

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

**RESOLUTION NO. 15-09 - AT MEETING HELD JULY 20, 2015**

**SURFACE MINING PERMIT AND RECLAMATION PLAN**

**CASE NO. SMP-24**

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

**WHEREAS** Surface Mining Permit and Reclamation Plan No. 24 (“SMP-24”) was approved by the Board of Supervisors on January 23, 1986 by Resolution 86-62 following denial of an appeal, and that same permit was subsequently reviewed and approved by the Planning Commission with amendments on March 18, 1991; and

**WHEREAS** Hanson Aggregates is the “Permittee” and the “land owner” is both Hanson Aggregates and the City of San Francisco; and

**WHEREAS** Hanson Aggregates (“Permittee”) has filed with the Alameda County Planning Department for a Periodic Review (“Periodic Review”) of previously permitted gravel extraction and reclamation activities on a 202-acre parcel of land located on Athenour Way, near Andrade Road and I-680, southeast of the Town of Sunol, unincorporated Alameda County, Assessor’s Parcel Numbers 96-1-11-7, 96-1-11-8, 96-1-10-4, 96-80-1-3 (portion), 96-80-1-5, 96-80-1-7, 96-80-1-12, 96-375-11-5, and 96-375-11-15.

**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. 44 of SMP-24, 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-24 was completed by the Planning Commission, as required by ACSMO §6.80.190 and Condition No. 44, on April 20, 2009;

**WHEREAS** the current Periodic Review of SMP-24 is timely and in compliance with the timeframe required by ACSMO §6.80.190 and Condition No. 44;

**WHEREAS** the current Period Review of SMP-24 was presented to 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 the Period Review of SMP-24 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-24 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 20, 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-24, 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** the changes to the conditions of approval made by the Planning Commission on April 20, 2009, annotated by ~~strike through~~ and underline, have been incorporated into this resolution (i.e., ~~strike through~~ text removed; underline text retained); 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 to Condition Nos. 2, 3, 4, 6, 7, 11, 12, 14, 19, 21, 24, 27, 30, 36, 48, and 49; and addition of three (3) new conditions, Conditions 52, 53 and 54; and the removal of previous Condition Nos. 13, 14, 16, 17, 18, 37, 40, 41 and 45 (as shown below).

**WHEREAS** this Planning Commission finds that permit condition changes are identified as follows below: ~~strike through~~ 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 Periodic Review; and

**BE IT FURTHER RESOLVED** that this Planning Commission approves the Five Year Review of Surface Mining Permit and Reclamation Plan SMP-24, subject to the following fifty-four (54) amended conditions:

## EXHIBIT A

### ALAMEDA COUNTY PLANNING COMMISSION RESOLUTION NO. 15-09

#### CONDITIONS OF APPROVAL

#### SURFACE MINING PERMIT AND RECLAMATION PLAN

#### CASE NO. SMP-24

1. Surface mining operations, reclamation, and grades shall be in substantial conformance with the various maps, information, and recommendations labeled:
  - a. "Exhibit B," being the maps labeled "Plot Plan & Cross Section and Reclamation Plan for Surface Mining Permit, Mission Valley Rock Company, as approved by the Planning Commission on December 16, 1985";
  - b. "Exhibit C," being the Application dated October 23, 1985;
  - c. "Exhibit D," being the maps labeled, A Mining Plan for Surface Mining Permit 24, Sheets 1 and 2, dated August 2001; and
  - d. "Exhibit E," being the figure entitled A Recommended Slopes SMP-24, by Treadwell & Rollo Geotechnical Engineers, dated 11/14/01.
2. Mining and reclamation shall conform to the Alameda County Surface Mining Ordinance (ACSMO) except as hereinafter more specifically provided.

The operator shall furnish the Planning Community Development Agency Director with a report describing compliance with these conditions by October 1 of each year, beginning October 1, 2002. With each report, the 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 landscaping including condition of all prior landscaping.

3. The Planning Community Development Agency Director shall review the report and inspect the mining operations to determine and assure continuing compliance with the regulations of the ACSMO. The Permittee shall make available to the Planning Community Development Agency Director such information as necessary for determination of compliance. The Planning 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 Permittee within 45 days after the inspection. Two copies shall be furnished to the Planning Commission. 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.
4. Grading and erosion control shall conform to design standards (Sections 7-115.0 through 7-115.19) and geotechnical requirements (Sections 7-114.2 through 7-114.10) of Alameda County Grading Ordinance No. 82-17. An annual erosion and sedimentation control plan shall be submitted to the Planning Community Development Agency Director prior to September 1 of each year.

5. Work within or adjacent to a watercourse is subject to the conditions of Alameda County Ordinance No. 82-18 and shall require a permit from Alameda County Flood Control and Water Conservation District.
6. Changes in drainage and/or sedimentation control facilities shall be submitted in advance to the Planning Community Development Agency Director for approval.
7. Runoff from the intercepted drainage area east of Calaveras Road shall be picked up and transported around the site or otherwise controlled to the satisfaction of the Planning Community Development Agency Director.
8. Mining shall not occur within 100 feet of the banks of Alameda Creek.
9. Any new structure within the Federal Insurance Administration's A-2 flood zone will be subject to special building requirements.
10. Project site is within Alameda County Zone 7 Special Drainage Area 7-1 and is subject to conditions imposed at the time of issuance of building permits, and is subject to specific fees for drainage and mitigation of flow augmentation impacts if they are found to occur.
11. Any work within creek areas will require a Streambed Alteration Agreement with the California Department of Fish and ~~Game~~-Wildlife.
12. Prior to removal of the sensitive 225-foot long band of willow and cottonwood trees in the large pit on the northeast side of Alameda Creek, Permittee shall notify the Planning Community Development Agency Director of intent to remove this band of vegetation and shall develop and submit to the Planning Community Development Agency Director for review a mitigation plan. The plan shall include a description of the vegetation to be removed at that time, the number, spacing, and location of the trees to be planted, maintenance requirements, monitoring protocols, and performance standards. If the replanting is to be accomplished on lands not owned by the Permittee, Permittee shall submit proof that the receiving landowner has agreed to this planting and that it will be made permanent through either an easement or contract. Monitoring shall include:
  - a. Review of the mitigation plan by the Planning Community Development Agency Director to ascertain that it has been written and would properly mitigate the effects by substantial planting according to the recommendations of a qualified specialist; and
  - b. Regular semi-monthly inspection by County staff and certification that the required tree planting and revegetation have been accomplished satisfactorily, and that the planted trees are being properly maintained.
- ~~13. Permittee has submitted details and calculations for all drainage facilities sufficient to demonstrate their adequacy. Prior to commencement of mining of areas presently within levee areas, previously reclaimed areas or other locations proposed for new excavation as of August 2002, An up-to-date hydrology map shall be submitted to the Planning Director for approval and for review by the Grading Inspector showing all on-site drainage and all intercepted areas.~~
- ~~14. In conjunction with the maps provided under Condition No. 12, Permittee shall submit details and calculations for all erosion and sediment control facilities sufficient to demonstrate their adequacy. Included shall be surface area, storage for runoff, and capacity of ponds that will serve~~

~~as sediment basins, detention ponds, or water storage. All ponds shall meet District criteria.~~

15. No surface runoff may flow over the existing bank. An on-site drainage system shall be necessary to discharge runoff to the creek with an approved energy dissipater.
- ~~16. All on site runoff from disturbed areas must pass through a sediment basin prior to discharge to a creek or swale. Plans shall indicate that all disturbed areas on this site shall be graded to drain to the sediment basins at all times, at each stage of excavation.~~
- ~~17. Permittee has demonstrated that Sheridan Creek can pass the 100 year storm event with typical cross sections and calculations showing normal depth; no further submittals are necessary for this requirement.~~
- ~~18. A cross section of Alameda Creek, showing where it is crossed by a conveyor belt, has been submitted. The conveyor system is shown to be well above the 100 year storm event for Alameda Creek. No further submittal is necessary for this requirement.~~
19. Free movement of groundwater through the site in present quantities, as detectable in filter galleries of San Francisco Water Department, shall not be impeded by mining or reclamation activities.
20. ~~No discharge of wash water or pollutants shall be permitted offsite from the active quarry area. Dikes, levees, or other barriers shall be maintained to prevent silting of creeks and drainage channels by any surface mining operation. Permittee shall abide by all standards and monitoring requirements of its State of California Regional Water Quality Control Board discharge permit, including weekly monitoring by a State of California certified sampling laboratory of all specified constituents and subsequent correction of any problems indicated by sampling results in excess of specified water quality standards; or any subsequent requirements of the Regional Water Quality Control Board that may be implemented to augment or supersede these requirements.~~
21. Should any problems develop regarding slope stability, erosion control, groundwater or related matters, Permittee shall immediately have an investigation prepared by an engineering geologist detailing the problem and possible solutions to be approved by the Planning Community Development Agency Director.
22. Original cut or fill slopes shall conform with the recommendations in "Geotechnical Studies for the Mission Valley Rock Quarry" by Geomatrix Consultants, September 17, 1985. Those recommendations are incorporated in the plans and cross sections by Bissell & Karn, Inc. dated September 16, 1985. For new cut slopes developed subsequent to new approval for pit deepening and excavation dated August 19, 2002, the Permittee shall not excavate new permanent slopes exceeding the elevation-dependent values presented in Exhibit E entitled A Recommended Slopes SMP-24, by Treadwell & Rollo Geotechnical Engineers, dated 11/14/01. If no bench is proposed or constructed at the 100-foot depth as shown in this diagram, then no new or existing slope indicated as less than 1.5:1 on Exhibit E shall be cut at slopes steeper than 1.5:1. Monitoring of this requirement shall consist of verification of compliance through annual inspections as presently conducted by the Grading Inspector; in the event of noncompliance, Permittee shall within 15 days submit a plan for correction to the Grading Inspector for review and approval, and upon approval shall immediately commence corrective action as directed by the Grading Inspector.
23. No explosives shall be used.

24. ~~Prior to issuance of Building Permits, Planning Director shall approve the precise location, access, design and traffic generation of on site improvements including, but not limited to: construction of modifying the existing concrete batch plant, additions/alterations to the asphalt batch plant, aggregate recycling plant (new conveyor, crusher, or other equipment), and or expansion of the truck and equipment storage yards, the Permittee shall, as provided by ACSMO §6.80.120, obtain prior approval from the Community Development Agency Director. Changes deemed to not be minor shall be referred to the Planning Commission for review and action.~~
25. Adequate toilet facilities shall be provided for employees according to requirements of the Alameda County Health Care Services Agency.
26. A potable water supply shall be provided for employees according to requirements of the Alameda County Health Care Services Agency.
27. An annual fire plan shall be prepared and filed with the ~~State Department of Forestry Office of the State Fire Marshall and Alameda County Fire Prevention Bureau~~ to mitigate fire hazards. This may be combined with the fire plan for SMP-24 and SMP-33, as appropriate.
28. The perimeter of the mining expansion area shall remain fenced in accordance with the Alameda County Surface Mining Permit. New and existing fences shall be repaired as necessary and maintained in good condition.
29. All surface mining and processing operations emitting smoke, vapors, dust and other airborne contaminants shall be provided with all necessary control measures and devices as required by the Alameda County Health Department and the Bay Area Air Quality Management District to prevent the occurrence of nuisance and undue pollution of the air.
30. To reduce possible effects of night lightning, Permittee shall take the following actions:
  - a. Install only full cutoff-shielded lights for general illumination of plant site areas, and shall replace all existing non-shielded lighting, when necessary, with full-cutoff fixtures. The lowest wattage lamps reasonable for illumination of the area of concern shall be used.
  - b. Night time operations and security lighting shall be installed no higher than necessary to illuminate the area of concern for security, safety or visual comfort, and lighting shall be directed toward the area of concern, and always below the horizontal.
  - c. Permittee shall not position night lighting to illuminate areas beyond the site boundaries, nor shall the Permittee position general lighting to radiate above the horizontal, but shall place lights or install shielded lights to illuminate only the area of concern.
  - d. For any lighting on areas nonessential for safety, security or active operations, Permittee shall place new lights on a motion detector circuit so illumination only occurs when required for occasional visibility.
  - e. Permittee shall utilize sodium vapor lamps whenever possible, unless it can be demonstrated that other kinds of lights are required for specific purposes of color rendition, visual comfort or security.

Planning Community Development Agency staff shall monitor the progress of this lighting program on an ongoing basis to ensure that new lights are properly installed and that existing

lights, when replaced, conform to the condition presented.

31. If potential archaeological resources are discovered during the course of operations:
- a. Immediately halt or relocate excavations and contact a qualified archaeologist or paleontologist to inspect the site. If the scientist determines that potentially significant materials or human remains are encountered, the scientist shall record, recover, retrieve, and/or remove them;
  - b. If human remains are found onsite, the applicant shall notify the Ohlone Most Likely Descendants, as designated by the California Native American Heritage Commission; the coroner shall be called and the archaeologist shall provide safe and secure storage of these remains while on the site, in the laboratory and otherwise, and shall consult with the Native American representatives regarding either onsite reburial of the remains or other arrangements for their disposition;
  - c. Provide a copy of documentation of all recovered data and materials found onsite to the regional information center of the California Archaeological Inventory (CAI) for inclusion in the permanent archives, and another copy shall accompany any recorded archaeological materials and data.
  - d. If any historic artifacts are exposed, the archaeologist shall record the data and prepare a report to be submitted to the local historical society.

Monitoring for these measures is performed by the applicant on a continual basis during construction, and include submittal of a summary of findings on an annual basis (at the time of the annual report) during activities to the Planning Community Development Agency Director for review and completion of records.

32. If potential paleontological resources are discovered during the course of operations:
- a. Immediately halt or relocate excavations and contact a qualified expert to inspect the site. If the expert determines that potentially significant paleontological materials have been encountered, the expert should record, recover, retrieve, and/or remove them, and the Permittee should relinquish any claim to them;
  - b. The qualified expert should preserve a copy of documentation of all recovered data and materials found onsite; the materials may, at the discretion of the expert, be carried to an institute approved by the Planning Community Development Agency Director where they may be preserved and or studied.

This condition is deemed to be self-monitoring.

33. Mining and hauling operations shall not limit roadway capacity or impose maintenance burdens on county roads. The pavement condition of Athenour Way will be reviewed annually by the Planning Community Development Director to determine if roadway strengthening is warranted.

To guarantee future roadway maintenance, a Time Certificate of Deposit in the amount of \$3,000 and cash in the amount of \$2,000 has been deposited into the Surveyor's Trust Fund to be used for cleanup and repair. Once the balance in the Trust Fund has decreased to \$500, Permittee shall deposit additional funds to bring the account to \$2,000. Should Permittee fail to do this in a

- timely manner following notification, the Planning Community Development Director will cash the Certificate of Deposit with no regard for premature withdrawal penalty, and may order cessation of all work until compliance is achieved.
34. Engines on dirt moving equipment used for surface mining operations shall be equipped with mufflers, and no muffler or exhaust system shall be equipped with a cutout, bypass, or similar device intended to thwart quieting.
  35. The driver of a weighed vehicle, loaded beyond current State of California maximum legal weights, shall be notified and requested to reduce the load to the legal limit. If loaded materials are subject to dust generation, drivers shall be requested to moisten loads at facilities to be conveniently located and maintained on site. All loaded vehicles shall be required to pass over a material shakedown area with berm, bumper, or ditches provided. The Permittee shall request all vehicle operators to have noise attenuating mufflers as required by the State of California Vehicle Code. Signs notifying drivers of these requirements shall be posted at the scale location. Drivers not cooperating with this provision shall be prohibited from hauling materials from the site.
  36. New cut slopes shall be watered as they are created to the extent necessary to minimize dust. ~~Main access roads shall be paved with asphalt for a minimum width of 24' from County roads to within 100' of the loading point within the sand and gravel pit.~~ All other haulage roads and loading areas within the site shall be paved, oiled, or watered to maintain a dust-free condition. The remainder of the operation shall be maintained in a dust-free condition, as may be determined by the Planning Community Development Agency Director of Public Works.
  - ~~37. Permittee shall install and/or maintain stop signs at all exits to County roads.~~
  38. An encroachment permit from the County will be required for all work within the road right of way. Improvement plans shall conform to the County's standards with regard to tie-ins, angle of approach, steepness, and sight distance for any driveway connection to a road.
  39. 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 (SMARA) 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.
  - ~~40. Detailed methods and specifications of revegetation and restoration of the site, prepared by a professional agronomist, have been submitted to the Planning Community Development Department Director within six months of date of original approval of this permit.~~
  - ~~41. Within 30 days of approval of pit deepening (August 19, 2002), the Permittee and all lessors shall provide a new written statement that they accept responsibility for reclaiming the site as indicated on the mining and reclamation plan, and shall guarantee all 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.~~
  42. Upon complete reclamation, end uses are assumed to be agriculture and water storage as shown on Exhibit B of Planning Commission Resolution No. 85-71 and Exhibit D of Planning



Commission Resolution No. 02-19. Any other use must be approved by the County of Alameda 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) 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 Public Utility Commission management objectives, and existing and planned uses. Uses permitted shall not conflict with the San Francisco Public Utility Commission's watershed management plan for the site and vicinity.

43. If problems develop regarding mining or reclamation, as may be determined by the Planning Community Development Agency Director, 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.
44. ~~Prior to March 15, 2007 and at approximately 5 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 no less than every five years.~~ New or changed circumstances within the general area of the mining operations which should be accommodated by the permit or plans will be considered. The review shall include a public hearing noticed in accordance with General Ordinance Code Section 17.54.750. The ~~p~~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 ACSMO, and such modified permit or plan shall be binding upon the operation.
- ~~45. Permittee shall pay to the County of Alameda full costs incurred by the County for review, approval, and administration of all conditions of approval, including required inspections.~~
46. Permittee shall hold harmless and indemnify the County against liability for personal injury or property damage caused by or resulting from intentional or negligent acts or omissions by Permittee, its officers, agents, or employees.
47. This Surface Mining Permit shall terminate January 1, 2045 or upon completion of reclamation, whichever occurs first, and final reclamation shall occur no later than two years after completion of surface mining. Permittee shall notify the Planning Community Development Agency Director upon completion of 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.
48. ~~Truck storage yard shall be used exclusively by trucks owned and operated by the Mission Valley Rock Company.~~ Hanson Aggregates, as Permittee and Operator of SMP-24, its successor in interest or a commercial entity other than the Permittee and Operator may use the existing concrete batch plant and adjoining parking area.

Use of the concrete batch plant and adjoining parking area shall be strictly limited to activities associated with the processing of minerals extracted from SMP-24, SMP-32 and/or SMP-33.

Authorized activities consist of: the operation and maintenance of the existing concrete batch plant, circulation for trucks receiving and delivering concrete product produced by the batch plant, and parking for employees operating the batch plant and for trucks when empty of concrete

product.

Use of the concrete batch plant by a commercial entity other than the Permittee and Operator shall be limited solely to the existing concrete batch plant and adjoining storage yard depicted in Exhibit A, dated November 15, 2013, and labeled "Director Interpretation Relating to Concrete Batch Plant, Surface Mining Permit No. 24."

The Permittee and Operator shall: (a) retain sole responsibility to reclaim SMP-24 in accordance with the approved reclamation plan, including the area depicted in Exhibit A, dated November 15, 2013, and labeled "Director Interpretation Relating to Concrete Batch Plant, Surface Mining Permit No. 24"; (b) retain sole responsibility provide a financial assurance for SMP-24, including the area depicted in Exhibit A, dated November 15, 2013, and labeled "Director Interpretation Relating to Concrete Batch Plant, Surface Mining Permit No. 24"; and (c) retain sole responsibility for ensuring third-party operators comply with the terms and conditions of SMP-24, the ACSMO, SMARA, and all other applicable laws and regulations promulgated by and under the authority of the County of Alameda.

49. ~~Prior to December 1, 2002, The Permittee shall maintain landscaping described in the plan prepared by Gates & Associates, titled "SMP-24, Hanson Aggregates, Stage 2 Improvements – Planting Plan, Sheet L-2," dated August 2006 and included as Exhibit E to these conditions of approval. submit to the Planning Director a new landscape plan prepared by a licensed landscape architect. The objective of this landscape plan~~ Said landscaping shall be to maintained such that it screens and/or softens the visibility of active mining areas, the plant site, stockpiles, and other elements of the sand and gravel operation from sensitive viewpoints including but not limited to I-680 and Calaveras Road. The plan shall take into account the speed of growth of selected plants; drought tolerance 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 Planning Director will forward the plan to the Sunol Citizens' Advisory Committee for comments prior to approval of the plan. Once approved, the Permittee shall proceed, on an appropriate timeline recommended by the landscape architect, to install and develop landscaping according to the approved plan. Permittee shall guarantee installation of landscaping in accordance with the landscape plan in an amount to be approved by the Planning Director; the guarantee shall be returned to the Permittee upon completion of the landscape installation. Ongoing maintenance of the landscaping will be monitored by the Planning Department Community Development Agency.
50. The Permittee shall pay an administrative fee as required by, and for purposes described in, Section 6.80.242 of the Alameda County Health and Safety Code, Surface Mining Ordinance Code.
51. The 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 attach, set aside, void, or annul this Surface Mining Permit, including any amendments thereto, or underlying environmental documents and actions taken pursuant to the California Environmental Quality Act, Alameda County Surface Mining Ordinance, the California Surface Mining and Reclamation Act, other County 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 Permittee shall be responsible for the County's reasonable attorney's fees.

52. 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).
53. Prior to the initiation of mining activities at Assessor's Parcel Number 98-80-1-12, the Permittee shall achieve compliance with Article IV (Regulations) of the ACSMO. This includes, but is not limited to, the prior approval of detailed mining and reclamation plans by the Planning Commission.
54. Within three (3) month of the approval of the five (5) year review, the Permittee shall submit to the Community Development Agency a new landscape plan prepared by a licensed landscape architect for the area east of Alameda Creek and south of the Southbay Aqueduct (i.e., East Nursery Pit). The objective of this landscape plan shall be establish low-lying, native vegetation around the former mine pit. The plan shall take into account the drought tolerance of selected plants, suitability of plants to the soil, climate, natural setting, and other physical characteristics of the site. The Community Development Agency Director or designee is delegated the authority to review and approve the plan required by this condition and shall impose a reasonable timeframe during which planting shall take place. On-going maintenance of the landscaping will be monitored by the Community Development Agency Director.

**ADOPTED BY THE FOLLOWING VOTE:**

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

**NOE: none**

**EXCUSED: Moore, Rhodes**

**ABSENT:**

**ABSTAINED:**