



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
 NEIGHBORHOOD PRESERVATION & SUSTAINABILITY DEPARTMENT

STAFF REPORT: Conditions Compliance Review for Active Surface Mining Permits in Alameda County

TO: Planning Commission

HEARING DATE: July 15, 2019

GENERAL INFORMATION	
REQUESTED ACTION:	Informational Only, No Action Required
SITE LOCATION:	Unincorporated Area; All Alameda County Quarries

STAFF RECOMMENDATIONS

Staff recommends no action.

PURPOSE OF UPDATE

All mining permits (SMP) issued in Alameda County require the permittee to submit an annual report to document their compliance with the conditions of approval (COAs) outlined in each SMP. Historically, some permittees have kept up with this responsibility while other permittees provided their reports in an inconsistent and infrequent manner. In June 2017, the Neighborhood Preservation and Sustainability Department (NPS) requested that its consultant, Benchmark Resources, prepare a conditions of approval matrix for each site documenting compliance of each operation. For 2018, NPS anticipated that the permittees would be responsible for complying with their reporting requirements. This memorandum provides a summary of NPS staff’s review of the applicable reports and provides a summary of each permittee’s compliance with its SMP COAs and reclamation plan.

REGULATORY SETTING

The table below provides the condition number and date in which each annual report is to be submitted to Alameda County (the “County”).

ANNUAL COMPLIANCE CONDITION BY SMP

Mine ID / SMP #	Operator	Condition No.	Due Date
91-01-0002 SMP-31/-36 (Radum Quarry)	Hanson Aggregates Mod-Pacific USL : Pleasanton Lakes, LLC	COA #5	March 1
91-01-0003 SMP-34 (Niles Canyon Quarry)	SRDC Inc.	COA #5	July 1
91-01-0005 SMP-17 (Apperson Ridge Quarry)	Oliver DeSilva Inc.	COA #G-11	July 1
91-01-0007 SMP-30 (Sunol Aggregates)	Oliver DeSilva Inc.	COA #G-11	July 1
91-01-0009 SMP-23 (Eliot Quarry)	CEMEX	COA#15	July 1
91-01-0010 SMP-16 (Pleasanton)	Vulcan Materials	COA #5	July 1

Mine ID / SMP #	Operator	Condition No.	Due Date
91-01-0011 SMP-32 (Mission Valley Rock)	Mission Valley Rock	COA #8 and #9	October 1
91-01-0012 SMP-33 (Mission Valley Rock)	Mission Valley Rock	COA #4	July 1
91-01-0013 SMP-24 (Mission Valley Rock)	Mission Valley Rock	COA #2 and #3	October 1
91-01-0016 SMP-28 (Sheridan Quarry)	Stevens Creek Quarry, Inc.	COA #G-11	July 1

Notes: COA = condition of approval; SMP = surface mining permit.

RESULTS OF CONDITIONS OF APPROVAL COMPLIANCE REVIEW

SMP-16 (Pleasanton Quarry)

On June 22, 2018, Vulcan Materials submitted its 2017-2018 compliance report. In addition to review of the annual compliance report, Benchmark Resources’ staff conducted its annual California Surface Mining and Reclamation Act (SMARA) inspection on June 26, 2018.

On May 3, 2018, NPS staff followed up with the permittee regarding outstanding compliance of the following two COAs from the periodic review that concluded in June 2017:

- COA 52 (requiring the permittee to amend their reclamation plan to reflect the change in boundaries and impacts on required setbacks for slope stability and maintenance, mining operations, buried and aboveground utilities, and access roads resulting from the property acquisition related to the State Route 84 Expressway Widening Project) and
- COA 58 (requiring the permittee to submit a description of materials processed at the recycling plant, including annual volume, how they are used, annual sales and absorption, and sales and administrative fees paid to the Community Development Agency Director or designee).

Regarding COA 52, to ensure the required setbacks (for slope stability and related to the State Route 84 Expressway Widening Project) remain unmined between now and finalization of a proposed comprehensive reclamation plan amendment and Surface Mine Permit (SMP) extension, NPS staff requested a revised mine plan document that provides the change in boundaries and required setbacks for slope stability and maintenance, mining operations, buried and aboveground utilities, and access roads resulting from the property acquisition related to the State Route 84 Expressway Widening Project and the location of the temporary breakroom that is planned to be located south of Lake D. Vulcan was asked to provide any permits required to locate and maintain the temporary breakroom by June 4, 2018. Vulcan provided its response to this request on June 3, 2018. On June 12, 2018, NPS staff provided Vulcan a letter noting that NPS concurred that Vulcan’s submittal contained the revised property boundary and setback locations for the eastern boundary of the Pleasanton Quarry south of Stanley Road and the proposed location of the breakroom trailer south of Lake D. The June 12th letter also requested the following information:

1. based on revised site boundaries, how Vulcan intends to comply with the site fencing requirements of Section 6.80.210(E) of the County Surface Mining Ordinance (SMO) and COA 29, “The Permittee shall maintain standard quarry permit fencing along all boundaries of the area covered by SMP-16 with adjacent lands not owned by the Permittee”;
2. documentation of the location of the setbacks in the field with visible lathing or PVC pipe or some kind of visible marking so that Vulcan’s adherence to these setback requirements can be documented as part of condition compliance and annual inspections; and
3. an updated FACE to cover the removal of the breakroom trailer and associated utilities.

Items 1 and 2 were requested before the annual SMARA inspection while item 3 was required to be incorporated into Vulcan's annual FACE submittal. Vulcan subsequently complied with these requirements. Based on coordination with the permittee's representative, Kevin Torell, NPS staff found out that Vulcan would not be submitting a comprehensive reclamation plan amendment in the foreseeable future. Therefore, NPS staff requested, and Vulcan has agreed, to process a reclamation plan that complies with the requirements of COA 52, as discussed above. In addition, Vulcan will be consolidating the reclamation plan to include how its operations north and south of Stanley Avenue collaboratively function. Last, the reclamation plan amendment will contain a chart that identifies how the reclamation plan meets the applicable SMARA requirements and an appendix that provides applicable COAs and mitigation measures that apply to reclamation plan obligations. Vulcan's representative anticipates that the application will be submitted in the fall of 2019. In the mean time, NPS and its consultant will continue to monitor on-site conditions to confirm that operations are consistent with applicable set back requirements.

NPS staff has also been working with staff at Vulcan and Zone 7 regarding resolution of some data requests and concerns associated with Vulcan's placement of fines in previously mined and disturbed mine pits and sediment ponds north of Stanley Boulevard. Vulcan has commissioned water quality and fines material testing and technical report preparation to evaluate the Zone 7 staff's concerns. On April 29, 2019, NPS staff and its consultant, Benchmark Resources, hosted a meeting with Vulcan and Zone 7 representatives to review the results of the testing and technical evaluation.

On May 6, 2019, NPS staff provided Zone 7 and Vulcan an e-mail summarizing the resolution of issues during the April 29th meeting. On May 23, 2019, Zone 7 staff provided Vulcan's representatives a letter that had a different perspective than that outlined in NPS staff's May 6th e-mail. On June 13, 2019, Vulcan representatives responded that it agreed that NPS staff's recollection accurately reflected the meeting and reiterated those comments in the letter. On July 27, 2019, NPS staff conducted a conference call with Zone 7 staff to resolve the various interpretations of the meeting. As a result of that conference call, NPS staff circulated an e-mail to Zone 7 and Vulcan representatives confirming the key agreements provided below:

- Regardless of past comments or statements, the aquitard in the area under and immediately surrounding Lake E is Clay Layer 6.
- Vulcan's excavation and past mining activities at Lake E have not impaired the integrity of the aquitard as required by COA 40 of SMP-16, and Zone 7 does not have objections or concerns regarding this issue.
- The testing data provided in Brown and Caldwell's April 22, 2019, technical memorandum regarding fines and water quality at the Vulcan site confirm the data's consistency with Zone 7 water quality standards, and Zone 7 does not have objections or concerns regarding potential water quality associated with the placement of those fines in Lake E. Based on Brown and Caldwell's April 22, 2019, technical memorandum and the discussion during our April 29, 2019, meeting, Zone 7 has no objection to Vulcan beginning to place fines in Lake E and formally withdraws the September 21, 2018, letter.

SMP-23 (Eliot Quarry)

Reclamation Plan Amendment Process

Since the 2017 update to the County Planning Commission, CEMEX decided to revise its reclamation plan amendment to eliminate recommencing mining at Lake A. Over the last 18 months, CEMEX has been working with Zone 7 in developing a program to better understand the aquifers underlying the Eliot Quarry site. Zone 7 and CEMEX agreed to proceed with a joint drilling program approximately 15 months ago. It took over a year to get the borings completed. At a meeting on April 2, 2019, with Zone 7 management, NPS staff was told that Zone 7 hired a consultant help interpret the data the borings produced.

Regarding the status of the application, NPS created an updated mining and reclamation application form and provided CEMEX a copy to ensure that the revised application contains the necessary components to ensure compliance with SMARA and the SMO. The revised two-volume application package for the reclamation plan amendment was submitted to the NPS on March 5, 2019. Upon receiving assurances that CEMEX was committed to resolving outstanding invoice payment issues, NPS accepted the application on March 6, 2019. NPS staff and its consultant Benchmark Resources reviewed the application package and deemed it complete based on compliance

with the applicable application requirements of SMARA, SMO, and the current application form. NPS provided the reclamation plan amendment to the Division of Mine Reclamation for its review on April 5, 2019. In addition, NPS notified potentially interested Native American tribes of the project on April 8, 2019. On April 25, 2019, CDA's director reassigned staff management of this project from NPS Director James Gilford to Senior Planner Bruce Jensen.

On June 18, 2019, the County circulated a notice of availability that the notice of preparation (NOP) has been prepared. The NOP describes the main components of the reclamation plan amendment and provides interested agencies and the public notice of the June 26, 2019, scoping meeting and the County's intention to prepare a subsequent environmental impact report. The NOP was filed with the State Clearinghouse on June 18th and has since been posted to NPS's Web page that displays information on current projects. The County also circulated a notice of a public meeting that describes the proposed reclamation activities in the Lake A area of the Eliot Quarry (Lake A meeting). The Lake A meeting and scoping meeting were held at the Martinelli Events Center in Livermore, California, on June 26, 2019. The public comment period will close on July 18, 2019.

Condition Compliance

On January 15, 2018, recognizing that a formal compliance review was not conducted and based on CEMEX revising its reclamation plan amendment application, NPS staff requested confirmation from CEMEX that its operations were in compliance with mining depth limitations for Lakes B and J and requested the following information:

1. current topography, aerial photography, or other related illustration and a written explanation of the current extent of mining (surface disturbance area boundary and depth of mining) in the Lake B and Lake J areas;
2. explanation of CEMEX's interpretation of the approved SMP-23 reclamation plan limits, including areas of permissible mining and depth of mining for Lake B and Lake J areas; and
3. text explanation (including which Lake will be mined, how much will be mined, and the estimated depth of each lake) of CEMEX's plan for ongoing mining during the period between now and when the County approves a reclamation plan amendment complying with the 2012 periodic review of the COAs.

On February 13, 2018, CEMEX's consultant, Compass Land Group (Compass) responded to each of the three items outlined in NPS's June 15, 2018, letter. On February 26, 2018, CEMEX representatives met with NPS staff to review the February 13, 2018, response and documents contained therein. On February 28, 2018, NPS staff provided Compass a letter confirming that NPS needed information to determine compliance regarding certain aspects of the site in lieu of a periodic review that was scheduled for 2017. This information included:

1. CAD files of the September 2017 topographic survey conducted by JLCD so that the County could confirm the elevations provided in Attachment 2 of the February 15, 2018, submittal and
2. The CEMEX representative's best guess as to the estimated depth of each lake for ongoing mining during the interim period between now and when a reclamation plan amendment complying with 2012 period review COAs is approved by the County.

On March 12, 2018, Compass provided NPS a letter response and on March 20, 2018, NPS staff responded to Compass and confirmed that the information provided documented substantial compliance with the depth limitations required by SMP-23's COAs.

Based on a meeting with County Planning Department staff on February 7, 2019, planning staff has agreed to notify NPS staff whenever an application is filed on any of the property covered by an existing SMP in Alameda County. On April 8, 2019, NPS staff provided planning staff a table containing assessor parcel numbers of all property in and surrounding existing permitting mining sites and property that has been designated as containing significant mineral resources by the California Department of Conservation. These areas have been incorporated into the ECAP. In addition, the ECAP contains policies intended reduce land use compatibility issues between mining operations and surrounding land uses.

As part of preparation of this compliance memorandum, NPS staff reviewed its files to determine the permittee's compliance with COA 13, which requires annual payment of administrative fees required by the SMO for the administration of the County's SMARA program. Based on its review, NPS staff notified the permittee's

representatives that they were in arrears of payment for 2016 and 2017, and 2018 was due in January 2019. The permittee has since caught up on past payments and their tonnage based administrative fees account is current.

The permittee has an approved accessory use for recycling inert concrete and asphalt construction debris imported and stored on site. COA 4 of its SMP requires compliance with the SMO, including Section 6.80.181 of the SMO, which requires the permittee to provide a description of material excavated and recycled material in its annual report to the NPS. In addition, under County code and State law, the permittee is required to document its compliance for use and storage of inert construction debris regulated by requirements of the Alameda County Waste Management Authority and Alameda County Environmental Health Department including documentation of exemption from the Inert Debris Solid Water Permit requirements. In addition, based on a search of the County files, NPS did not find information that the permittee has documented its compliance with the use and storage of inert construction debris as regulated by specified requirements as discussed above. On February 15, 2019, the permittee was provided a copy of its compliance status and requested to document compliance within 30 days, or by March 18, 2019. On March 8, 2019, the permittee's consultant, Compass Land Group, provided NPS a letter dated March 7, 2019, that documented compliance with the requirements of the County Waste Management Authority and County Environmental Health Department and provided a description of materials processed at the recycling plant as required by Section 6.80.181 of the SMO.

Regarding compliance with existing COAs, CEMEX submitted its annual compliance report on June 29, 2018, in a timely fashion. On the basis of review of the annual report and on the administrative record as a whole, NPS staff concurs with the annual report's conclusion that CEMEX is in substantial compliance with its COAs. CDA will address condition compliance as part of the processing of CEMEX's reclamation plan amendment application that was accepted on March 6, 2019.

SMP-17 (Apperson Ridge Quarry)

The quarry site is a 680-acre leasehold (area of mining rights held by Dumbarton Quarry Associates/DeSilva) on the 2,555-acre Apperson Ranch located on Apperson Ridge. No mining or surface disturbance has occurred at this site. As noted in the June 19, 2017, status update to the County Planning Commission, NPS staff conducted a periodic review that concluded on October 1, 2018. NPS staff conducted a site visit and reviewed SMARA annual inspections, COA annual report, and compliance with all COAs and the reclamation plan. On the basis of review of project files, because the site has yet to begin operations, the permittee did not file an annual compliance report until 2018. The purpose of the periodic review was to describe the new and changed circumstances within and near SMP-17 and revise COAs to respond to those changes.

As part of administering the County's SMARA program, NPS staff has found that certain issues are common to most SMPs, and each SMP contains different and sometimes inconsistent COAs. The inconsistency of these COAs creates management, compliance, and enforcement difficulties related to interpreting COAs and County SMO and SMARA requirements. To ensure consistent management, compliance, and enforcement of each SMP and a consistent and effective SMARA program in Alameda County, staff recommended to the County Planning Commission that all periodic reviews and SMP and reclamation plan amendments (as they are completed) be revised to contain a consistent set of COAs, referred to as "general conditions." These general conditions allow for consistent interpretation of the County's SMARA compliance requirements and administrative steps. In addition, each SMP will still include conditions that are specific to each SMP, which will be referred to as "site-specific conditions." The County Planning Commission agreed with NPS staff's recommendations and adopted a resolution with updated COAs at its October 1, 2018, hearing on SMP-17's periodic review. On the basis of the newly adopted COA, the annual report is due in July rather than October. Therefore, NPS staff had requested the permittee to submit an annual compliance report for the 2018-2019 period by July 1, 2019. Prior to the periodic review hearing, the permittee submitted its annual compliance report. Based on review of the annual report and the administrative record as a whole, NPS staff concurs with the annual report conclusion that the permittee is in substantial compliance with its COAs.

Mission Valley Quarry

SMP-24, SMP-32, and SMP-33 are located on properties that contain separate surface mining permits and reclamation plans. However, from a practical perspective, they function as one coordinated mining operation. Mining takes place on SMP-32. Material is then transported to SMP-24 for processing and is picked up by

customers at that location. The waste fines generated during processing on SMP-24 are then transported via slurry lines to SMP-32 and SMP-33. Each location has its own SMP and reclamation plan; thus, each SMP is discussed separately below.

SMP-24 (Mission Valley Rock Quarry)

This is an active site used to process the material mined from SMP-32 (Mission Valley Rock Quarry). Compliance is being met on all conditions. On June 19, 2017, during the condition compliance update to the County Planning Commission, County staff noted that the revised landscaping plan had not been submitted. The permittee submitted a revised landscape plan on September 28, 2017. The plan included the nearby plant survey that was performed at SMP-32, which is across Interstate 680 from SMP-24. Language was added to the landscape plan stating that the design for the revegetation was based on this survey and will provide a comparison of quantified measures of vegetative cover, density, and species richness of the reclaimed mined land to similar parameters of naturally occurring vegetation in the area. On October 24, 2017, Benchmark Resources e-mailed the permittee and provided the following request for additions:

- Submit a letter application (a cover letter similar to what you have done recently for SMP-24 and SMP-32) formally submitting the landscaping plan in compliance with Condition of Approval 54, the required revegetation report, resume, and planting schedule.
- The submittal should also have a schedule of when a monitoring report shall be submitted. The report should document progress to date and compliance with the performance standard requirements specified in the revegetation report and page four the landscape plan.

On December 5, 2017, the permittee submitted:

- a cover letter (outlining a schedule for planting and monitoring);
- the SMP-24, COA 54 *East Nursey Pit Landscape Plan*;
- a letter report from Coast Range Biological on vegetation monitoring results; and
- a resume for Tom Mahony of Coast Range Biological (together referenced as the “Plan”) to comply with COA 54 of SMP-24.

On December 12, 2017, NPS approved the landscaping plan in full compliance with COA 54. During a February 1, 2019, conference call with the County’s consultant, Ms. Lau noted that the San Francisco Public Utilities Commission (SFPUC) wants to repair erosion around one of their pipelines at the East Nursery Pond. After the repairs, SFPUC wants to use a new seed mix that is different from the mix agreed upon in the landscape plan. SFPUC wants to avoid container plants and mulch and use a seed mix with more perennials. They will not have a proposed seed mix ready until summer 2019. The permittee has committed to forwarding a list of the contents of the seed mix to NPS for review and approval upon receipt of the proposed seed mix from SFPUC.

As noted in the June 19, 2017, status update to the County Planning Commission, the permittee applied for a modification to its boundary on the western portion of the property to eliminate approximately 0.17 acres of the site to accommodate a temporary staging area for a road widening project for Interstate 680. On August 14, 2017, NPS approved the modification of the boundary as a minor reclamation plan amendment.

On August 31, 2018, the permittee notified NPS staff that it was investigating the relocation of its existing office trailers from the middle of the site to the front area of SMP-24, adjoining Athenour Way. The permittee will also relocate the scale closer to the entrance off Athenour Way and will relocate the entrance gate. The permittee believes that these measures will significantly improve safety and security at the permittee’s site. Currently, vendors and visitors must traverse through the active plant areas to reach offices and the scale. The permittee has assured NPS staff that they will work with the building department on the relocation of the trailers. Based on a February 1, 2019, call between the permittee’s staff member and NPS’s consultant, the permittee is still developing plans and has not submitted plans to the building department. The permittee has committed to obtaining all building, planning, and demolition permits to ensure all applicable approvals are obtained for these site revisions. NPS staff and its consultants are currently reviewing SMP conditions and the approved reclamation regarding whether any condition compliance or reclamation plan revision will be necessary as part of the plant area modifications.

The permittee currently operates a portable asphalt/concrete recycling plant (brought on site as necessary) that process debris from a recycling pile on site. COA 2 requires compliance with the SMO. Section 6.80.181 of the SMO in pertinent part states: “After the first year, the annual report shall include the material excavated and recycled materials, and the total tonnage of material documented pursuant to Section 2207 of the Public Resources Code. If requested, a copy of any supporting documentation shall also be provided to the director of community development by the operator.”

The permittee has an approved accessory use for recycling inert concrete and asphalt construction debris imported and stored on site. COA 2 of its SMP requires compliance with the SMO, including Section 6.80.181 of the SMO, which requires the permittee to provide a description of material excavated and recycled material in its annual report to the NPS. In addition, under County code and State law, the permittee is required to document its compliance for use and storage of inert construction debris regulated by requirements of the Alameda County Waste Management Authority and Alameda County Environmental Health Department including documentation of exemption from the Inert Debris Solid Water Permit requirements. The permittee has yet to submit a description of materials processed at the recycling plant as required by Section 6.80.181 of the SMO. In addition, based on a search of the County files, NPS finds no information that the permittee has documented its compliance with the use and storage of inert construction debris as regulated by specified requirements as discussed above. On February 15, 2019, the permittee was provided a copy of its compliance status and requested to document compliance within thirty (30) days, or by March 18, 2019.

On February 25, 2019, the permittee’s area environmental manager, Tina Lau, sent a letter to Maria Mendoza with the County Environmental Health Department (EHD) requesting concurrence that its recycling plant qualifies as an inert debris recycling center and is not subject to the inert debris regulatory requirements and Lehigh is not required to submit a notification, register, or apply for a permit with EHD. NPS has granted the permittee additional time to provide documentation of compliance. Ms. Lau informed NPS that EHD requires a site visit before its determination. The site visit took place on May 2, 2019. According to Ms. Lau, EHD did not raise any concerns and will be reviewing its files to confirm applicability of exemption and will be issuing a letter by the end of May 2019. On May 30, 2019, EHD staff provided Lehigh a letter that concluded, “Based on the LEA’s [the Local Enforcement Agency’s] inspection conducted on May 2, 2019 and review of the tonnage and residuals records provided by the operator, the LEA has determined that the solid waste activities at Mission Valley Rock located at 7999 Athenour Way, Sunol, California 94586 qualify as an inert debris recycling center and are not subject to the construction demolition/inert debris regulatory requirements including storage time limits.”

Regarding compliance with existing COAs, Lehigh submitted its annual compliance report on September 6, 2018. Based on review of the annual report and the administrative record as a whole, NPS staff concurs with the annual report conclusion that is in substantial compliance with its COAs.

SMP-32 (Mission Valley Rock Quarry)

Mission Valley Rock Quarry is an active and productive site. On August 31, 2018, the permittee notified NPS staff that it intends to proceed into Modules 3 and 4 in the next 12–18 months. They noted that they were in the process of conducting the biological surveys and other actions required under its COAs. In addition, the permittee noted that they were considering requesting a modification regarding COAs that require the planting of a 15-acre vineyard.

In an October 12, 2018, e-mail, NPS’s staff consultant, Benchmark Resources, summarized NPS’ position regarding the permittee’s considerations. Regarding the vineyard, the e-mail noted that the cost to remove the vineyard could be one of the least costly aspects of the proposal, and NPS encouraged the permittee to discuss their ideas and proposal with the Sunol Citizens Advisory Council and the community before submitting an application.

The request to remove the vineyard should be done as part of a formal COA modification. County and its consultant would evaluate the following aspects of the request: the California Environmental Quality Act (CEQA), SMARA, SMO, zoning, and the full cost of vineyard development and maintenance. The e-mail also noted that NPS staff appreciates that the proposal would not be submitted until after Lehigh reaches out to the Sunol community to get concurrence on approach.

Regarding the permittee’s request to commence mining in Modules 3 and 4, the October 12, 2018, e-mail provided:

The underlying concept and approval of the mining and phasing modules has been progressive reclamation. This key issue must be addressed before additional disturbance and/or moving into additional Modules to ensure that appropriate concurrent reclamation of site including Modules 1, 2 and the proposed future lake is diligently progressing. The County cannot allow Lehigh Hanson to proceed with new disturbance and/or work in Module 3 without reclamation consistent with SMO, SMP-COAs, Mining Plan and SMARA and rec plan obligations are completed for Modules 1 and 2, as applicable. County would like documentation of compliance with concurrent reclamation obligations before Lehigh commences with any new disturbance or operations in Module 3 and 4

The County's April 21, 2016, minor amendment approval letter required Lehigh Hanson to update its 2001 phasing plan text to include additional language that would require submittal of an interim management plan when a module meets the applicable requirements of SMARA's idle requirement. In addition, while the approval authorized mining in different modules concurrently, the approval required Lehigh Hanson to notify the County regarding the commencement of reclamation for that module within 30 days of when mining ceased in a particular module. In addition, the County Planning Commission's May 1, 2017, approval not only modified COA 70 of SMP-32, but also modified the phasing plan to reduce the amount of modules from seven to four modules. However, Lehigh Hanson has not modified the text of its phasing plan to add text required by the April 21, 2016, staff-level approval nor has the text been revised to explain how the phasing plan would be implemented with four rather than seven modules. NPS staff believes that these modifications to the phasing plan text should be accomplished to perfect the 2016 and 2017 approvals before Lehigh Hanson begins mining in Modules 3 and 4. While the April 21, 2016 and May 12, 2017 approvals did not provide a specific time frame to provide an updated phasing plan, NPS has informed the permittee that the intent behind the administrative approval was to facilitate sound mine and reclamation planning. Therefore, NPS provided the permittee a request to implement and complete the process that started in 2016 before proceeding to Modules 3 and 4.

One issue that should be reconciled is the timing of the construction of the vineyard. Under the currently approved phasing plan, the construction of the 15-acre vineyard is to take place during Phase 7, which would occur concurrent with conducting soil samples of Modules 5 and 6, stripping overburden from Modules 5 and 6, mining Module 4, completing mining Module 3, backfilling portions of Module 1, and hydroseeding slopes on Module 3. Based on the revised phasing plan, adopted in 2017, it appears that Lehigh has begun mining in a portion of Module 4 and will mine the rest of this module as they begin mining the newly numbered Module 3. Thus, before NPS can agree to authorize Lehigh to begin mining in newly titled Module 3, to the County must understand the timing for construction of the vineyard or the alternative approach [being considered by the permittee]. NPS staff anticipates that the permittee will submit the updated phasing plan to effectuate the April 21, 2016, and May 12, 2017, approvals. If such plan is not submitted within 90 days of the County Planning Commission's receipt of this condition compliance memorandum, NPS staff will initiate proceedings to consider revoking these approvals.

On February 1, 2019, NPS's consultant and the permittee's lead staff person conducted a status-update conference call. Regarding a modification to the requirement of the planting of a 15-acre vineyard, the permittee is no longer considering making a cash donation in lieu of the vineyard. Instead, it is investigating if it can have a grape broker work on finding a grower for the proposed vineyard. In addition, the permittee may be interested in increasing the acreage to more than 15 acres and understand it would need to amend the reclamation plan if it pursues this option. In terms of the revised phasing plan and beginning mining in Modules 3 and 4, the permittee is still 1 year away from relocating its operations. Based on subsequent coordination with NPS staff and its consultant, Benchmark Resources, on June 21, 2019, the permittee's representative, Tina Lau, provided the County a draft revised phasing plan for its review and approval. Ms. Lau is also working with NPS staff regarding the appropriate process for updating the phasing plan and correcting a mapping error from its May 12, 2017, approval.

The permittee submitted its annual compliance report on September 6, 2018. Based on review of the annual report and the administrative record as a whole, NPS staff concurs with the annual report conclusion that the permittee is in substantial compliance with its COAs. However, as noted above, NPS will be working with the permittee to ensure that the updated phasing plan, which reflects 2017 and 2018 approvals, is submitted and approved by NPS as consistent with County approvals as soon as possible. In addition, NPS staff was recently notified that the California Department of Transportation (Caltrans) may be acquiring property adjacent to Interstate 680 for a freeway widening project. This acquisition will likely require a boundary modification, adjustment to setbacks, and

may affect existing visual landscaping on the eastern side of the reclamation plan boundary. NPS staff will continue to work with Caltrans, SFPUC (the property owner), and the permittee to ensure compliance with applicable requirements of the SMO and SMP-32's COAs.

SMP-33 (Mission Valley Rock Quarry)

Mission Valley Rock Quarry is being used to dispose of processing fines generated at the adjacent SMP-24 site. During the June 19, 2017, status update to the County Planning Commission, only COA 25 needed further confirmation: Significant landscaping vegetation has been planted and maintained, but whether the required Sycamore trees are in place with the correct spacing and number of trees, is unclear. The permittee clarified compliance with this COA in its annual compliance report:

This requirement relates to an approved, but not implemented, mine expansion approved in 2002. Hanson has not triggered the condition because Hanson has not mined the area that would require removal of any mature trees. In addition, that portion of property is neither leased nor owned by the permittee.

The permittee submitted its annual compliance report on September 6, 2018. Based on review of the annual report and the administrative record as a whole, NPS staff concurs with the annual report conclusion that the permittee is in substantial compliance with its COAs.

SMP-28 (Sheridan Quarry)

Sheridan Quarry is an active and productive site. Similar to SMP-17, discussed above, and SMP-30, discussed below, NPS staff conducted a periodic review of this site, which concluded on October 1, 2018.

As part of administering the County's SMARA program, NPS staff has found that certain issues are common to most SMPs, and each SMP contains different and sometimes inconsistent COAs. The inconsistency of these COAs creates management, compliance, and enforcement difficulties related to interpreting COAs and County SMO and SMARA requirements. To ensure consistent management, compliance, and enforcement of each SMP and a consistent and effective SMARA program in Alameda County, staff recommended to the County Planning Commission that all periodic reviews and SMP and reclamation plan amendments (as they are completed) be revised to contain a consistent set of COAs, referred to as "general conditions." These general conditions allow for consistent interpretation of the County's SMARA compliance requirements and administrative steps. In addition, each SMP will still include conditions that are specific to each SMP, which will be referred to as "site-specific conditions."

In addition to the revised conditions, three key issues were evaluated as part of the periodic review. Regarding visual impacts associated with the safety barrier that was visible from members of the public traveling northeast on Interstate 680, the County Planning Commission adopted COA S-4 to ensure effective visual screening to eliminate or minimize potential visual impacts associated with existing and future mining and reclamation activities. Based on a recent review of the site from Interstate 680 some of the vegetation along the barrier is no longer present, which is likely due to heavy rains. NPS staff has requested that the permittee develop a plan to perform additional revegetation efforts at the conclusion of the winter rainy season.

Compliance with COA G-17 (formerly COA 22), requires permittees to repair promptly, at their own expense, any damage to County streets caused by operation of trucks and equipment or by any other operation of the quarry. Before the completion of the periodic review, the County Public Works Agency (PWA) notified NPS of damage to Sheridan Road caused by trucks entering and leaving SMP-28. The County Planning Commission approved the periodic review with the condition that the permittee work with PWA to complete repairs when The California Department of Transportation (Caltrans) work is completed. The permittee informed NPS's consultant that Caltrans's Sheridan Road interchange work continues and the area adjacent to the site continues to be used for staging material needed for the interchange work. In addition, the permittee reaffirmed its commitment to comply with the County Planning Commission's request to provide NPS staff status reports on its coordination with County Public Works staff and, once the repair work is completed, confirmation that County Public Works staff concurs that the work was adequately completed.

New COA G-27 provides:

Within sixty (60) days of approval, and by July 1 thereafter, the Permittee shall submit a description of materials processed at the recycling plant, including annual volume, how they are used, annual sales and absorption, and sales and administrative fees paid to the Community Development Agency Director or Designee. In addition, the Permittee shall document compliance for use and storage of inert construction debris as regulated by requirements of the Alameda County Waste Management Authority and Alameda County Environmental Health Department and document that it is operating the recycling facility in compliance with the applicable exemption for the Inert Debris Solid Water Permit requirements as provided in California Code of Regulations Title 14, Section 17380, et seq., as may be amended.

On February 15, 2019, the permittee was provided a copy of its compliance status and requested to document within thirty (30) days, or by March 18, 2019. As of the date of this memorandum, the County has not heard back from the permittee on the status of compliance documentation. On April 26, 2019, the permittee's attorney, Mitchell Chadwick, provided NPS a letter dated December 4, 2018, that provided the information this condition requires. On April 30, Mitchell Chadwick provided NPS a copy of an April 30, 2019, letter sent to EDH stating that the permittee was exempt from the requirements for use and storage of inert construction debris as regulated by specified requirements specified in COA 27. On April 30, 2019, Maria Mendoza requested confirmation that the site was located in Alameda County. On May 3, 2019, Mitchell Chadwick provided EDH confirmation that the Sheridan site is located in Alameda County. In late May 2019, EDH requested additional information regarding residuals tonnage at the SMP-28 site over the last year. On June 10, 2019, Mitchell Chadwick provided EDH the data for the period of May 1, 2018, through April 30, 2019. After review of this information, EDH requested follow-up information confirming the dumpsters do not contain anything other than trash. On July 2, 2019, Mitchell Chadwick provided confirmation. According to Mitchell Chadwick, EDH is expected to schedule a site visit in July and make its determination sometime in August 2019.

The County Planning Commission agreed with NPS staff's recommendations and adopted a resolution with updated COAs at its October 1, 2018, hearing based on the results and recommendations stemming from SMP-28's periodic review. Before the periodic review hearing, the permittee submitted its annual compliance report. Based on review of the annual report and the administrative record as a whole, NPS staff concurs with the annual report conclusion that the permittee is in substantial compliance with its COAs with the understanding that the permittee will work with PWA to ensure that road damage to Sheridan Road is properly repaired at the conclusion of intersection work currently taking place.

SMP-30 (Sunol Quarry)

Sunol Quarry is an active and productive mine site. As noted in the June 19, 2017, status update to the County Planning Commission, NPS staff conducted a periodic review that concluded on October 1, 2018. NPS staff conducted a site visit and reviewed SMARA annual inspections, COA annual reports, and compliance with all COAs and the reclamation plan. The purpose of the periodic review was to describe the new and changed circumstances within and near SMP-30 and revise COAs to respond to those changes.

As part of administering the County's SMARA program, NPS staff has found that certain issues are common to most SMPs, and each SMP contains different and sometimes inconsistent COAs. The inconsistency of these COAs creates management, compliance, and enforcement difficulties related to interpreting COAs and County SMO and SMARA requirements. To ensure consistent management, compliance, and enforcement of each SMP and a consistent and effective SMARA program in Alameda County, staff recommended to the County Planning Commission that all periodic reviews and SMP and reclamation plan amendments (as they are completed) be revised to contain a consistent set of COAs, referred to as "general conditions." These general conditions allow for consistent interpretation of the County's SMARA compliance requirements and administrative steps. In addition, each SMP will still include conditions that are specific to each SMP, which will be referred to as "site-specific conditions." The County Planning Commission agreed with NPS staff's recommendations and adopted a resolution with updated COAs at its October 1, 2018, hearing on SMP-30's periodic review.

Regarding site-specific COAs, four COAs merit brief discussion. Regarding compliance with COA S-9 (formerly COA 17), the permittee paid its last installment in October 2018. In terms of compliance with COA S-15 (formerly COA 24), at the time of the June 2017 status update, the permittee could not comply with its landscape planting, irrigation and maintenance plan because of an ongoing plant disease issue called Phytophthora. SFPUC, California Department of Fish and Wildlife (CDFW), and permittee are developing a plan to address the Phytophthora issue.

Based on requests from CDFW, the existing revegetation palette is no longer suitable for the existing site conditions. Thus, SFPUC is revising the revegetation palette.

COA S-68 (formerly COA 80) requires that the permittee develop and implement a native tree and shrub planting enhancement plan for specific areas of San Antonio Creek and Alameda Creek. The plan will have to be consistent with SFPUC's *Sunol Valley Restoration Plan*. As of the date of this memorandum, the permittee is still waiting for SFPUC to develop and circulate the *Sunol Valley Restoration Plan*. According to Tim Ramirez, SFPUC's lead on the project, SFPUC anticipates that the plan will be available by August 2019.

New COA S-90 requires the permittee to include the full cost of removal of the weather-protection covers in its annual FACE and associated FAM once they are established. The weather-protection covers have not been constructed. On April 16, 2019, the permittee's representative, Matt Eala, met with NPS staff and its consultant, Benchmark Resources, to submit a letter application requesting a third weather-protection cover at the site. On April 29, 2019, based on the materials submitted, NPS staff conditionally approved the request requiring that the permittee update its FACE and FAM during the 2019 annual update to include the full cost of removal of all three weather-protection covers.

The new COA G-27 is provided below:

Within sixty (60) days of approval, and by July 1 thereafter, the Permittee shall submit a description of materials processed at the recycling plant, including annual volume, how they are used, annual sales and absorption, and sales and administrative fees paid to the Community Development Agency Director or Designee. In addition, the Permittee shall document compliance for use and storage of inert construction debris as regulated by requirements of the Alameda County Waste Management Authority and Alameda County Environmental Health Department and document that it is operating the recycling facility in compliance with the applicable exemption for the Inert Debris Solid Water Permit requirements as provided in California Code of Regulations Title 14, Section 17380, et seq., as may be amended.

The permittee has not documented compliance for use and storage of inert construction debris as regulated by specified requirements specified in COA-27. On February 15, 2019, the permittee was provided a copy of its compliance status and requested to document within thirty (30) days, or by March 18, 2019. During a meeting on April 16, 2019, the permittee submitted the information required by COA G-27, but did not include documentation of compliance with the use and storage of inert debris requirements. To assist the permittee with compliance on this second matter, NPS staff provided the permittee's representative with letters from other operators in the County. These letters outline the process and include the current EDH contacts that the permittee should contact regarding compliance with applicable requirements. The permittee has since requested that EDH review the site for compliance with the use and storage of inert debris requirements. EDH staff visited the site and reviewed the recycling facility on June 19, 2019. The permittee expects to receive EDH's determination by the end of July 2019.

Prior to the periodic review hearing on October 1, 2018, the permittee submitted its annual compliance report. Based on review of the annual report and the administrative record as a whole, NPS staff concurs with the annual report conclusion that the permittee is in substantial compliance with its COAs. In addition, the revised COA changed the date of when the submittal of the annual report is due to the County. Therefore, NPS staff requested the permittee to submit an annual compliance report for the 2018-2019 period by July 1, 2019. This annual report will document compliance with the newly established COAs.

SMP-31/36 (Radum Quarry)

Radum Quarry has a single permittee, Hanson, with two landowners, Hanson and USL Pleasanton, who are financially responsible for the reclamation of their respective portions of the site. Radum Quarry has not been actively mined or in operation for more than 16 years. Mining excavation activities ended at the Radum site prior to 2002. The SMP, including the reclamation plan, expired on December 31, 2010.

Under the reclamation plan, Hanson is required to build a diversion structure that conveys the first 100 cubic feet per second of water (the diversion structure) from the Arroyo Mocho into Lake H. In December 2010, shortly before SMP-31/36 terminated, Hanson filed an application to amend the terms and conditions of its permit and extend the time for completion of the diversion structure. Hanson later withdrew its application. After working several years

with Hanson to no avail, on December 1, 2015, the County sent Hanson a notice of violation letter detailing the deviations from the existing reclamation plan both in the scope of the work and in the timing of the completion of reclamation. Hanson disagreed that the extension of the SMP-31/36 termination date and proposed changes to the redesign of the diversion structure constituting “substantial deviations” under SMARA. The County followed up with a May 4, 2016, notice of violation requesting the reclamation plan amendment to be submitted within 30 days. Hanson responded on May 12, 2016, by requesting an extension and to meet with NPS and County Counsel. NPS agreed to hold enforcement proceedings in abeyance and continued to work with Lehigh Hanson representatives and its attorney. On October 12, 2016, the County provided Lehigh Hanson clear directions regarding the County’s proposed resolution that required the following three elements:

1. Revise the reclamation plan boundary by removing areas that have been successfully reclaimed and showing the location of the diversion structure and associated facilities. When SMP-31 superseded SMP-14, the location of the diversion structure was not included on the updated maps. The County merely requested that the reclamation boundary include this location.
2. Revise the reclamation plan to afford Lehigh Hanson ample time to complete reclamation. The County is flexible with the date for completing the reclamation and would only request that reclamation begin and be completed as soon as practicable as required by SMARA and the SMO.
3. A COA will be added and/or add a note on the reclamation plan that provides that Lehigh Hanson will obtain all necessary permits and plans to implement the construction of the diversion structure. This additional requirement will ensure that Lehigh Hanson obtains the applicable approvals from relevant agencies and departments to authorize the necessary grading and construction activities.

Regarding point 1, above, when SMP-31 was established and replaced SMP-14 in 1991, the area in which the diversion structure is located was omitted from the reclamation plan. The reclamation plan; COAs 3, 4, and 6; and the associated FACE/FAM have outlined the diversion structure requirement and the design has been specified as part of the FACE/FAM. However, the actual location of the diversion structure is not within the SMP-31/36 boundary. NPS staff and its consultant are determining the best course of action for SMARA compliance. As discussed in points 1 through 3, one option would be to require a reclamation plan amendment to (1) show the location of the diversion structure, (2) provide the design of the diversion structure, (3) recognize that additional permits may be required to construct the diversion structure, and (4) extend the life of SMP-31/36 to a reasonable time in which the diversion structure can be permitted and constructed. Another option would be directing the permittee to file a new reclamation plan amendment for offsite location of the planned diversion structure to facilitate the construction of structures that require approvals, permits, inspection and acceptance of other agencies. The last option under consideration is satisfying the diversion structure requirement in an alternative manner (e.g., an in lieu payment between the permittee to Zone 7 that will cover the reasonable cost of the diversion structure). Under any of these options, as noted below, the permittee should include the as-built design for the Busch Pit repair for its reclamation plan amendment for the Radum site.

On Hanson’s portion of the site, after over 15 years of delay, work has begun regarding the engineering, design, and permitting of the diversion structure from the Arroyo Mocho to Lake H for Zone 7 as required by the LAVQAR to convey water into the Chain of Lakes. A design has been developed that is mutually acceptable to Zone 7 and the operator and submitted for permitting to federal and state agencies in 2017. The Corps issued nationwide permit 44 (for mining activities) for the diversion structure on June 7, 2017. A FACE for the diversion structure was approved for this site and the operator has submitted a bond to the County. The permittee has not submitted its reclamation plan amendment, which was scheduled to be submitted in fall 2018. On the basis of a lack of progress to date and NPS’s concerns with the Radum Quarry operator’s inability to achieve progressive and timely reclamation, NPS’s staff consultant spoke with the permittee’s representative on February 1, 2019, and provided a follow-up e-mail to Ms. Tina Lau on February 14, 2019. Based on this call and follow-up e-mail, the permittee has committed to increasing the priority of the reclamation plan amendment. The permittee’s represented noted that they have been prioritizing their work with Zone 7 on repairs to some erosion near Lake H (located in an adjacent area that was reclaimed as part of SMP-14, which preceded SMP-31), but will now increase priority on the reclamation plan amendment. Based on additional coordination with Zone 7 and the permittee’s representatives, which culminated in a conference call on June 27, 2019, Zone 7 staff informed NPS staff that Zone 7’s attorneys believe that Zone 7 has the authority to accept a payment in lieu of the permittee’s construction of the diversion structure at Lake H from the Arroyo Mocho. Zone 7 staff stated that they will be recommending that Zone 7’s board of directors consider negotiating a payment in lieu of the construction of the diversion structure.

Recognizing that work is still to be performed at the USL Pleasanton portion of the site, the permittee will incorporate any final design of Busch Pit into their reclamation plan when it becomes available. This design change will be noted in the reclamation plan amendment application, and the permittee will submit as-built drawings once Steelwave has completed their work in the Busch Pit area, discussed below.

On USL Pleasanton's portion of the site, reclamation has begun and reclamation is near complete, with the exception of certification of the adequacy of revegetation to comply with SMARA and alterations to grading to prevent ponding of surface drainage. The key outstanding requirement of the USL Pleasanton portion of the site is the final grading and revegetation of the former Busch Pit area. NPS staff worked with the current representatives, Steve Dunn with Steelwave, LLC (Steelwave), to get an updated FACE and FAM to cover additional work required in the Busch Pit area. The additional work consists of a spot repair that requires importing 50,000 cubic yards of material to fill a depression, which has created ponding and mosquito issues in this area of the site. NPS staff provided authorization to Steelwave in January 2018 to begin the fill activity. After receiving NPS's approval to proceed, it took Steelwave approximately 8 months to obtain approval of its plan for import soil acceptance criteria from Zone 7 and the County Environmental Health Department. Since the approval of the plan, Steelwave has imported approximately 15,000 cubic yards of the 50,000 cubic yards necessary to complete work at the Busch pit area. Steelwave is providing NPS staff weekly updates on progress on its ability to import additional fill to address the current deficit of approximately 35,000 cubic yards..

In early June 2019, Steelwave began preparing the site for the next fill importation project from the Sobrante Avenue Project in Sunnyvale. The site preparation activities resulted in the generation of fugitive dust, which caused community complaints to the City of Pleasanton, both the County Planning and NPS departments and to the Bay Area Air Quality Management District. These recent complaints exacerbate the concern that NPS staff has continued to express regarding how long it has taken Steelwave to implement the emergency repair that agreed upon when the grading plan and engineering drawings were accepted on January 12, 2018—nearly 1.5 years ago.

On June 17, 2019, USL began the importation of approximately 25,000 cubic yards of fill material to the Busch Pit site. On June 20, 2019, NPS staff provided Steelwave a letter outlining specific measures that should be implemented as part of its fill project to remedy past dust issues as well as proactively address future fugitive dust and public health concerns. In addition, on June 21, 2019, NPS sent Steelwave a letter request near terms steps to be implemented to complete the repair activities by August 21, 2019. On June 26, 2019, NPS staff's consultant, Benchmark Resources, conducted a site visit as part of its annual SMARA inspection. It confirmed that Steelwave's contractor had a dust monitor at the site and was using two water trucks to reduce or eliminate potential fugitive dust issues.

Steelwave's attorney provided a June 27, 2019 letter responding to NPS's June 21, 2019 letter regarding accelerating the repair schedule (Adam Guernsey letter). While containing inaccurate statements, the June 27, 2019, letter contained a schedule that would allow for the completion of the repair work by August 21, 2019. In addition, on June 28, 2019, Steelwave provided a response to the NPS staff's June 20, 2019, letter regarding fugitive dust and public safety issues (Bridget Metz letter).

On July 3, 2019, NPS staff provided response letters to both the Adam Guernsey and Bridget Metz letters correcting the inaccurate statements contained in their letters for the public record while commending Steelwave for proactively addressing dust complaints and accepting the repair schedule provided in the Adam Guernsey letter, which was consistent with NPS staff's originally proposed schedule. NPS staff will continue to work with Steelwave in facilitating the repair activities at the Busch Pit and incorporating the as built drawings into a reclamation plan amendment that will be prepared and submitted by the permittee at the site, Lehigh Hanson.

Upon completion and documentation of the Busch Pit fill and grading, a reclamation plan amendment is required in order to revise the approved reclamation grades. The current approach is for Steelwave to provide the as-built design to Lehigh Hanson to include in its reclamation plan amendment application, which is described above. NPS staff understands that additional sources have been identified and will continue to work with the permittee and USL Pleasanton to ensure that the spot repair is completed prior to the next rainy season (October 2019).

Periodic Review

Based on a review of the annual compliance reports submitted on March 5, 2019, NPS staff determined that conducting a periodic review of SMP-31/-36 would ensure that obsolete conditions of approval could be removed, existing reclamation could be documented, newly adopted regulations could be applied, and existing and future regulatory requirements could be outlined. In its annual reports, the permittee states that lands have been reclaimed and transferred to Zone 7. Evidently, Zone 7 accepted the land with some agreement that the permittee would retain reclamation responsibilities and has since constructed wells and other improvements at the site. Final reclamation and closure of SMP-31/36 is pending a new or extended SMP and reclamation plan amendment that would address the construction of the identified diversion structure, transfer of Lake H to Zone 7, and completion of reclamation and closure of the Busch pit and other land currently owned by USL Pleasanton.

On March 19, 2019, NPS staff provided the permittee's representative, Tina Lau, a list of information and documentation that would be required to begin the periodic review. On June 12, 2019, NPS staff and its consultant Benchmark Resources met with the permittee's representatives to discuss the status of the reclamation plan amendment process and the impending periodic review. Based on this meeting, it was determined that while the periodic review will help define the components of the reclamation plan amendment, the permittee should proceed with preparing reclamation plan amendment application concurrent with the periodic review. NPS and Benchmark are developing a scope of work for the permittee's review and approval that will outline the scope, schedule, and cost for conducting the periodic review. The periodic review is anticipated to take place concurrent with the 2019 annual inspection and FACE review process and conclude in the fall of 2019.

SMP-34 (Niles Canyon Quarry)

Niles Canyon Quarry is not active and has not been in operation for years. Surfaces have been disturbed within a stream channel, outside the approved reclamation plan boundary. Several actions must be completed before reclamation can be completed. The following list of actions that was provided to the County Planning Commission in June 2017 and NPS staff provides, in *italics*, the current status of each action:

- Site improvements are required per the California Surface Mining and Reclamation Act's 20-year/1-hour storm event hydrology analysis. *This analysis has been provided and peer reviewed and the County's peer review has determined that the analysis is substantially complete.*
- A stream restoration plan of sufficient detail must be prepared to allow for the processing of necessary federal and state permits and installation and maintenance of on-site improvements, grading, or structures required by the stream restoration plan. *After 18 months of extensive involvement by NPS staff and its consultant, Benchmark Resources, and its subconsultants, a stream restoration plan was recently prepared by Benchmark Resources' subconsultant, Stillwater Sciences, and is being incorporated into a reclamation plan amendment.*
- A revegetation and landscape plan must be prepared for related activities. *After 18 months of extensive involvement by NPS staff and its consultant, Benchmark Resources, and its subconsultants, a revegetation plan was recently prepared and is being incorporated into a reclamation plan amendment.*
- A slope geotechnical analysis must be prepared and activities related to slope stability or revegetation requirements that may result from the Upper (North and South) slopes geotechnical analysis must be considered in the revegetation and landscaping plan. *After 18 months of extensive involvement by NPS staff and its consultant, Benchmark Resources, and its subconsultants, a slope geotechnical analysis and a proposed design that addresses concerns provided in a peer review of analysis was recently prepared and is being incorporated into a reclamation plan amendment.*
- Upon completion of the above requirements an application to amend the Reclamation Plan must be submitted. Once approved, reclamation must commence within 1 year and completed within 1 year. *The reclamation plan amendment was submitted to the County on February 15, 2019. Based on the natural resource permits that will be required from federal and state agencies for the stream restoration work and the need to import significant fill material that is planned for slope stabilization at the site, reclamation will not be completed within 1 year of the County's approval of the reclamation plan. NPS staff will be working with the permittee, Benchmark Resources, and Benchmark Resources' subconsultants to develop a feasible schedule for reclamation and closure of the SMP-34 site. NPS is currently processing the reclamation plan amendment and a copy of the reclamation plan amendment has been sent to local tribes and the California*

Division of Mine Reclamation for their respective reviews. NPS's consultant is also developing the CEQA documentation that will evaluate the environmental impacts associated with the reclamation plan amendment.

The site has not been in compliance with many COAs, SMO, SMARA, and CEQA requiring enforcement actions by the County, including notices of violation and an order to comply. The permittee, SRDC, Inc., is not engaged in mining and is a demolition contractor. The permittee requires assistance in compliance with all aspects of the permittee's responsibilities under SMO, SMARA, the SMP, and CEQA compliance. Since SMP-34's most recent approval on April 15, 1996, the permittee has been authorized to begin reclamation consistent with their approved reclamation plan in all areas not proposed to be amended. More specifically, the permittee has been authorized to import fill and top soil required for reclamation since 2016. On March 15, 2019, the NPS staff consultant provided the permittee a copy of the September 27, 2016, authorization and a graphic that depicted areas onsite where fill could be stored before appropriate approvals are obtained from federal, state, and County agencies and an amended reclamation plan is approved by NPS.. NPS staff will propose a condition of approval that proposes the permittee's compliance with these requirements must be supervised by a third-party monitor, approved by the County, to monitor compliance with applicable requirements and ensure that the permittee obtains federal, state, and County permits and approvals and documents compliance with applicable requirements regarding water supply for fire control.

ENVIRONMENTAL REVIEW

COA compliance review is exempt from environmental review under CEQA pursuant to CEQA Guidelines Section 15309, which states that "activities limited entirely to inspections to check for performance of an operation, or quality, health, or safety of a project" do not have a significant effect on the environment and are, therefore, exempt from the provisions of CEQA.

STAFF RECOMMENDATIONS

Staff requests no action for the County Planning Commission at this time. The intent of this memorandum is to provide the County Planning Commission an update on the current compliance status of mining operations in Alameda County.

A complete copy of this document is available for review upon request at the Community Development Agency, 224 West Winton Ave, Hayward, California.

PREPARED BY: Benchmark Resources, Contract Consulting Firm

REVIEWED BY: James Gilford, Director