

EXHIBIT C, SMP-17

CONDITIONS OF APPROVAL

ADOPTED BY THE ALAMEDA COUNTY BOARD OF SUPERVISORS

August 21, 1984

Corrected September 25, 1984

GENERAL

1. Surface mining operations, reclamation and grades shall be in substantial conformance with the various maps, information, and recommendations labelled "Exhibit B, SMP-17," as approved by the Planning Commission on July 2, 1984 unless otherwise modified under the procedures of Condition No. 8. "Exhibit B, SMP-17" includes: Proposed Access Road Traverse, Staging Plans, and Final Reclamation Plan, 10 sheets, prepared by Bissell and Karn, Inc., dated June 1983 and revised December 1983 and May 1984; Plan View and X-Section, prepared by Bissell and Karn, Inc., dated October 1983 and revised December 1983; Application dated July 1, 1983; and Geological Investigation for EIR, prepared by Cleary Consultants, Inc., dated September 21, 1983; as may be modified hereinafter pursuant to these Conditions of Approval, and all plans and programs which are to be approved pursuant to these Conditions of Approval.
2. Prior to commencement of grading, mining operations or construction activities, 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 Director of Public Works gives approval to start based on a determination that all prerequisite conditions have been met.
3. Within 60 days of issuance of this permit, the Director of Public Works shall offer in writing to meet and develop a memorandum of understanding with the San Francisco Water Department to define the working relationship between the two agencies in carrying out conditions of this permit.
4. Permittee shall pay to the County of Alameda full costs incurred by the County for review, approval and administration of all programs, including inspections required pursuant to Conditions of Approval for SMP-17. This may require the hiring of additional personnel on either a part-time or full-time basis. When required by the Director of Public Works and/or Planning Director, permittee shall post a cash deposit to cover estimated costs to satisfy this condition. The Director of Public Works and/or Planning Director are hereby expressly authorized to utilize their own employees, other agencies and/or private consultants, as necessary, to conduct such reviews, inspections and administration and to make said approval determinations.
5. Permittee shall post a cash deposit in the amount of \$5,000 with the Director of Public Works which funds may be used to cover the cost of implementation of Condition No. 4 and/or investigation of complaints. At such time as this account diminishes to \$2,000 it shall be replenished to its full amount of \$5,000.

6. Surface mining operations, grading, plant facilities and operations, and reclamation plan shall conform to the Alameda County Surface Mining Ordinance (ACSMO), as amended over time, except as more specifically provided hereinafter.
7. Permittee shall guarantee timely performance of reclamation requirements of the ACSMO and these conditions by creating an escrow account for reclamation and an escrow account or bond for guarantee of conditions acceptable to the County of Alameda and depositing in said reclamation escrow account by July 1 of each year an amount totalling \$3.00 per 100 tons excavated during the period starting from the date the permit is approved. The amount shall be in July, 1984 dollars. The permittee shall make deposits annually to the escrow account in accordance with the tonnage fee described above until such time as the total amount deposited to the escrow account equals the estimated cost of the reclamation components remaining to be constructed by the applicant. The funds on deposit in the escrow account may be invested in a manner approved by Alameda County, with an emphasis on obtaining a high yield on investment. All interest and other earnings of the escrow account shall accrue to the account to offset the increase in the cost of constructing the specific components of reclamation. The escrow account can be used to finance reclamation improvements during the life of the permit. Upon revocation or expiration of the permit and completion of the reclamation plan, any funds remaining under guarantee shall be released by Alameda County upon satisfactory determination by the Director of Public Works that the conditions of the permit have been met and that the site has been reclaimed in accordance with the approved reclamation plan, or said guarantee shall be used by the County to bring the quarry into conformance and to reclaim the site.
8. Permittee shall furnish the Director of Public Works with a report describing compliance with these conditions by September 1 of each year. With each report, permittee shall provide a map at the same scale as the approved mining and reclamation plans, showing current progress of mining and reclamation, drainage, erosion and sedimentation control facilities to be provided and those in place, and as built revegetation including status of all prior revegetation. The Director of Public Works shall refer copies of the report, to be provided by permittee, to the San Francisco Water Department, California Regional Water Quality Board, East Bay Regional Park District and other concerned agencies for their review and recommendation.
9. The Director of Public Works shall review the report and inspect the mining operation to determine and assure continuing compliance with the regulations of the ACSMO and these Conditions of Approval. Permittee shall pay the County the actual cost of conducting the periodic inspection of operations and shall make available to the Director of

Public Works such information as necessary for determination of compliance. The Director of Public Works shall state the findings of the inspection in a final report which shall be made available to the public. Copies of said report shall be sent to the permittee, San Francisco Water Department, California Regional Water Quality Control Board, East Bay Regional Park District and the County Health Care Services Agency within 45 days after the inspection. The report shall be available for review by interested parties at least two weeks prior to Planning Commission consideration.

10. Permittee shall provide a written statement that it accepts responsibility for reclaiming the site as indicated on the approved mining and reclamation plan, and shall guarantee all reclamation in accordance with said plans. Said responsibility shall run with the land under permit as a covenant thereupon until release of the covenant is recorded by Alameda County.

11. At one of its regularly scheduled meetings in 1990, and every 5 years thereafter, the Planning Commission shall review compliance with the Surface Mining Permit and progress in reclaiming the site, and consider any new or changed circumstances within the general area of the mining operations that should be accommodated by the permit or plan. The review shall include a public hearing. As a result of this process, the Planning Commission may modify the permit or reclamation plan or guarantees thereof to conform with the ACSMO, and such permit or plan shall be binding upon the permittee.

12. This Surface Mining Permit shall terminate and end 80 years from the date of approval. Final reclamation shall occur no later than 1 year after completion of surface mining. All stockpiles and equipment shall be removed from the site upon completion of reclamation. This permit shall be subject to revocation or suspension as specified in Section 8-121.2 of the ACSMO.

13. Permittee shall hold harmless and indemnify the County of Alameda against liability for personal injury or property damage caused by or resulting from acts or omissions by permittee, its agents, officers or employees in conducting this surface mining operation. Permittee shall agree to defend, at his sole expense, any action brought against the County, its agents, officers or employees, because of the issuance or operation of this permit. Permittee shall reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees, may be required by a court to pay as a result of such action. The County may, at its sole discretion and expense, participate in the defense of any such action, but such participation shall not relieve permittee of the obligations under this condition.

14. Primary quarrying (collection and movement of material from quarry to primary stockpile), hauling and operation of batch plants shall be limited to the hours of 6:00 a.m. to 6:00 p.m. or during daylight hours whichever is longer, Monday through Friday. After securing prior approval of the Director of Public Works, off-hour and weekend operations may be permitted when a contract requires permittee to supply materials at those times. Secondary operations (crushing, screening and stockpiling), administrative activities and repair of equipment may be conducted 24 hours per day, 7 days per week.
15. To the fullest extent possible, permittee shall restrict and minimize lighting for night operations. Where lighting is necessary, permittee shall utilize light shades, directional lighting and other measures so as to minimize visibility off site.
16. Asphaltic concrete and concrete batch plants, secondary operations, administrative offices and quarry equipment and truck storage and maintenance facilities shall be operated in conformance with a Site Development Review (SDR), as specified in Section 8-95.0, et. seq., of the Alameda County Zoning Ordinance, approved by the Planning Director. Proposed and approved SDR shall consider reduction of noise and visibility in precise design and location of stationary facilities.
17. Permittee shall use its best efforts to maximize sales which produce sales tax to Alameda County.
18. If problems develop regarding mining or reclamation, as may be determined by the Director of Public Works based on results of inspections or complaints, permittee shall take corrective action with all due haste, in good faith, consistent with solutions approved by the Director of Public Works, who shall consult with affected persons and agencies in determining appropriate solutions.
19. A potable water supply shall be provided for employees according to requirements of the County Health Care Services Agency.
20. Adequate toilet facilities shall be provided for employees according to the requirements of the County Health Care Services Agency.
21. Prior to commencement of mining or operation of the plant site, permittee shall submit for Planning Director approval a program for maintaining agricultural use over the remainder of the lease area not being worked for the surface mining/processing operations. The program shall be updated annually, and upon approval, shall become a part of these requirements.

22.The Agreement for Mitigation of Environmental Impact entered into July 31, 1984 between the East Bay Regional Park District (EBRPD) and permittee (Exhibit D, on file with the Planning Commission) and the agreement between William W. Apperson and permittee, entered into July 31, 1984 (Exhibit E, on file with the Planning Commission) are hereby incorporated as requirements of this permit. Any modification of either agreement during the term of the permit shall be submitted for review and consideration of effects this may have on the permit by the Planning Commission. Significant changes to or abrogation of either agreement may be grounds for modification or termination of the permit.

23.Upon concurrence of the East Bay Regional Park District, permittee shall apply the following portions of the royalty and mitigation payment required by the agreement of July 31, 1984, between permittee and East Bay Regional Park District, into specific accounts for the following purposes:

a.For a period of 25 years after start of sales, twenty-five percent (25%) of all royalty payments shall go into a fund for purchase of the remainder of the Apperson property not under lease to permittee. Interest from said fund shall accrue to EBRPD for twenty-five years, and thereafter interest shall accrue to the fund to account for inflation. At such time as EBRPD purchases the Apperson property not under lease to permittee, or if the property is earlier sold to a person other than EBRPD and the right of first refusal held by EBRPD pursuant to its agreement with permittee and Apperson lapses, said fund will be released to EBRPD for mitigation of project impacts as it deems appropriate;

b.The initial \$108,000.00 to be paid by permittee and forty percent (40%) of all royalty payments shall go into a fund to purchase 3,000 acres for expansion of Sunol-Ohlone Park. At such time that said purchase is accomplished, this account shall be released to EBRPD for mitigation of project impacts as it deems appropriate.

24.A program for expenditure of royalties paid to the EBRPD pursuant to the Agreement for Mitigation of Environmental Impact referred to in Condition No. 22 shall be submitted annually for Planning Commission report on consistency with the intent that royalties be used for mitigation of impacts caused by the project. The report of the Planning Commission shall be submitted to the Board of Supervisors and to East Bay Regional Park District.

GRADING, SOILS, GEOLOGY AND HYDROGEOLOGY

25.Prior to commencement of grading, mining operations or construction activities, a detailed geotechnical report covering grading, road and plant construction, mining and reclamation, slope stability and landslide treatment and stabilization shall be approved by the Director of Public

Works. Recommendations of the approved geotechnical report shall be followed during grading, construction and mining, as determined appropriate by the Director of Public Works.

26. With the exception of areas designated for cliff habitat for cliff-dwelling raptors, final graded slopes shall be designed to be sufficiently stable and satisfactory to establish vegetation to reduce slope failures, erosion and sedimentation. Topography shall be sloped to a configuration suitable for the final uses after reclamation, be aesthetically pleasing and blend with the surrounding undisturbed terrain. The surface shall be made satisfactory for applying topsoil or other material suitable for plant growth, which may require roughening or chiseling to permit better fusion and stability of the surface materials. Cliff habitat areas for cliff-dwelling raptors shall be designed to be stable and control erosion and sedimentation, to the satisfaction of the Director of Public Works, recognizing that revegetation will be difficult or impossible.

27. Prior to commencement of grading, mining operations or construction activities, a report by an agronomist and/or soils expert containing recommendations for returning graded or mined portions of the project to a stable condition suitable for interim and final uses along with detailed and site specific planting and management recommendations shall be submitted to the Director of Public Works for approval. Upon approval, said report shall become a part of these requirements.

28. Prior to commencement of grading, mining operations or construction activities, a soil erosion and sedimentation control plan shall be approved and implemented to the satisfaction of Director of Public Works.

29. Within the first year of mining, permittee shall repair and revegetate the grading and quarrying scars existing on the upper, westerly side of Apperson Ridge, to the satisfaction of the Director of Public Works. Agronomist's recommendations required above shall be followed in grading and revegetating the slopes.

30. Except for mining authorized by this permit, construction and operation of the access road and repair of the above noted quarrying and grading scars, no construction or equipment may be operated on the westerly side of Apperson Ridge.

31. If any problems develop regarding slope stability, erosion control, groundwater or related matters, as may be determined by the Director of Public Works, permittee shall engage an engineering geologist to prepare an investigation detailing the problem and possible solutions. Permittee shall implement solutions, as approved by the Director of Public Works.

32. Well water levels in the Welch Creek Road area shall be monitored by permittee, subject to the approval of respective property owners, before start of mining and periodically during the life of the permit to document any changes that may be attributed to the project. A monitoring program shall be submitted for approval by the Director of Public Works. If significant effects on the wells due to the project are established to the satisfaction of the Director of Public Works, then mitigation measures, including solutions and/or compensation, as may be determined appropriate by the Director of Public Works, shall be implemented.

DRAINAGE/WATER QUALITY

33. The Director of Public Works shall maintain continuing authority for drainage, water quality, erosion and sedimentation control throughout the life of the permit. Changes in drainage, water quality, erosion and sedimentation control facilities may be required by the Director of Public Works after considering comments from the San Francisco Water Department and other affected parties and shall be implemented by permittee.

34. No discharge of pollutants in quantities greater than before grading or mining occurred shall be permitted off site from the active quarry area, plant site area and access road. Dikes, levees, ponds or other barriers shall be maintained to prevent sedimentation of creeks and drainage channels by any activity of the project.

35. Prior to commencement of grading, mining operations or construction activities, a comprehensive and detailed water quality maintenance plan shall be prepared by permittee in coordination with the San Francisco Water Department and Department of Fish and Game and approved by the Director of Public Works after consultation with the above agencies. The plan shall include erosion and sedimentation control measures pursuant to the County Grading Ordinance, baseline and on-going monitoring of water quality including frequency, water quality standards for San Antonio Reservoir and the streams draining the site and access road, a program to ensure on-going maintenance and repair of all facilities, posting of bond(s) to ensure performance whether the quarry is in operation or not and payment of all public costs involved in producing, processing, inspecting and enforcing the plan. The plan shall also include the following measures:

a. A series of sedimentation ponds or other facilities to collect runoff and sediment from mined, graded or developed areas.

b. A drainage system, so designed that it is not a barrier to movement of wildlife (particularly large mammals), located next to the access road to convey runoff from the adjacent creeks to appropriate sedimentation control facilities.

- c. Construction of the access road and plant site during the dry season.
- d. Control of public access to the project access road, to the extent of permittee's rights in the easement, surface mining and processing areas and San Antonio Reservoir prior to, during and after construction by developing and implementing a full time security and surveillance program, including installation of a gate(s) across the access road, patrol by company personnel and by closing and locking the gate(s) when no construction or material hauling is occurring.
- e. Prohibition against dumping of materials during and after construction and plans and specifications for cleaning up accidental spills.
- f. A spill containment, cleanup and revegetation plan for each type of material being transported to or from the quarry site, including petroleum products, updated periodically as spill containment technology changes.
- g. Coordination with the State Department of Forestry (CDF) to avoid possible chemical contamination of the watershed in the event CDF is called to extinguish a fire. In the event of a truck fire, carbon dioxide gas or powder should be used whenever possible, with residue to be cleaned up when the fire is extinguished.
- h. Septic tank and leachfield system(s) located at least 1000 feet from any stream and designed and installed to the satisfaction of the County Health Care Services Agency; however, if suitable sites cannot be found, then a holding tank or chemical toilets as determined acceptable by the Health Care Services Agency may be used.
- i. Turbidity and other water quality monitoring at regular times throughout the life of the permit, including wet and dry weather baseline monitoring before construction begins for the two creeks draining the project area, San Antonio Reservoir and sedimentation ponds for any portion of the project. Said monitoring shall be conducted by the San Francisco Water Department or other agency as may be determined by the Director of Public Works.
- j. Compliance with water quality standards for turbidity, suspended solids, petroleum products and other possible contaminants as established by the Director of Public Works in consultation with the San Francisco Water Department and other concerned agencies, before controlled discharge into local streams is allowed.
- k. If monitoring of streams and San Antonio Reservoir indicates a significant increase in turbidity or other water quality

contaminants, the plan shall provide that if the Director of Public Works determines the quarry or its related activities is the cause, operations shall be suspended until the problem can be corrected.

l.Design and installation of sedimentation/containment ponds, as determined appropriate by the Director of Public Works, based on recommendations of the water quality, geotechnical, biotic and agronomy consultants and the San Francisco Water Department, prior to grading, construction or mining.

m.Selection of blasting compounds which will not introduce significant quantities of chemicals which may pollute the watershed or its runoff over the life of the project, as determined by the Director of Public Works upon recommendation of the water quality consultant.

36.Should determination be made by the Planning Commission that, despite best efforts by permittee, operations are jeopardizing the quality of water derived from San Antonio Reservoir, permittee shall cease operation and immediately correct all problems to the satisfaction of the Planning Commission prior to recommencing operations.

ROADS/TRAFFIC

37.Access to the quarry shall be from Calaveras Road, as shown on Exhibit B, SMP-17.

38.Except for authorized agricultural, watershed or quarry related activities, permittee, to the extent of its rights in the easement, shall not permit public use of the project access road.

39.Prior to construction, mining or off-haul of material from the project site, permittee shall:

a.Install the project access road and other quarry haul roads to the satisfaction of the Director of Public Works.

b.Install intersection and staging area improvements at Calaveras Road, including left turn lane, acceleration lane, no parking zones, signs, striping, improved sight distance, truck staging area (adequate in size to allow trucks to queue without blocking traffic on Calaveras Road) and gating/fencing to the satisfaction of the Director of Public Works.

c.Install landscaping as a part of the above intersection and staging area improvements, as approved by the Planning Director.

- d. Post a cash bond or certificate of deposit in the amount of \$5,000 with the Director of Public Works to cover the cost of cleaning up any accidental spills of trucks from this quarry which may occur on Calaveras Road. Said surety to be replenished to its full amount when it diminishes to \$2,000.
 - e. Submit (1) an engineering analysis of pavement section on Calaveras Road, including sampling and testing by a soils laboratory to determine the thickness, composition and R values of the pavement layers, including the subbase or basement soils and (2) an on-going system for monitoring the conditions of the pavement.
40. At such time as pavement reconstruction becomes necessary, as determined by the Director of Public Works, permittee shall participate in a timely fashion in the cost of such reconstruction along with widening Calaveras Road to County road standards, as determined appropriate by the Director of Public Works, from the project entrance to I-680.
41. Permittee shall minimize incidental spillage on public roads through a combination of shakedown berms, spray bars, efficient loading procedures and other measures, as may be determined necessary and appropriate by the Director of Public Works.
42. All vehicles carrying products produced or sold at the quarry or plant site shall be weighed by a State licensed private weighmaster who shall prohibit all such vehicles exceeding legal weight limits for State highways from entering the public road system, unless a special overload permit has been secured from Caltrans.

VEGETATION/WILDLIFE

43. Unnecessary removal of and damage to natural vegetation shall be prohibited.
44. A program for restoring and enhancing oak woodland and riparian areas/habitat, as affected by the operation, shall be submitted for approval by the Director of Public Works and implemented by permittee.
45. Prior to commencement of grading, mining operations or construction activities, a program for mitigating impacts on the San Antonio tule elk herd shall be developed by permittee in coordination with the Department of Fish and Game (DFG) and approved by the Planning Director. Said program shall cover acquisition of suitable tule elk habitat, relocation of tule elk from some other location in the State, monitoring of the existing and new herds and timing of the different elements of the program. Permittee shall implement the tule elk mitigation program as approved by the Planning Director. Planning Director may require guarantees that all elements of the program will be implemented.

46. Any fencing to be installed along the quarry access road shall be 3 wire cattle fencing similar to that existing in the general vicinity. In areas where elk and deer are known to cross the road more frequently and where deemed appropriate by a qualified expert retained by permittee, the bottom strand of wire shall be raised or some other measure taken to allow easier passage.
47. Habitat, nesting areas for cliff-dwelling raptors, and vegetation of benefit to wildlife around the quarry pond shall be included in the quarry reclamation plan and shall be installed by permittee pursuant to a timetable and plan to be prepared by a qualified expert and approved by the Planning Director.
48. Permittee shall compensate for loss of raptor nesting and foraging habitat by a payment of fees and royalties to be used for the primary purpose of establishing the Alameda County Ridgeland Birds of Prey Reserve. The Birds of Prey Reserve shall use as its core East Bay Regional Parklands at Mission Peak, Sunol, Ohlone Wilderness, and Del Valle. San Francisco Water Department lands (if the Department consents) and adjacent private lands will also be included in the Reserve when owners are willing to participate in the raptor protection effort. The Reserve shall be established and funded in the following manner:
- a. When permittee commences road construction, permittee shall pay \$50,000 into the raptor mitigation funds and will also contribute additional payments of \$10,000 one year, two years, and three years after said payment. After the third \$10,000 payment, permittee shall match funds contributed by others to the raptor mitigation fund up to 1/2¢ per ton of quarry material removed.
 - b. EBRPD will attempt to obtain matching contributions of \$50,000 at the same time as permittee pays \$50,000, and will further attempt to match \$10,000 in 1986, 1987, and 1988, and may also allocate up to 1/2¢ per ton from its royalties to the Ridgeland raptor fund. Funds from other agencies, private donors, foundations, and other sources may be utilized as part of the District's match.
 - c. All raptor mitigation funds released to EBRPD shall be used solely for the purpose of area raptor research, Reserve planning, Reserve administration, and for acquiring lands, easements, or other appropriate means of protecting and enhancing survival of area raptors. Ongoing research and monitoring of raptor nesting and foraging use of the project area and access road shall be given first priority in allocation of initial resources from the raptor mitigation fund.

d. EBRPD shall form a policy committee for the purpose of planning and acquiring the Alameda Ridgeland Birds of Prey Reserve. The Birds of Prey Policy Committee will include 3 voting members: East Bay Regional Park District, Bay Area Chapter of the Sierra Club, and the appropriate local chapter of the Audubon Society. The Alameda County Planning Department will provide a report annually on the accomplishment of the Birds of Prey Committee to the Board of Supervisors.

e. In the event EBRPD does not participate in the raptor mitigation program in a manner consistent with the intent of this condition or in the event EBRPD does not establish and maintain the accounts specified in condition 23, as determined by the Board of Supervisors, permittee will deposit funds required by this condition with Alameda County and Alameda County may use the funds for mitigation of project impacts as it deems appropriate. If these requisites are satisfied, permittee will deposit funds directly with EBRPD for implementation of this condition as it deems appropriate.

49. Prior to commencement of grading, mining operations or construction activities, permittee shall, if required, make application for, and if necessary, obtain a permit from the U.S. Fish and Wildlife Service for the potential disturbance of the golden eagle nest located in the vicinity of the project access road.

50. Prior to grading, construction or mining, permittee shall submit for approval by the Planning Director a program for mitigation of impacts on the red-legged frog, as recommended by a qualified expert. Permittee shall implement the program as approved.

ARCHAEOLOGICAL RESOURCES

51. If during mining or other grading or construction, archaeological remains or resources are encountered, construction in the vicinity shall be halted, an archaeologist consulted and the Planning Director notified. If in the opinion of the archaeologist the remains or resources are significant, measures, as may be required by the Planning Director, shall be taken to protect them.

NOISE

52. All internal combustion engines on equipment used at the project site and for roadway construction shall be equipped with a muffler equal to or better than that supplied by the vehicle manufacturer. All equipment

shall be maintained in good mechanical condition so as to minimize noise from faulty engine, drive train and other components. No muffler or exhaust system shall be equipped with cutout, bypass, or similar device intended to thwart quieting.

53. Compressors and other equipment shall be selected with a consideration of the sound rating. All major noise sources associated with the operations, such as the crusher, conveyors and drills, shall be provided with sound control treatment. Overall sound levels generated by all equipment and activity in the plant and quarry areas shall not exceed an L_{eq} of 54 dBA at a distance of 300 feet. A program for monitoring and maintaining compliance with this condition shall be submitted for approval by the Director of Public Works. Upon approval, said program shall become a part of these requirements.

54. Noise mitigation measures shall be installed along the project access road to reduce truck noise at Maguire Peaks. Design and location shall be based on recommendations of a qualified acoustical engineer.

55. Headquarters of the Sunol Regional Wilderness shall be notified prior to weekend operations.

BLASTING

56. Blasting shall be done by a State-licensed blaster, consistent with the approved water quality maintenance plan, and a permit to blast shall be obtained from the County Sheriff's Department, as required by Alameda County Ordinance 3-13.0.

57. The Director of Public Works, Sunol Regional Wilderness headquarters and CDF, Sunol Fire Station shall be notified the day before blasting will occur, unless a set schedule is established and approved by appropriate agencies and the Director of Public Works.

58. Blasting shall be performed as recommended by an acoustical engineer to minimize audibility, including scheduling between the hours of 12:00 noon and 4:00 p.m., Monday through Friday. Additionally, blasting charges shall be set for sequential detonation rather than one large explosion.

AIR QUALITY

59. Areas of active mining, mining haul roads and stockpiles shall be watered as necessary to minimize and control dust, to the satisfaction of the Director of Public Works. Paved areas shall be washed down at least twice a week. Overburden topsoil stockpiles shall be revegetated as soon as possible. Disturbed soil areas that are not paved, not subject to

quarrying or subject to hauling activities shall be revegetated immediately after establishment of final grades. Blasting activity should be minimized and follow best modern practices. Fuel used in the asphaltic concrete plant shall have a sulphur content no greater than 0.15% by weight. Diesel fueled equipment shall be used whenever possible.

60.All surface mining and processing operations emitting smoke, vapors, dust and other airborne contaminants shall be provided with all necessary control measures and devices and monitored as required by the 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.

ENERGY

61.To minimize energy consumption, all equipment shall be regularly and properly maintained and all material handling on site shall be minimized.

FIRE PROTECTION/MEDICAL AID AND RESCUE

62.A fire prevention-suppression plan and a medical aid and rescue plan shall be prepared and filed annually with the State Department of Forestry, Sunol Fire Station. The letter from CDF to the County Planning Department dated August 28, 1983 provides information on what will be required in the plans.

0062Q
9/25/84

**NOTICE OF PUBLIC HEARING
FIVE YEAR REVIEW - SURFACE MINING PERMIT SMP-17
APPERSON RIDGE QUARRY**

Notice is hereby given that the Alameda County Planning Commission will hold a public hearing to review compliance with Surface Mining Permit and Reclamation Plan SMP-17, approved by the Alameda County Board of Supervisors on August 21, 1984 for an 80 year term. Oliver deSilva, Inc., is the permittee. The quarry is located on Apperson Ridge in the Sunol area of unincorporated Alameda County.

Neither construction of the quarry access road nor mining has commenced yet, although the permittee is in the process of fulfilling conditions of approval required prior to beginning construction or mining activity.

The Environmental Impact Report prepared for the project and certified by the Board of Supervisors on August 21, 1984 serves as the environmental document for the Five Year Review.

A condition of approval for this permit requires a five-year review to evaluate compliance with permit conditions; additionally, any new or changed circumstances related to the operation of this quarry will be considered. Following this review, if warranted, the Planning Commission may modify the permit or reclamation plan to respond to any altered circumstances.

Said public hearing will be held on Monday, the seventeenth day of December, 1990, beginning at 1:30 p.m., in the Auditorium of the Alameda County Public Works Building, 399 Elmhurst Street, Hayward, California.

All persons interested in the matter may appear and be heard at this meeting.

**ADOLPH MARTINELLI - PLANNING DIRECTOR & SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY**

**STAFF REPORT - DECEMBER 17, 1990
FIVE YEAR REVIEW
SURFACE MINING PERMIT - SMP-17
OLIVER DeSILVA, INC.**

FIVE YEAR REVIEW - SURFACE MINING PERMIT AND RECLAMATION PLAN SMP-17 - in accordance with Condition 11 of Resolution 84-745, adopted by the Board of Supervisors on August 21, 1984, approving this quarry for an 80-year term. The quarry is located on a 680-acre leasehold on the 2,555 acre Apperson Ranch on Apperson Ridge, approximately three miles southeast of I-680 and Vallecitos Road and one mile east of Calaveras Road, in the Sunol area of unincorporated Alameda County.

STAFF RECOMMENDATION: Take public testimony and adopt the attached resolution which attests that the Commission has conducted a Five Year Review, in accordance with Condition 11 of SMP-17, and that there is no need to modify the terms of the permit at the present time. In three months, staff will present a progress report on investigation of alternative programs to mitigate effects of the quarry on tule elk. If new information warrants a modification to the permit at a future date, another public hearing will be scheduled (with required public notification) to focus on Condition 45 regarding tule elk mitigation.

PERTINENT FACTS:

- . Purpose of this Review: Section 8-117.5 of the Alameda County Surface Mining Ordinance states that permits shall be reviewed by the Planning Commission "to consider new or changed circumstances within the general area of the mining operations that should be accommodated by the permit or plan... The Planning Commission may modify the permit or reclamation plan to conform with this Chapter, and such modified permit or plan shall be binding upon the operation."
- . Environmental Review: The Environmental Impact Report prepared for the project and certified by the Board of Supervisors on August 21, 1984 serves as the environmental document for the Five Year Review.
- . Site and Vicinity: The quarry site is a 680-acre leasehold on the 2,555 acre Apperson Ranch located on Apperson Ridge. To the north and west are watershed lands owned by the San Francisco Water Department (including San Antonio Reservoir); to the south and west is East Bay Regional Park District land (the Sunol Regional Wilderness); to the east are privately-owned lands.
- . Permit Status: Neither construction of the quarry access road nor mining has commenced yet, although the permittee is in the process of fulfilling conditions of approval required prior to beginning construction or mining activity.

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DECEMBER 17, 1990
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PLANNING CONSIDERATIONS:

There are two circumstances which have affected the permittee's ability to fully comply with conditions of approval: the first is that the permittee and the San Francisco Water Department (SFWD) have not yet reached an agreement on the design of the intersection and staging area improvements at the intersection of the quarry access road and Calaveras Road (San Francisco-owned right-of-way would be affected). Under Condition 39, installation of these improvements is required prior to construction, mining, or transport of material from the site. Continued discussions between the permittee and SFWD are in progress.

The second condition which has not been fulfilled is Condition 45. This condition requires a program to mitigate impacts of the quarry on the local herd of tule elk. (The project EIR determined that there is a high probability that the quarry would displace the tule elk herd, primarily due to the location of the access road which would bisect the herd's two critical habitat areas.) A mitigation strategy was adopted by the Planning Director after consultation with the California Department of Fish and Game, East Bay Regional Park District (EBRPD), Oliver de Silva, and other interested parties. The mitigation program consisted of introducing a new tule elk herd onto EBRPD lands. Since the mitigation plan was devised and approved in 1986, a change has occurred which significantly affects implementation of a tule elk acquisition/relocation program. In July, 1989, the State of California changed its policy regarding tule elk, no longer permitting tule elk to be moved from one location to another. This policy change renders it impossible for Oliver de Silva to comply with Condition 45 as written. Oliver de Silva remains committed to mitigating the impact of the quarry on the existing herd of tule elk and is exploring alternative mitigation approaches.

There are three alternative strategies under consideration to mitigate potential impacts on the tule elk. Features of each alternative are briefly described below:

1. ***Enhancement of habitat on San Francisco Water Department-owned lands adjacent to the San Antonio Reservoir.*** In this alternative, intermittent streams feeding into the reservoir would be dammed to create a bottomland area, providing a lush habitat for the elk. No mechanical irrigation would be required. The principal advantage of this alternative is that the elk may remain a *local* wildlife resource. By catching sediment, the dam could provide secondary benefits to SFWD by reducing siltation of the reservoir. On-going monitoring would be

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required through the life of the quarry to ensure continued maintenance of the habitat (fencing and other cattle control measures must be implemented, siltation monitoring must be conducted, etc.).

The potential disadvantage of the alternative is that the site is near the quarry and noise, truck traffic, and other disturbances associated with the quarry may prevent elk from becoming established here. Feasibility of this alternative must be explored with SFWD and implementation of this mitigation depends upon SFWD agreement.

2. ***Enhancement of habitat located on private property located in Alameda County near the San Joaquin County line.*** A portion of the San Antonio herd has migrated to a privately held ranch near the San Joaquin County line. Enhancement of this property could provide better quality habitat and the herd could increase. The advantage of this alternative is that the mitigation would occur within Alameda County; however, this alternative may not be feasible since it depends upon the agreement of the property owner, who has been tolerant of the existing herd but may not want more elk on his ranch, due to potential conflicts with cattle.
3. ***Purchase of private land near Cache Creek in Lake County.*** Privately owned property with excellent habitat value is available adjacent to a publicly owned preserve, where an existing herd of tule elk is thriving. Addition of acreage to the preserve and enhancement (through removal of cattle) would further ensure the long term protection of this herd in northern California. The benefit of this alternative is that the land has known habitat value, a herd is already established here, and the site is distant from potential disturbances. Additionally, this mitigation involves one-time purchase, and would not require on-going monitoring. The disadvantage would be that the mitigation would not occur locally.

A combination of alternatives is possible. To implement any of these alternatives, Condition 45 must be modified to read as follows:

Prior to commencement of grading, mining operations or construction activities, a program for mitigating impacts on the San Antonio tule elk herd shall be developed by permittee in coordination with the

Department of Fish and Game (DFG) and approved by the Planning Director. Said program shall cover

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acquisition *and/or enhancement* of suitable tule elk habitat, ~~relocation of tule elk from some other location in the State~~, monitoring of the existing and new herds and timing of the different elements of the program. Permittee shall implement the tule elk mitigation program as approved by the Planning Director. Planning Director may require guarantees that all elements of the program will be implemented.

The San Francisco Bay Chapter of the Sierra Club has requested that prior to modification of Condition 45, the Sierra Club and other environmental organizations which were a party to the original agreement regarding tule elk mitigation wish to work with the Department of Fish and Game to change the department's rule disallowing relocation of the elk. The Sierra Club has asked for six months to accomplish this and Oliver de Silva has indicated willingness to go along with this request.

Staff recommends that the Planning Commission wait six months before modifying Condition 45 to allow the Sierra Club time to negotiate with the Department of Fish and Game. During this six month period, staff and representatives of Oliver de Silva will continue to investigate the feasibility and suitability of the three alternative mitigation strategies described above. A progress report will be presented to the Commission midway through the six month period to apprise the Commission and the public of progress towards selecting an appropriate alternative and/or changes in Department of Fish and Game policy, if applicable.

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

RESOLUTION NO. 90-69 - AT MEETING HELD DECEMBER 17, 1990

Introduced by Commissioner Hamlin
Seconded by Commissioner Cartwright

WHEREAS Section 8-117.5 of the Alameda County Surface Mining Ordinance requires 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 Number 11 of Surface Mining Permit and Reclamation Plan, SMP-17, of Oliver de Silva, Inc., adopted by the Alameda County Board of Supervisors on August 21, 1984 by Resolution 84-745, requires the Planning Commission to review compliance with the Surface Mining Permit and progress in reclaiming the site, considering any new or changed circumstances within the general area of mining operations that should be accommodated by the plan; and

WHEREAS this Planning Commission did hold a public hearing to review Surface Mining Permit and Reclamation Plan SMP-17 at the hour of 1:30 p.m. on Monday, the seventeenth day of December, 1990, in the Auditorium of the Public Works Building, 399 Elmhurst Street, Hayward, California; and

WHEREAS this Five Year Review was duly noticed as required by law; and

WHEREAS the Environmental Impact Report prepared for SMP-17 and certified by the Board of Supervisors on August 21, 1984 serves as the environmental document for this Five Year Review; and

WHEREAS this Planning Commission does find that neither construction of the quarry access road nor mining has commenced yet, however, the permittee is in the process of fulfilling conditions of approval required prior to beginning construction or mining activity and is acting in good faith to fulfill such conditions; and

WHEREAS this Planning Commission does further find that the permittee is in compliance with requirements of:

- (a) the Alameda County Surface Mining Ordinance;
- (b) the Alameda County General Plan; and

(c) the public health, safety and welfare; and

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WHEREAS the California Department of Fish and Game has changed its policies regarding tule elk, and has determined that relocation of tule elk is no longer allowed; and

WHEREAS this change in policy renders it impossible for the permittee to comply with Condition 45 of SMP-17, which requires relocation of tule elk as part of a program to mitigate the quarry's potential impacts on the local herd of tule elk; and

WHEREAS in order for the permittee to achieve compliance with this condition, the condition would have to be modified to omit the word "relocation;" and

WHEREAS the San Francisco Chapter of the Sierra Club has requested that prior to modifying Condition 45, they be allowed to negotiate with the Department of Fish and Game for up to six months to encourage the Department to reconsider the policy change concerning tule elk relocation and/or seek an appropriate alternative strategy to mitigate the quarry's potential impacts on the local herd of tule elk; and

WHEREAS Oliver de Silva, Inc., has agreed in the interim to investigate the feasibility and appropriateness of three alternative mitigation strategies which do not involve relocation of the tule elk, in consultation with Planning Department and Department of Fish and Game staff;

NOW THEREFORE BE IT RESOLVED that this Planning Commission has conducted a Five Year Review as required by Section 8-117.5 of the Alameda County Surface Mining Ordinance and Condition 11 of SMP-17, and finds that no modification to conditions of approval is necessary at this time; and

BE IT FURTHER RESOLVED that if additional information is brought to the attention of this Commission at a future time which warrants modification of Condition 45, a duly noticed public hearing will be scheduled to consider such permit modification.

ADOPTED BY THE FOLLOWING VOTE:

AYES: Burdusis, Cartwright, Gordon, Hamlin, Pappas, Peixoto, and Schilling

NOES: None

ABSENT: None

EXCUSED: None

ABSTAINED: None

ADOLPH MARTINELLI - PLANNING DIRECTOR AND SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY

