 89 truck trips per day for each day of the contract's 60 year term. *Ibid.* Although approval of the new service contract was entirely discretionary, the OMWD undertook no environmental review under CEQA. *Id.* at 1206, 1214-1215. Instead, its performance under the contract was conditioned upon later compliance with CEQA by the landfill operator. *Id.* at 1197. The court found that the water services contract committed OMWD to participate in the landfill project, that OMWD was a "responsible party" under CEQA, and that it had improperly deferred its environmental review. *Id.* at 1211-1212.

There is no similarity between the circumstances of *Riverwatch* and the facts here. The District has not entered into any new contract for services or goods, has not exercised any discretion, has not committed to participation in the quarry project, and has not deferred or delegated any required environmental review. *Riverwatch* has no application.

The District's Resolution No. 10-0925 is neither a discretionary action subject to CEQA nor a component part of the quarry project. There are no grounds upon which the District might be obligated to conduct environmental review under CEQA before it can consider, as a matter of contract law, whether the terms of its existing conservation easement would allow for the establishment of a habitat preserve on the encumbered property. Much less are there grounds upon which it might be compelled to undertake environmental review of the proposed quarry project on adjacent lands over which it has no jurisdiction.

**5. As a Statement of Existing Contract Rights,
Resolution No. 10-0925 Causes No Change in
the Physical Environment.**

Alternatively, Appellant suggest that the District's adoption of Resolution No. 10-0925 might be deemed subject to CEQA as a "project" under Public Resources Code section 21065. Section 21065 defines "project" as "an activity which *may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment*" and which is (a) "an activity directly undertaken by any public agency;" (b) "any activity . . . which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies;" or (c) "an activity that involves the issuance

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to a person of a lease, permit, license, certificate of other entitlement for use by one or more public agencies.” Public Resources Code § 21065.

Resolution No. 10-0925 does not even satisfy the opening clause of Section 21065. As a restatement of the property owners’ *existing* rights under the Conservation Easement, Resolution No. 10-0925 does not, and cannot, cause any physical change to the environment, either directly or indirectly. Compare *Wollmer, supra*, 179 Cal.App.4th at 947-948 (memorandum interpreting state law); *Sherwin-Williams Co. v. South Coast Air Quality Mgmt. Dist* (2001) 86 Cal.App.4th 1258, 1286-1287 (State Air Resource’s Board approval of amendments to local air district rule could have no environmental effects, where the regulations were already binding and enforceable); *Black Property Owners Ass’n, supra*, 22 Cal.App.4th at 985-986 (ratification of existing housing ordinances not subject to CEQA). There is no need to consider Section 21065 further.

6. The District’s Interpretation of the Easement Was Reasonable and Is Not Challenged in this Action.

Finally, Appellants assert that Resolution No. 10-0925 should be made subject to environmental review for *substantive* reasons – that the District might have erred in determining that the Conservation Easement allows for the establishment of a habitat preserve. The underlying merits of

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the District's contractual interpretation, however, are not at issue in this action.

After full review of the terms of the Conservation Easement, the District reasonably determined that, under the circumstances presented and the provisos set forth in the Resolution, the Conservation Easement would permit the establishment of a habitat preserve. (See Resolution ¶¶ 11 - 19 (analyzing each applicable provision of the Conservation Easement, and setting forth conditions to ensure consistency); AA 1: 166-169.)

Appellants have not challenged that finding. (See, e.g., FAP at pages 1:25-27 and 2:15-17, and ¶¶ 58-60 (CEQA challenge only, no substantive challenge to District's contractual determination).

Appellants have now waived such challenge, confirming both in the trial court and on appeal that their claim is procedural only. In the hearing before the trial court, Appellants' counsel stated plainly, "[W]e're not trying to overturn any determination by the board . . . We're basically saying CEQA evaluation should apply before the permitted use is permitted." (AA 1: 439.) See also AOB at 5 (this action "only concerns whether CEQA review should first occur"); AOB at 47 (case is "dispute over whether CEQA applies"). The Superior Court agreed: "Petitioners do not challenge the merits of the District's findings." (AA 2: 498.)

This CEQA action thus challenges only the *procedures* the District must follow when it interprets a conservation easement – whether those procedures should include environmental review. The fact that Appellants may ultimately disagree as to the best understanding of the language of the Conservation Easement is of no consequence for purposes of this CEQA proceeding.¹⁶

C. The District Joins In the Respondents' Brief of Real Parties in Interest and Here Writes Separately to Briefly Highlight Issues of Concern to the District.

The District hereby joins in the Respondents' Brief of Real Parties In Interest John Barella and John E. Barella and Andrea M. Barella Trust, filed on or about March 12, 2012, as follows.

1. The District's Adoption of Resolution No. 10-0925 Is Not the "Approval of a Project" Subject to CEQA.

¹⁶ Moreover, Appellants' assertion that Resolution No. 10-0925 allows an improper "commercial use" of the Easement Property is in error. The District considered the Easement's prohibition against "non-agricultural commercial or industrial use," and found that "under the particular and special circumstances here, the proposed Preserve is neither a commercial nor industrial use. The Proponent has represented that no mitigation credits will be sold, and no physical change will occur on the land itself, other than the creation of stock ponds and placement of fencing, both of which are expressly permitted under the Ranch Easement." (Resolution ¶ 18(c); AA 1: 168). That finding is reasonable and well considered, and it provides no grounds for requiring environmental review of Resolution No. 10-0925 under CEQA. See also Respondents' Brief of Real Parties, at 27-29.

Even if the District's contract interpretation could somehow be deemed a discretionary project, the Appellants still fail to state a cause of action under CEQA, as CEQA applies only to "the decision by a public agency which *commits the agency to a definite course of action . . .*") *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 129.

As more fully set forth in Respondents' Brief of Real Parties, Resolution No. 10-0925 did not commit the District to any definite course of action, rendering CEQA review premature and unnecessary. The Resolution simply finds that the terms of the existing Conservation Easement could permit a habitat preserve, subject to a list of provisos and District review and approval. (Resolution ¶ 19; AA 1: 169) The District determined only that "the establishment of the proposed preserve *may* be an appropriate tool for protection of natural resources, *if appropriately configured and conditioned.*" (Resolution ¶ 17; AA 1: 167 (emphasis added).) Yet to be determined is whether a preserve *can* be configured and conditioned to meet the parameters of the District's Resolution. Yet to be determined is the size, shape and location of the preserve, the uses to be allowed or restricted, the management plan for the preserve, and the nature of any required third-party easement or covenant, among other things. (Resolution ¶¶ 9, 10, 17 and 19; AA 1: 165-169.) The District has

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committed itself to no definite course of action by its adoption of Resolution No. 10-0925; thus there is no "approval of a project" subject to CEQA. See 14 Cal. Code Regs. § 15352(a) and (b); see also *Cedar Fair, supra*, 194 Cal.App.4th at 1167-1175 (agency's preliminary agreement to detailed term sheet for proposed project will not, without more, be deemed to constitute a "project" subject to CEQA); *City of Santee, supra*, 86 Cal.App.4th at 65-68 (siting agreement did not commit city to definite course of action with respect to any particular project). For a fuller discussion of this issue, see Respondents' Brief of Real Parties, section IV.A.1, at pages 14 - 27.

2. The Trial Court Correctly Determined That the Petition Fails to Name Indispensable Parties Kenneth and Clairette Wilson, Parties to the Conservation Easement and Owners of the Subject Property.

Even if the District's adoption of Resolution No. 10-0925 could be deemed to be a "project" subject to CEQA, the trial court was correct that this action cannot move forward. As the trial court found, Appellants have failed to name indispensable parties, Kenneth and Clairette Wilson, owners of the underlying fee property and parties to the easement at issue, and the time for naming them has passed.

“The decision whether to proceed with the action in the absence of a particular party is one within the court’s discretion . . .” *County of San Joaquin v. State Water Resources Board, supra*, 54 Cal.App.4th at 1151. Under Code of Civil Procedure section 389, the trial court is charged with weighing a series of factors under the particular circumstances of the case, and it has “substantial discretion in considering which factors to weigh and how heavily to emphasize certain considerations in deciding whether the action should go forward.” *Id.* at 1152 (quoting *Kickapoo Tribe of Indians in Kansas, supra*, 43 F.3d at 1495.). It is a pragmatic decision that is entitled to great deference. *Id.* at 1152-1153; see also *County of Imperial, supra*, 152 Cal.App.4th at 35.

The District works closely with its property owners, and values those relations. As the trial court recognized, the Wilsons had an essential right to be joined in this action, as the property owners and parties to the Conservation Easement. (AA 2: 504.) Their own rights and obligations will be determined here. At issue is not simply whether the Conservation Easement might permit the establishment of a mitigation preserve on the Wilsons’ property, but whether, in the future, all contractual inquiries may be subject to environmental review under CEQA. The conservation easement is a contract between the District and the underlying property

owners. As the trial court recognized, "All must be at the table in this litigation." (*Ibid.*)

The naming of the Real Parties in Interest cannot substitute, for they do not share the same interest. While Real Parties may, at this moment, be hoping to benefit from a proposed mitigation preserve on the Wilsons' property, they could, at any time, withdraw their participation. In contrast, Kenneth and Clairette Wilson have an immediate and continuing interest in having a voice in how the District determines the types of uses permitted on their land, now and in the future.

The trial court's determination reflects fairness and good conscience. The court reasonably and appropriately determined that Kenneth and Clairette Wilson are indispensable parties in this action, and properly ordered dismissal of the action. For a fuller discussion of the propriety of the trial court's determination, see Respondents' Brief of Real Parties, at IV.C, pages 48 -58.

**D. The Trial Court Properly Denied Leave to Amend
Because The Defects in the Petition Cannot be Cured.**

The trial court properly sustained the demurrers without leave to amend as there is no reasonable probability that the defects of Appellants' claim can be cured. See *City of Chula Vista v. County of San Diego supra*

(1994) 23 Cal.App.4th at 1719. This action fails on three separate and independent grounds:

- (1) The District's adoption of Resolution No. 10-0925 was a matter of contract interpretation and, as a matter of law, does not constitute a "discretionary project" subject to CEQA;
- (2) Resolution No.10-0925 did not commit the District to a particular course of action, and thus, as a matter of law, does not constitute the "approval" of a project subject to CEQA.; and
- (3) Appellants have failed to name indispensable parties, Kenneth and Clairette Wilson, owners of the Property and parties to the Conservation Easement at issue. This defect cannot be cured through amendment, due to the running of the statute of limitations.

This action is properly dismissed.

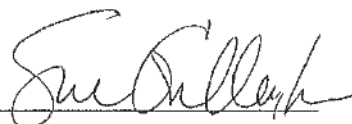
V. CONCLUSION

For all of the reasons set forth above and in the Respondents' Brief of Real Parties in Interest, Respondent Sonoma County Agricultural

Preservation and Open Space District respectfully requests that the decision of the trial court be affirmed in all respects.

Dated: March 22, 2012

BRUCE D. GOLDSTEIN,
County Counsel

By: 

SUE A. GALLAGHER
Deputy County Counsel
Attorneys for Respondent County
of Sonoma Agricultural
Preservation and Open Space
District Board of Directors


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CERTIFICATE OF WORD COUNT - RESPONDENT'S BRIEF

I certify that this brief contains 11,080 words, exclusive of tables, certificate of interested entities or persons, certificate of word count and proof of service, according to the word count function of the word-processing program used to produce the brief. The number of words in the brief therefore complies with the requirements of Rule 14.

Dated: March/2, 2012

BRUCE D. GOLDSTEIN,
County Counsel

By: 
Sue A. Gallagher
Deputy County Counsel

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PROOF OF SERVICE BY MAIL
(Code Civ. Proc. §§ 1013a(3) and 2015.5)

I am employed in the County of Sonoma, California; I am over the age of 18 years and not a party to the within action; my business address is 575 Administration Dr., Rm. 105A, Santa Rosa, California. I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service.

On March 23, 2012, following ordinary business practice, I served the **"RESPONDENT'S BRIEF OF COUNTY OF SONOMA AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT"** on the parties in said cause, by placing on that date at my place of business, a true copy thereof, enclosed in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited with the United States Postal Service that same day in the ordinary course of business, addressed as follows:

Hans W. Herb
Law Offices of Hans W. Herb
P.O. Box 970
Santa Rosa, CA 95402
(1 copy)
*Attorneys for Appellants and
Petitioners Joseph W. Tresch and
Kathleen M. Tresch as Trustees of the
Joseph W. and Kathleen M. Tresch
Revocable Trust, and Kenneth
Mazzetta and Nancy Mazzetta*

Clayton E. Clement
Clement, Fitzpatrick & Kenworthy
3333 Mendocino Avenue
Santa Rosa, CA 95403
(1 copy)
*Co-counsel for Real Parties in
Interest John Barella and John E.
Barella and Andrea M. Barella Trust*

Michael E. Molland
Deborah E. Quick
Aaron S. Dutra
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126
(1 copy)
*Attorneys for Appellant and Petitioner
Citizens Advocating for Roblar Rural
Quality*

George B. Spier
Arthur F. Coon
Miller Starr Regalia
1331 N. California Blvd., Fifth Floor
Walnut Creek, CA 94596
(1 copy)
*Co-counsel for Real Parties in Interest
John Barella and John E. Barella and
Andrea M. Barella Trust*

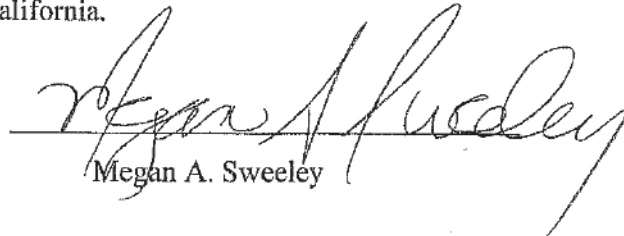
Clerk
California Supreme Court
350 McAllister Street, Rm. 1295
San Francisco, CA 94102
(4 copies)

Clerk of the Court of Appeal
First Appellate District
Division Four
350 McAllister Street
San Francisco, CA 94102
(Original & 4 copies)
VIA EXPRESS MAIL

Holly E. Rickett
Deputy County Counsel
Sonoma County Counsel
575 Administration Drive, Room 105-A
Santa Rosa, CA 95403
(1 copy- Via Hand Delivery)
*Attorneys for Respondents, County of
Sonoma; Board of Supervisors*

Hon. Elliot Lee Daum
c/o Clerk of the Superior Ct.
Sonoma Co. Superior Court
600 Administration Drive
Santa Rosa, CA 95403
(1 copy - via courier)

I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct, and that this declaration was executed on
March 23, 2012, at Santa Rosa, California.


Megan A. Sweeley