

**THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY  
HAYWARD, CALIFORNIA**

**RESOLUTION NO. 15-12 AT MEETING HELD JULY 20, 2015**

**SURFACE MINING PERMIT AND RECLAMATION PLAN**

**CASE NO. SMP-32**

**Introduced by Commissioner Jacob  
Seconded by Commissioner Loisel**

**WHEREAS** Surface Mining Permit and Reclamation Plan, SMP-32 was most recently amended by the Board of Supervisors on February 26, 1991 by Resolution R-91-165; and

**WHEREAS** Hanson Aggregates has replaced Mission Valley Rock Company as the “Permittee” while the “land owner” remains as the City of San Francisco; and

**WHEREAS** Hanson Aggregates (“Permittee”) has filed with the Alameda County Planning Department for a Periodic Review of previously permitted gravel extraction and reclamation activities on a 241-acre site (of which 139 acres are permitted to be mined) is located southwest of the intersection of Paloma Way, northwest of SMP-24, bordered by Interstate 680 to the south, Paloma Road to the north, Alameda Creek to the east and the San Francisco Water Department Maintenance yard to the west southeast of the Town of Sunol, unincorporated Alameda County, Assessor’s Parcel Number 96-0375-12-2.

**WHEREAS** Alameda County Surface Mining Ordinance (“ACSMO”) §6.80.190 requires the Periodic Review of Surface Mining Permits and Reclamation Plans to consider new or changed circumstances within the general area of mining operations; and

**WHEREAS** Condition No. 85 of Surface Mining Permit and Reclamation Plan SMP-32, adopted in conformance with ACSMO §6.80.190, sets forth a five (5) year timeframe for the Planning Commission to complete the Periodic Review for the surface mine located at the aforementioned parcels; and

**WHEREAS** under the ACSMO, the Planning Commission is designated as the decision-making body for Surface Mining Permits and Reclamation Plans, including the performance of duties relating to the Periodic Review required by ACSMO §6.80.190, subject to appeal to the Board of Supervisors; and

**WHEREAS** the prior Periodic Review of SMP-32 was completed by the Planning Commission, as required by ACSMO §6.80.190 and Condition No. 85, on April 20, 2009;

**WHEREAS** the current Periodic Review of SMP-32 is timely and in compliance with the timeframe required by ACSMO §6.80.190 and Condition No. 85;

**WHEREAS** the current Periodic Review application for Surface Mining Permit SMP-32 was reviewed by the Sunol Citizens' Advisory Committee on June 17, 2015 and recommended by those assembled for approval; and

**WHEREAS** this Planning Commission held a duly noticed public hearing to conduct a Periodic Review of Surface Mining Permit and Reclamation Plan SMP-32 at the hour of 3:00 p.m. on Monday, the

20th day of July, 2015, in the Auditorium of the Alameda County Building, 224 Winton Avenue, Hayward, California; and

**WHEREAS** the application for Periodic Review of Surface Mining Permit SMP-32 has been reviewed in accordance with the provisions of the California Environmental Quality Act, and found to be Categorically Exempt pursuant to California Environmental Quality Act Guidelines Section 15309 (Inspections) since it consists of an activity limited solely to the inspection of the subject mining operation and reclamation plan. No component of this action nor any of the changes to the conditions of approval, included at Exhibit A to this resolution, would result in direct or indirect physical changes to the environment; and

**WHEREAS** the Review Documents prepared to facilitate the Periodic Review of SMP-24 include: (a) April 8, 2014 and July 14, 2014 submittals by Lehigh Hanson; and (b) the staff report dated July 20th, 2015; and

**WHEREAS** the Review Documents, the recommendations of the Sunol Citizens' Advisory Committee, the testimony submitted in writing and verbally at the public hearing, and items in the public record, have been considered by the Planning Commission prior to this action; and

**WHEREAS** this Planning Commission does find that under Conditions of approval listed below, the Surface Mining Permit and Reclamation Plan SMP-32, as modified below, conforms to requirements of:

- (a) the Alameda County Surface Mining Ordinance;
- (b) the Alameda County General Plan;
- (c) the public health, safety, and welfare; and

**WHEREAS** there are a number of conditions of approval that require revision for reasons including, but not limited to, ACSMO revisions since last amendment to this permit and the fulfillment of previously imposed conditions of approval since last amendment to this permit; and

**WHEREAS** this Planning Commission finds that changed circumstances and identified environmental effects warrant revising this Surface Mining Permit and Reclamation Plan to modify several conditions of approval, including modification of Condition Nos. 2, 7, 23, 29, 39, 51, 66, 69, 72 and 79 and addition of three (3) new conditions, Condition Nos. 92, 93 and 94; and the removal of previous Condition Nos. 11, 12, 13, 18, 21, 31, 43, 67, and 73 (as shown below).

**WHEREAS** this Planning Commission finds that permit condition changes are identified as follows below: ~~striketrough~~ text denotes deletions, underline text denotes additions.

**NOW, THEREFORE,**

**BE IT RESOLVED** that this Planning Commission accepts and approves the Section 15309 Categorical Exemption as the valid environmental review documentation for the Five Year Review; and

**BE IT FURTHER RESOLVED** that this Planning Commission approves the Five Year Review of Surface Mining Permit and Reclamation Plan SMP-32, subject to the following ninety-four (94) amended conditions:

## EXHIBIT A

### ALAMEDA COUNTY PLANNING COMMISSION RESOLUTION NO. 15-12

#### CONDITIONS OF APPROVAL

#### SURFACE MINING PERMIT AND RECLAMATION PLAN

#### CASE NO. SMP-32

##### General

1. This permit shall supersede SMP-29, and all amendments thereto, which was granted for a 69-acre portion of the SMP-32 site by the Alameda County Board of Supervisors on February 26, 1991, pursuant to Resolution R-91-165.
2. Surface mining operations and reclamation shall be in substantial conformance with the various maps, information, and recommendations, as amended herein, contained in the binder known as "Permit Application for Expansion of Surface Mining Permit-29 (SMP-29), Mission Valley Rock Company, December 11, 1992," prepared by Spinardi Associates, which contains sections entitled: "Application, Drawings, Geotechnical, Geotechnical Addendum, Historical/Cultural, Archaeological, Traffic, and Biological." These plans have been amended by drawings by Gates & Associates, revised October 1994, that illustrate the refined berm design, landscaping and setback uses. Amendments are also incorporated from Spinardi Associates' "Site Preparation and Mining/Reclamation Plan," dated November 21, 1994, that further refines the phasing for landscaping and project implementation. The project plans may be further amended as necessary by the Planning Director, based on input from the San Francisco Water Department and other interested parties, within the limits of the overall performance standards established by these conditions.
3. Surface mining operations and reclamation shall conform to the Alameda County Surface Mining Ordinance, as amended, except as more specifically provided elsewhere in these conditions of approval.
4. The Permittee shall maintain ~~demonstrate to the Planning Director that the~~ a lease approved by the San Francisco Water Department ~~that~~ incorporates ~~as a minimum~~ this Surface Mining Permit and Reclamation Plan. Said lease shall include no provision in conflict with or which supersedes the provisions of SMP-32. The Permittee shall notify Alameda County as soon as possible regarding any substantial modifications to the permitted mining area, design parameters, and/or reclamation plan that may occur as a result of lease negotiations with SFWD or agreements with other parties, and these changes shall be incorporated into the SMP-32 permit at the time of each annual inspection and report.
5. No structures shall be permitted on the site, with the exception of the conveyor belt (and accessory structures associated with the conveyor) necessary to link the site to SMP-24 on the opposite side of I-680. Structures other than the conveyor ~~would~~ shall require an ~~modification~~ amendment to this permit, subject to provisions of the Alameda County Surface Mining Ordinance.
6. The end use of the site upon complete reclamation is hereby assumed to be for water management and agriculture. Any other end use of the site shall: (a) be considered through an application to

amend the approved reclamation plan; (b) may be subject to additional environmental review, as required by the California Environmental Quality Act; and (c) including but not limited to include a review of consistency between proposed uses and requirements of the East County Area Plan, Alameda County Zoning Ordinance, Alameda County Surface Mining Ordinance, California Surface Mining and Reclamation Act, San Francisco ~~Water Department~~ Public Utility Commission's water management objectives, and existing and planned land uses in the area, ~~and must be approved by the County of Alameda.~~ Uses permitted shall be compatible with San Francisco Public Utility Commission's watershed management plan for the site and vicinity.

7. ~~No activity shall occur at the project site unless and until~~ Prior to the lateral expansion of the pit, the permittee shall demonstrate compliance with Condition No. 49 ~~all pre-disturbance mitigation or other conditions that can and should be implemented as soon as possible, including but not limited to payment of fees, submittal and approval of detailed plans and programs, and cooperation with other agencies.~~ The Planning Community Development Agency Director may then give approval to start activity.
8. Permittee shall furnish the Planning Community Development Director with an Annual Report describing compliance with these conditions by October 1 of each year, following commencement of site preparation, including but not limited to topsoil and overburden removal, pipeline relocation, conveyor belt construction, fence installation, well abandonment, berm construction, and other activities. After aggregate mining commences, a monthly breakdown of product tonnage sold from the site during the preceding reporting period shall be included in the report. With each report, the permittee shall provide a map at the same scale as the approved mining and reclamation plans showing annual progress of site preparation (including topsoil stockpiling and relocation, berm construction, landscaping, utility line relocation, vineyard replacement, etc.); overburden removal and disposal; mining and reclamation; drainage, erosion and sedimentation control facilities to be provided and those in place; and as-built landscaping including the success of previously installed landscaping (including health, height, visual appearance, and effectiveness). An erosion and sedimentation control plan shall be submitted to the Planning Director of Public Works as part of the Annual Report.
9. The Planning Community Development Director shall review the applicant's Annual Report and inspect the mining operations and concurrent reclamation to determine and assure continuing compliance with the regulations of the Alameda County Surface Mining Ordinance and this permit. Permittee shall provide or make available to the Planning Community Development Agency Director such information as necessary for determination of compliance. The Planning Community Development Agency Director shall state the findings of the inspection in a final report which shall be made available to the public. One copy of said report shall be sent to the ~~p~~Permittee, one copy shall be sent to the San Francisco Water Department, and two copies shall be furnished to the Planning Commission within 45 days after the inspection. No fees beyond those collected under Section 6.80.242 of the Alameda County General Ordinance Code shall be required to compensate the County for costs incurred through conducting the annual inspection.
10. Permittee shall ~~post~~ maintain a cash deposit in the amount of \$10,000 with the Planning Community Development Agency Director, which funds may be used to cover the cost of implementation of other conditions of approval and/or investigation of complaints. At such time as this account diminishes to \$4,000, it shall be replenished by the ~~p~~Permittee to its full amount of \$10,000.
11. ~~Prior to commencement of site preparation and mining operations, detailed plans, specifications and programs, as required hereinafter, shall be approved by the designated authority and~~

~~implemented by permittee. No work shall begin until the Planning Director gives approval to start based on a determination that all prerequisite conditions have been met.~~

- ~~12. Permittee has agreed to and shall fund the preparation of a feasibility study and preliminary plan for a Sunol Valley agricultural preservation and enhancement effort, which could include studies of the economic incentives, market feasibility, and mechanisms necessary for implementing a specific plan aimed at preserving the character of valley. The plan may also require investigations of soils, water supply, development controls and guidelines, and other factors. The plan would be supervised by the County, with the participation of the community of Sunol, San Francisco Water Department, and other responsible parties. Permittee's share of the cost of the study shall not exceed \$50,000. This fund shall be established with the Planning Department within 30 days of a mining lease being granted by the San Francisco Water Department.~~
- ~~13. Permittee has offered to and shall pay a one-time community improvement fee of \$50,000 for the County downtown beautification project in Sunol, which could include landscaping, infrastructure, and/or other projects. Funds may be used for "seed" money, matching funds, or actual project design and implementation. This fund shall be established with the Planning Department within 30 days of a mining lease being granted by the San Francisco Water Department. The Planning Director shall be responsible for authorizing the use of these funds for the above purposes, subject to input and review by the Sunol Citizens' Advisory Committee.~~
14. Permittee has offered to and shall pay a sum of \$5,000 per year to the Sunol Glen Unified School District, for the entire term of this permit starting with the commencement of mining of aggregate. A sum of \$40,000 shall be provided within 30 days of the effective date of this permit as an advance on the annual fee for future years, subtracted from the first eight years of fees. Other advances may also be provided, upon mutual agreement of the School District and permittee.
15. The Permittee shall pay an administrative fee, as required by and for the purposes described in Section 6.80.242 of the Alameda County Health and Safety Code, Surface Mining Ordinance Code.
16. Permittee shall use its best efforts to maximize sales which produce sales tax revenues to Alameda County.
- ~~17. Permittee shall cooperate with other land owners south of I-680, particularly the San Francisco Water Department, to determine the extent of additional mineral resources that may be available and suitable for mining south of I-680 in the Sunol Valley. Permittee shall further participate in efforts to facilitate additional mining with the objectives of maximizing aggregate extraction while also providing timely and efficient reclamation for water storage. Participation and progress toward solutions shall be documented to the Planning Director of Public Works as part of the Annual Report.~~
- ~~18. To assist San Francisco in determining the viability of recreational use in conjunction with mining, permittee shall prepare a conceptual recreation plan for the SMP-32 quarry area prior to any site disturbance, for approval by San Francisco Water Department and the Planning Director, after review by the Sunol community. The recreation plan shall address near term access to the Water Temple area, and long term recreational use as part of final reclamation. The plan shall be prepared by a qualified professional, and be consistent with landscape plans required elsewhere in these conditions of approval.~~

19. All site preparation shall be successfully completed as mining activities progress based upon the "Site Preparation Phasing Plans" on file with the Community Development Agency, including Sheets 1 through 5, dated January 2001, and approved by the Planning Community Development Agency Director on October 11, 2001. This includes but is not limited to the topsoil redistribution and setback zone construction, slurry wall construction, berm construction, hillock construction, landscape planting on berms and hillocks, vineyard replanting, other permanent planting and crop cultivation, hydroseeding of exposed overburden and slopes, and other measures necessary to prepare the site for mining and minimize visual, biologic, water quality, public safety and other effects. Permittee shall provide financial assurances that all remaining site preparation measures (according to the approved phasing plan) necessary to leave the site in a safe, attractive, and productive condition are implemented in the event of pPermittee default.
20. The SMP-32 mining operations shall occur only between the hours of 6 AM and 10 PM, Monday through Saturday. Other limitations on hours of operations may apply, as specified elsewhere in these conditions of approval. This limitation does not apply to the SMP-24 processing plant operation, which is governed under separate permit. This condition also does not apply to emergency operations to undertake preventive or corrective actions related to the public health and safety, in which case the Planning Community Development Agency Director shall be notified within 48 hours of the need and for extended hours and the actions taken. The Planning Community Development Agency Director may authorize exceptions to this restriction.

#### Agricultural Land Use

21. The reclamation plan shall include provisions for redistributing topsoil from areas to be disturbed by mining for use on berms for screen landscaping and on adjacent lands that could support in-ground crops.
22. As shown in the Site Preparation and Mining/Reclamation Plan, prepared by Spinardi Associates dated November 21, 1994, and Gates & Associates revised October 1994, pPermittee shall install permanent agricultural plantings (trees and/or vines) along the entire I-680 corridor and a portion of the Paloma Road frontage at the I-680 interchange, including an area of fifteen acres or more of replacement vineyard.
23. The fifteen acres of replacement vineyard areas shall be planted at least four years prior to removing vineyards from the mining site. Prior to removing existing vines, pPermittee shall provide verification in a form acceptable to the Planning Community Development Agency Director that new vines were planted at least four years earlier.
24. Along the Alameda Creek frontage and along the Water Temple Road frontage within 1,500 feet of the filter gallery, buffer areas shall be planted in riparian vegetation and hay/grain crops for the purpose of retaining the site's character and the habitat value as foraging territory for raptors and possible use by special status species such as the California tiger salamander and burrowing owl.
25. Along the remainder of the Water Temple Road frontage and Paloma Road frontage, plantings shall include hay/grain crops, permanent plantings, and/or container nurseries, as appropriate to meet the various needs for habitat mitigation, visual amenity, and public access in these areas.

#### Grading and Seismic Safety

26. Grading and erosion control shall conform to design standards and geotechnical requirements of the Alameda County Grading Ordinance, Alameda County Surface Mining Ordinance, and the

California State Surface Mining and Reclamation Act, as amended, and shall be subject to review by the San Francisco Water Department. The plans shall incorporate plantings and protection to temporary stockpiles.

27. No explosives shall be used ~~in site preparation, quarry operations, or reclamation activities.~~
28. Recommendations contained in the project Geotechnical and Geologic Investigation, prepared by Treadwell & Rollo, August 1991, including all amendments provided by the ~~p~~Permittee, or requested by the County of Alameda or the State of California, and approved by Alameda County shall be followed.
29. The site shall be inspected within one working day by a qualified professional after any earthquake over Richter magnitude 5.0 on the earthquake faults within the Bay Area to ensure the continued safety of excavation activity and in the vicinity of power and water utility lines. A report on the investigation and any corrective actions recommended and taken shall be provided to the Planning Community Development Agency Director.
30. Should any problems develop regarding slope stability, erosion control, or related matters, permittee shall immediately have an investigation prepared by a qualified professional detailing the problem and possible solutions to be approved by the Planning Community Development Agency Director. Permittee shall implement approved solutions on a timetable approved by the Planning Community Development Agency Director.
31. The specific design of all finished slopes shall meet the specifications of San Francisco Water Department for ultimate use as a water storage lake, and shall be approved by the Planning Community Development Agency Director prior to completion of construction of the finished slopes.
32. The construction of all finished slopes shall be monitored by a qualified professional to ensure that design criteria are met and adverse conditions are identified and corrected. Periodic inspection of the slopes shall be performed by a qualified professional after construction to identify slope stability or erosion problems. Identified problems shall be repaired by the ~~p~~Permittee.

#### Drainage, Flooding, and Water Quality

33. Work within or adjacent to a watercourse, such as construction of the conveyor belt, is subject to the conditions of Alameda County Ordinance 82-18 and shall require a permit from Alameda County Flood Control and Water Conservation District, and is subject to review by the California Department of Fish and Game under Section 1603 of the Fish and Game Code for a Streambed Alteration Agreement, and by the US Army Corps of Engineers in the event that Section 404 of the Clean Water Act applies.
34. Prior to any site preparation activity, ~~p~~Permittee shall obtain approval by the Planning Community Development Agency Director of a plan including details and calculations related to all drainage, erosion and sediment control facilities. Included shall be surface area, storage for runoff, and capacity of ponds that will serve as sediment basins, detention ponds, or water storage. An up to date hydrology map must be submitted showing all on site drainage and all intercepted areas.
35. Prior to any site preparation activity, and as part of each module of activity, ~~p~~Permittee shall test

surface soils and overburden material for possible contamination that could affect groundwater or surface water quality. If it is found to contain unacceptable levels of nitrates or other pollutants, this material shall be isolated within berms or other fill to avoid polluting surface or ground waters, or be disposed of off-site. Concurrence of the San Francisco Water Department with the testing program and proposed mitigation measures shall be demonstrated by the Permittee.

36. Runoff shall be directed along existing routes and channels to preserve the current surface characteristics in these areas and prevent damage to other areas. If necessary, a runoff collection system of dikes, streams and culverts, a siltation basin, and an energy dissipator shall be constructed and maintained to avoid point source runoff, erosion, runoff to the San Francisco filter gallery, modifications to the Alameda Creek bank or channel, and/or downstream siltation. An approved energy dissipator is required if any direct runoff is discharged into Alameda Creek.
37. All drainage facilities shall consider the effect on mosquito breeding and be approved by the Alameda County Mosquito Abatement District.
38. Changes in drainage and/or sedimentation control facilities shall be submitted in advance to the Planning Community Development Agency Director for approval, after consultation with the San Francisco Water Department.
39. Any new structure (including the conveyor belt system) to be located within the Federal Insurance Administration's A 2 flood zone shall be subject to special building requirements.
40. The project site is within the Alameda County Flood Control and Water Conservation District's (Zone 7) Special Drainage Area 7 and is subject to conditions imposed at the time of issuance of building permits, such as for the conveyor belt structure. Permittee shall demonstrate to Zone 7 that the proposed structure would not adversely increase the water surface elevation of the upstream channel.
41. The project is subject to permit from the San Francisco Bay Area Regional Water Quality Control Board for discharges to Alameda Creek. No regularly occurring discharge shall occur from the site. Any emergency discharge shall be in accordance with permits and conditions from the Regional Water Quality Control Board. Water shall normally be recycled on-site for dust control, pumped to the existing processing plant for use as wash water, and/or pumped to storage ponds for later use.
42. Existing groundwater wells that are in the path of mining shall be destroyed according to the regulations and standards of Zone 7. A permit shall be obtained from Zone 7 for any well to be installed or reused in the site perimeter, whether for irrigation, potable water supply, groundwater monitoring, or other use.
43. A detailed spill containment/cleanup contingency plan shall be approved by the San Francisco Water Department, Planning Director, Public Works Agency, Alameda County Health Care Services Agency, Alameda County Fire Department, California Department of Forestry, and Regional Water Quality Control Board prior to site disturbance. Permittee shall follow stringent spill containment and clean up procedures to: (a) isolate any oil, diesel or other spill; (b) dig up all contaminated or potentially contaminated soil; (c) stockpile affected material; and (d) treat affected material and replace, if appropriate, or dispose contaminated soil off site at an approved disposal site, if warranted.
44. Permittee shall develop a water quality and groundwater migration testing program prior to site



preparation and implement the plan during site preparation and mining activity to ensure continued quality of groundwater. The program shall be approved by the San Francisco Water Department and Planning Community Development Agency Director, and shall include, but not be limited to: the timing of samples, criteria to assess quality, and procedures to follow if water quality or groundwater migration is found to have decreased below a standard defined by the San Francisco Water Department.

45. Water runoff shall be directed away from lands owned by the State of California (Caltrans right-of-way for Interstate 680).
46. If any problems develop regarding surface water runoff, groundwater quality or migration, flooding or related matters, ~~p~~Permittee shall immediately have an investigation conducted and a report prepared by a qualified professional detailing the problem and possible solutions to be approved by the Planning Community Development Agency Director. Appropriate solutions shall then be implemented by the ~~p~~Permittee.

#### Biological Resources

47. The remaining walnut trees along the southwestern boundary of the quarry site shall be preserved to the maximum extent possible. Any removal of trees shall first be approved by the Planning Community Development Agency Director and San Francisco Water Department.
48. Landscape screen planting shall be in substantial conformance with plans prepared by Gates & Associates, revised October 1994, and shall include a variety of trees, shrubs and groundcovers, with a preference for native plants and species suitable for wildlife and bird use, to be determined in consultation with the California Native Plant Society, California Department of Fish and Game, and US Fish and Wildlife Service. These plant species shall be suitable for public access around the lake, if San Francisco Water Department determines that future access as part of reclamation is appropriate. The landscape plan for the site shall include identification of these resource values to aid review for compliance by the Planning Community Development Agency Director.
49. Permittee shall conduct pre-construction surveys of the project site and buffer area along Alameda Creek prior to site disturbance as shown in the plans prepared by Spinardi Associates, dated November 21, 1994) to determine the presence or absence of the California tiger salamander and/or burrowing owl. The surveys shall be conducted in accordance with established protocol of the California Department of Fish and Game. If either of the species is found, prior to undertaking any further work on the phase in question, ~~p~~Permittee shall prepare a plan for the protection of either or both species, as the case may be. The goal of such a plan shall be to prevent any reduction in the number of, or any restriction in the range of either or both species, as the case may be. The plan shall be prepared in consultation with CDFG and USFWS, and shall be subject to approval of the Planning Community Development Agency Director. If the tiger salamander is found, the plan shall provide for maintenance of project buffer areas, with the exception of the area fronting on I-680 proposed to be put into use as vineyards, in a state that is suitable for habitat during the entire permit term. Minimum replacement ratios shall be 1:1. Off-site habitat, if required in addition to on-site habitat preservation, shall be preserved and/or enhanced in cooperation with the San Francisco Water Department and other landowners, as necessary, through the recording of easements or other mechanisms to permanently set aside areas with high biologic value. If the burrowing owl is found, the plan shall provide for preservation of 6.5 acres of foraging habitat for every owl pair or unpaired resident bird observed. If necessary, the plan shall further provide for passive relocation of resident owls from the

disturbance area and burrow enhancement or creation pursuant to existing, approved CDFG procedures. The approved plan shall be implemented by the pPermittee.

50. Permittee shall conduct surveys for red-legged frog along Alameda Creek in the vicinity of the project site during the appropriate season. If the species is found to use the area, pPermittee shall prepare and implement a bullfrog control plan to ensure that the project does not result in new bodies of water during mining or as a result of reclamation that could serve as breeding areas for the predatory bullfrogs. The final reclamation as a water storage lake shall include the implementation of a long-term bullfrog control plan, if the red-legged frog is found to be present in the vicinity at that time.
51. Permittee shall consult with the California Department of Fish and Game and US Fish and Wildlife Service in preparation of final mitigation plans for habitat preservation and enhancement. The methods, results, and recommendations of the field surveys shall be approved by the Planning Community Development Agency Director, and successful implementation shall be completed by the pPermittee prior to site disturbance, or prior to final reclamation, as the case may be. Monitoring shall be performed by a qualified third party professional, who shall submit a report as part of the pPermittee's Annual Report.

#### Traffic

52. No new access points to the quarry site shall be established on Paloma Road. Regular small vehicle trips shall occur along the existing access road on the upper Alameda Creek bank under I-680. Only equipment that cannot be brought to the site via the existing access road due to size or weight may be transported on County roadways. All excavated material shall be transported from the SMP-32 site to the existing processing plant at SMP-24 via conveyor belt for storage, processing, transportation, or disposal.
53. No vehicles except necessary quarry equipment in regular use shall be stored on the site.
54. Permittee shall continuously maintain Athenour Way to standards of the County of Alameda. Damage to Athenour Way resulting from a natural adversity or a cause not related to either the quarry or the processing plant will not be the responsibility of the permittee. As part of the annual inspection of the quarry, or at other times as determined necessary by the Planning Community Development Agency Director, the County will inspect the condition of Athenour Way. Required repairs will be identified by the County and shall be completed by pPermittee. Permittee shall use contractors approved by the County, and all work shall be inspected by the County or a private company mutually acceptable to the County and permittee.
  - a. To guarantee roadway maintenance, permittee shall post a guarantee of \$100,000 (either a cash deposit into an interest-bearing account or a letter of credit) to ensure the availability of funds in the event that the County must complete required maintenance or repairs.
  - b. If pPermittee fails to maintain the roadway in a condition acceptable to the County, the County may withdraw from the account such funds as are necessary to commence or complete the required maintenance and repairs, following notification to the pPermittee as described below. If the cost of maintenance and repairs exceeds the \$100,000 plus interest accrued to the account, then the total cost to complete the work shall be due and payable by pPermittee upon receipt of notification from the County. With the exception of emergency repairs, pPermittee shall be given sixty days notification to complete the

repairs or propose an alternative acceptable to the Planning Community Development Agency Director. In the case of emergency repairs, as determined by the Planning Community Development Agency Director, the County may withdraw such funds as are necessary to complete the work. If the cost of maintenance and repairs exceeds the \$100,000 plus interest accrued to the account, then the total cost to complete the work shall be due and payable by ~~p~~Permittee upon receipt of notification from the County. If funds are ever withdrawn from the account, the corpus shall be replenished to the full \$100,000 within five working days.

- c. Interest accruing in the account shall remain on deposit, unless withdrawn for work on the road. At the end of the permit term or any earlier closure of the operation, or upon abandonment of the roadway by Alameda County, funds in the account will be returned to ~~p~~Permittee following inspection and determination by the Planning Community Development Agency Director that the roadway is in good condition to standards of the County of Alameda.
  - d. If at the end of the permit term or any earlier closure of the operation the Community Development Agency Director determines that the roadway is not in good condition to standards of the County of Alameda, then the procedure as provided in (b) above shall be followed. If there are insufficient funds in the road maintenance account or reclamation account to accomplish all necessary work on the roadway, then the County may perform the required work and recover all costs by any and all means provided by California law. The County shall give notice to the permittee and/or owner of the amount of the deficiency. Payment to the County by the permittee and/or owner shall be due immediately and shall be delinquent if not paid within 15 days of the date of the notice. The County may pursue any and all rights of collection against the permittee and/or owner for recovery of the delinquent sums. Such delinquency shall constitute a lien against the property and the County may, at its option, exercise its right as a lienholder to enforce the lien in any manner permitted by the law, including, without limitation, through a foreclosure sale.
  - e. As part of the ~~Five-Year-Periodic~~ Review, a schedule for necessary roadway repairs and alternatives for funding repairs will be considered by the Planning Commission. If warranted, the deposit may be increased to reflect current and projected future roadway maintenance needs.
55. Permittee may petition the State of California and Alameda County Board of Supervisors to abandon Athenour Way as a State and County controlled roadway. If a petition is filed for abandonment, ~~p~~Permittee shall supply information as necessary to the Public Works Agency and Planning Department to analyze the petition, including information regarding the interest of Caltrans. If the roadway is abandoned by the State of California and Alameda County, funds in the roadway maintenance account will be refunded to the ~~p~~Permittee, and all ownership and maintenance of the roadway will be transferred to the ~~p~~Permittee.

#### Noise

- 56. Engines on all equipment used for surface mining operations shall be equipped with manufacturer-recommended mufflers, and no muffler or exhaust system shall be equipped with a cutout, bypass, or similar device intended to thwart quieting.
- 57. Site preparation and mining shall be conducted in substantial conformance with the proposed

phasing plan prepared by Spinardi Associates, dated November 21, 1994, as amended by this permit and subsequent revisions. The plan provides for the construction of berms and landscape buffers prior to aggregate mining in a manner that will effectively shield the surrounding areas from visual and noise impacts. Topsoil removal, overburden stripping, and berm construction, once begun in the northwest portion of the site within 1,600 feet of the sensitive noise receptors, shall proceed as quickly as possible to further minimize noise. Activity in this area shall be conducted during the summer months to minimize noise received at the school-related areas. These operations shall begin no earlier than 7 AM.

58. Permittee shall be responsible for installing double-paned windows and a mechanical ventilation system at the request of the San Francisco Water Department and/or the Sunol Glen School, if after operations commence, the County determines it to be necessary to further minimize noise levels caused by the SMP-32 operations at all or a portion of these facilities. The determination shall be based on a comparison of site-specific noise measurements made by qualified personnel against County standards for exterior and interior noise exposure, and the reported experience of persons who regularly use the facilities.

#### Air Quality

59. Measures shall be taken to reduce dust emissions to the maximum extent possible. In addition to using water as a dust suppressant, other measures shall be used if practicable such as commercially available dust suppressants, and temporarily halting stripping activities during high wind periods that create a visible dust plume. Permittee shall describe measures undertaken in each Annual Report furnished to the Planning Community Development Agency Director.
60. Adequate soil moisture shall be maintained in all activity areas within the site or watered to reduce dust to an insignificant level, as determined by the Planning Community Development Agency Director and Bay Area Air Quality Management District.
61. All surface mining operations emitting smoke, vapors, dust and other airborne contaminants shall be provided with all necessary control measures and devices as required by the Planning Community Development Agency Director, Alameda County Health Care Services Agency and the Bay Area Air Quality Management District to prevent the occurrence of nuisance and undue pollution of the air.
62. If, at any time, high wind or dry weather create potentially hazardous conditions on surrounding roads and highways or in the town of Sunol as a result of windblown dust from the site, the causative activity must cease and corrective measures must be taken. Adequate water and equipment shall be maintained on-site for this purpose. The event must also be reported to the California Highway Patrol, ~~and the County Planning Department~~ Community Development Agency, and Public Works Agency within 48 hours.
63. Permittee shall maintain all quarry-operated equipment in accordance with manufacturers' recommendations to reduce exhaust emissions from heavy equipment and haul trucks.
64. Permittee shall ensure that the quarry conforms to all requirements of the Bay Area Air Quality Management District, and shall document compliance as part of the Annual Report.
65. If complaints about off-site dust are received by the County, an investigation shall be conducted to determine whether a reasonable nuisance or hazard exists, if the SMP-32 quarry and/or surrounding buffer lands on the project site is the cause of the dust, and, if so, what corrective

actions are required to correct the problem. Permittee shall comply with the decision of the Planning Community Development Agency Director regarding the appropriate corrective action, which may include but is not limited to changes in the method of operation, hours of operation, or other elements of the project.

### Visual Quality

66. A detailed landscape and phasing plan shall be prepared and approved prior to site disturbance based on the conceptual plans approved as part of this permit, prepared by Gates & Associates, revised October 1994, that takes into account the preference for native species and biologic habitat value; speed of growth of selected plants; ability of plants to provide an effective visual screen; and suitability of plants to the soil, climate, natural setting and other physical characteristics of the site. The landscape plan shall include both an irrigation plan, specifying use of a water-conserving system, and a landscape maintenance program. The landscape plan shall be prepared by a licensed landscape architect in consultation with the San Francisco Water Department, the California Native Plant Society, the U.S.D.A. Soil Conservation Service, and the California Department of Fish and Game. The landscape plan shall include timing, responsibilities, and guarantees, and shall be approved by the Planning Director prior to commencement of soil disturbance and planting. The Planning Director shall forward the plan to the Sunol Citizens' Advisory Committee for comments prior to approval of the plan. Permittee shall guarantee maintenance of the landscaping in accordance with the plan. On-going maintenance of the landscaping shall be monitored by an independent landscape architect/contractor under the supervision of the Alameda County Planning Department and contract to the permittee, with reports supplied as part of the Annual Report. The success of the plantings shall be reviewed by the Sunol Citizens' Advisory Committee.
67. Permittee shall construct a continuous berm around the perimeter of the quarry pit as shown in the revised plans prepared by Gates & Associates, revised October 1994, subject to amendment under these conditions of approval, to provide a visual barrier to sensitive areas including but not limited to I 680, Paloma Road, and the San Francisco Water Department water temple and access road. The engineered appearance of the final use of the site (water storage for the San Francisco Water Department) shall be minimized through the use of a meandering berm with varying dimensions and through suitable landscape planting design, including the use of native, drought tolerant plants, as outlined below.
68. Permittee shall coordinate quarry operations, buffering land uses, conveyor belt location and design, fencing, and landscape berms with the San Francisco Water Department as necessary to facilitate the implementation of public access to the watershed lands, if such access and trails are found to be desirable by the San Francisco Water Department. Modifications to the conveyor belt, landscaping, or other operational concerns, would be subject to approval by the Planning Community Development Agency Director. In the event the San Francisco Water Department opens its lands for public access, pPermittee shall cooperate with the eventual operator of the recreation and trail facilities.
69. Landscaping shall be reviewed periodically to ensure the adequacy of the plan and plantings. Permittee shall survey and stake the location of the pit perimeter, berms, hillocks, and other major features of the plan for an initial inspection by the ~~Alameda County Planning Department~~ Community Development Agency and the Sunol Citizens' Advisory Committee, prior to any site disturbance. In consultation with the pPermittee, Department of Public Works, Sunol Citizens' Advisory Committee, and other responsible parties, the Planning Community Development Agency Director shall approve a program for interim inspections as the buffer areas are

constructed, berms are constructed, and other features and landscaping are installed, in order to ensure that the features are achieving the intended goal of screening views and providing a pleasing setting. The Planning Community Development Agency Director may approve modifications to the plans to improve factors such as tree species, spacing, timing of installation, and other elements. Screen landscaping shall be permanently installed at least four years in advance of activity in areas of active mining to ensure adequate growth, and shall have a minimum success of 75 percent.

70. Stockpiles of materials from mining activity shall be allowed only within the pit, and shall be limited to a one-week supply if visible from surrounding areas. During site preparation, stockpiles as required due to activity such as topsoil removal and bentonite wall construction shall be stored for a maximum of 30 days, except as approved by the Planning Community Development Agency Director. The height of all visible stockpiles shall be limited to 25 feet.
71. Permittee shall restrict and minimize lighting for night operations. Where lighting is necessary, pPermittee shall utilize light shades, directional lighting, and other measures so as to minimize visibility off site.

#### Public Facilities and Services

72. Prior to issuance of Building Permits, the Planning Director shall approve the precise location, access, and design of the conveyor belt linking the expansion area to the existing plant on the opposite side of I 680. The conveyor belt shall not adversely affect the Alameda Creek channel or bridge in any manner, as determined by the Planning Director.
73. An encroachment permit from Caltrans shall be obtained for any work conducted within the State right-of-way, as necessary.

#### Archaeologic and Historic Resources

74. Permittee shall alert all personnel involved in activities at the site to the possibility of finding archaeological or historic materials (materials shall be described in sufficient detail that they would be recognizable if found). If any of these materials are encountered, work shall be halted in the immediate area of the discovery or suspected source area. Work shall not recommence until a qualified archaeologist has inspected the find, made an evaluation of the character and potential significance of the resource, collected appropriate data and samples, and implemented a mitigation program, if necessary. Reports and recommendations shall be forwarded to the County in a timely manner. Permittee shall comply with the recommendations of the archaeologist regarding preservation, relocation or recording, if necessary.
75. Permittee shall propose and implement a schedule of site visits for archaeological evaluation during topsoil and overburden removal, subject to the approval of the Planning Community Development Agency Director. Particular attention shall be paid to the southwestern quadrant of the site and the area opposite the San Francisco Water Department maintenance area. Reports, recommendations and activities shall be presented as part of the Annual Report and filed with the California Archaeological Inventory, as appropriate.
76. In the event that any human remains are uncovered, the County Coroner and the Native American Heritage Commission must be notified. If the remains are determined to be of Native American origin, arrangements must be made between the pPermittee and the designated Most Likely Descendent regarding the exposure, removal, and eventual reburial of human remains and

associated grave goods.

77. Permittee shall not operate in or disturb the ground within the previously identified archaeological resource area and any possible additional cultural resource finds. This prohibition shall exclude foot or vehicular traffic, and incorporate provisions of an erosion control plan for the area.

#### Public Health and Safety

78. A potable water supply and adequate toilet facilities shall be provided for employees according to requirements of the Alameda County Health Care Services Agency.
79. An annual fire protection plan shall be filed with the Alameda County Fire Department and State Department of Forestry and implemented by the Permittee, as approved or amended by these agencies.
80. The perimeter of the mining area shall be fenced prior to commencement of mining activities. Fencing shall conform to specifications of the Alameda County Surface Mining Ordinance. An alternative design may be approved by the Planning Community Development Agency Director if the design is found to achieve the same degree of security as standards in the Alameda County Surface Mining Ordinance. New and existing fences shall be repaired as necessary and maintained in good condition.

#### Reclamation

81. The Permittee shall guarantee timely performance of reclamation requirements of the Alameda County Surface Mining Ordinance and these conditions of approval by providing a mechanism for financial assurance of reclamation as described in, and in accordance with, Surface Mining and Reclamation Act and the Alameda County Surface Mining Ordinance. The mechanism shall be of sufficient value to cover the full costs of reclamation in any specific year for which it is calculated, and may take any form acceptable within the requirements of SMARA, including but not limited to escrow accounts, trust accounts, performance / surety bonds and/or Irrevocable Letters of Credit.
82. Final reclamation shall occur within the stated permit term, but in no case later than two years after completion of surface mining. Prior to release of funds from impound accounts for monitoring and reclamation, all conditions shall be accomplished and accepted by the Planning Community Development Agency Director. All stockpiles and equipment shall be removed from the site upon completion of reclamation. An "as built" plan of the final reclamation shall be prepared and submitted to the Planning Community Development Agency Director.

#### Monitoring and Responsibilities

83. ~~Within five years from the date of approval of this permit, and at approximately five year intervals thereafter,~~ In accordance with ACSMO Section 6.80.190, the Planning Commission shall review compliance with the Surface Mining Permit and Reclamation Plan and with the Alameda County Surface Mining Ordinance no less than every five years. ~~and consider n-~~ New or changed circumstances within the general area of the mining operations which ~~shall~~ should be accommodated by the permit or plans will be considered. The review shall include a public hearing. The Permittee shall pay the actual cost of reviews unless otherwise approved for extraordinary circumstances by the Planning Community Development Agency Director. As a result of this process, the Planning Commission may modify the mining or reclamation plan or

guarantees thereof to conform with the Alameda County Surface Mining Ordinance or changed circumstances, and such modified permit or plan shall be binding upon the operation.

84. If problems develop regarding mining or reclamation as may be determined by the Planning Community Development Agency Director, the Permittee shall take corrective action with all due haste, in good faith. Permittee shall implement solutions as approved by the Planning Community Development Agency Director.

#### Permit Expiration / Revocation

85. This Surface Mining Permit and Reclamation Plan shall terminate January 1, 2045 or upon completion of reclamation, whichever occurs first.
86. A processing plant shall not be allowed on the SMP-32 site.
87. This permit shall be subject to revocation or suspension as specified in Section 6.80.270 of the Alameda County Surface Mining Ordinance.

#### Legal Responsibilities

88. Permittee shall defend, indemnify, and hold harmless Alameda County or its agents, officers, or employees from any claim, action or proceeding against Alameda County, or its agents, officers, or employees, to attack, set aside, void, or annul this Surface Mining Permit and Reclamation Plan, including any amendments thereto, or underlying environmental documents and actions taken pursuant to the California Environmental Quality Act, Alameda County Surface Mining Ordinance, other State and County code and ordinance requirements, and any combination thereof. Such indemnification shall include but not be limited to any such proceeding. If permittee shall fail to adequately defend the County of Alameda, the County may provide its own legal defense and the Permittee shall be responsible for the County's reasonable attorneys' fees.
89. Should a judicial proceeding be instituted to enforce or interpret these conditions and provisions, the prevailing party shall be entitled to reasonable attorneys' fees and costs, in addition to any other relief awarded. Permittee shall reimburse the County, its agents, officers, or employees for any court costs and/or attorneys' fees which the County, its agents, officers, or employees expend in defense of a legal challenge to this action or portions thereof.
90. A Notice of Limitation incorporating all permit provisions shall be recorded against all properties owned or leased by the Permittee which are subject to this Surface Mining Permit and Reclamation Plan.
91. Permittee, property owner and their authorized agents, and any other person in control of the property, individually or collectively, are responsible for the observation and compliance with all the provisions of this permit and the Alameda County Surface Mining Ordinance. Each party shall provide a written statement that they accept responsibility for reclaiming the site as indicated on the mining and reclamation plan, and shall guarantee (a) compliance with all conditions of approval and (b) reclamation in accordance with said plan. Said responsibility shall run with the land under permit as a covenant thereupon until release of the covenant is recorded by Alameda County.
92. Prior to the initiation of non-mining uses or uses accessory to mining operations, the Permittee shall receive prior approval demonstrating conformance with ACSMO §6.80.060. The



Community Development Agency Director shall act upon and retain a record of all non-mining uses authorized in accordance with ACSMO §6.80.060(A). The Planning Commission shall review and act upon all accessory uses proposed in accordance with ACSMO §6.80.060 (C) and (D).

93. In accordance with ACSMO §6.80.120, the Permittee shall obtain approval from the County for any proposed amendments to Surface Mining Permit and Reclamation Plan No. 32 ("SMP-32 ") resulting from the San Francisco Public Utilities Commission's Alameda Creek Watershed Center Project, including, but not limited to, changes to the reclamation plan boundary, vehicular access points, setbacks required by ACSMO §6.80.210(C), haul routes, or access or routes required for future operations, maintenance, and inspections. The Permittee shall seek approval from the County of any proposed amendments to SMP-32 before commencement of construction of any Watershed Center Project improvements that are located within the current reclamation plan boundary. Prior to County approval of any amendment to SMP-32, the Community Development Agency Director or designee shall consult with the San Francisco Public Utilities Commission.
94. The Permittee will submit a complete application and deposit for administrative approval of revisions and clarification of the Permittee's 2001 Phasing Plan. This submittal must include the following; 1) a current topographic survey, 2) an updated FACE and FAM and; 3) a narrative describing the incremental reclamation of the site. These items must be received by County staff no later than September 17, 2015 which is 60 days from Planning Commission approval of the Periodic Review and its associated Conditions of Approval which was approved on July 20, 2015.

**ADOPTED BY THE FOLLOWING VOTE:**

**AYES: Gin, Imhof, Jacob, Loisel, Ratto**

**NOE: none**

**EXCUSED: Moore, Rhodes**

**ABSENT:**

**ABSTAINED:**