

Attachment G

August 20, 2014

Mr. Murray Wilson
Department of Planning and Building
County of San Luis Obispo
976 Osos St., Rm. 300
San Luis Obispo, CA 93408

Ms. Whitney McDonald, Esq.
Office of the County Counsel
County of San Luis Obispo
1055 Monterey St., Suite D320
San Luis Obispo, CA 93408

**Re: *Whale Rock Quarry - Determination of the Scope of Established Vested Mining Rights
(CA Mine ID # 91-040-0010), 1424 Old Creek Road, Cayucos
Negranti & Sons - Operator***

Dear Mr. Wilson and Ms. McDonald:

Thank you for meeting with me recently to discuss the Whale Rock Quarry vested rights matter. As we discussed, Negranti & Sons ("Negranti") and the County will exchange legal authorities and evidence periodically leading up to the next Board hearing on this matter, which is presently scheduled for October 21, 2014.

The questions at issue can be generally grouped into three categories: (1) the level of production at the Quarry permissible under its vested mining rights; (2) the geographic extent of vested mining rights on the Quarry parcel; and (3) the type of equipment that may be utilized under the Quarry vested mining rights. Enclosed please find legal authorities and evidence related to the Quarry's production level under its vested mining rights. We will transmit materials relevant to the other issues as we prepare them. Of course, all of the enclosed materials are intended to be included in the administrative record for this matter.

Thank you again for your attention to this matter. I look forward to discussing these materials with you soon. If you have any questions or comments in the meantime, please do not hesitate to contact me at bjohnson@hthjlaw.com or (916) 706-2098.

Very truly yours,
HARRISON TEMBLADOR HUNGERFORD & JOHNSON, LLP

By 
Bradley B. Johnson

cc: Ellen Carroll, Department of Planning and Building
[Board of Supervisors]

Staff Proposal: Restrict production to 8,000 cubic yards (approximately 12,000 tons) of material per year. (June 17, 2014 Staff Report, p. 15 [“Vested Rights associated with the *Maximum Annual Production* shall be limited to the 8,000 cubic yards per year”].)

Legal Standard: **The California Supreme Court has established the bright-line rule that a vested mine is entitled to increase production to serve market demand.** No arbitrary production limit may be imposed. Allowed production is not determined by evidence of “intent” at the time the Quarry became vested. However, if production at the Quarry “immediately” and “substantially” exceeds production in prior years, this may constitute an “impermissible intensification” of the vested right, which the County may seek to restrict at the time such increased production occurs.

- **Supreme Court:** “[T]he general rule appears to be that an increase in business volume alone is not an expansion of a non-conforming use . . .” (*Hansen Bros. Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 573.)
- **Supreme Court:** “[W]here increased population creates an increased demand for the aggregate used in road construction, an increase in production to meet that demand would not be construed as an enlargement or intensification of the use.” (*Hansen Bros. Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 573.)
- **State Mining and Geology Board:** No arbitrary production limit can be imposed on a vested mining right:

[T]he vested right should be recognized without production limit because there is no basis in law or regulation for us to impose such a limit, and really no feasible way to implement it. . . . [T]he market is not being grown or changed by the behavior of the operators that are supplying it, and so I don’t – I don’t see where what they are doing is an unnatural act in selling gravel to anyone who will buy it. And so really in this case the -- Mr. Franklin said if our limit is you can sell as much as you can, that’s basically what I’m saying, is I think this is something that has to be left to market forces and I think it is untenable to have a vested right and try to impose a limit. (Special Public Hearing to Determine Vested Rights For Western Aggregates, LLC (February 11, 2010), p. 65, ln. 19-22; p. 69, ln. 4-13.)

The State Mining and Geology Board voted to impose no “limitations or restrictions on annual production associated with the granting of vested rights . . .” (Special Public Hearing to Determine Vested Rights For Western Aggregates, LLC (February 11, 2010), p. 72, ln. 22-25; p. 73.)

- **State Mining and Geology Board:** “*Hansen* approved of courts in other jurisdictions finding no impermissible intensification in response to “increased demand”, i.e., not based on population growth only, but instead, general increases in demand.” (State Mining and Geology Board, Executive Officer’s Report, February 11, 2010, p. 12.)
- **Legal Treatise:** “The general rule is that an increase in volume of business alone is not an expansion of a nonconforming use. Even a great increase does not work a prohibited change.” (8A McQuillin Municipal Corporations, § 25.207 *Enlargement or extension of use – Increase in volume of business or use.* (3rd Ed.).)
- **Legal Treatise:** “Generally speaking, the rule forbidding the enlargement or extension of a nonconforming use does not prevent an increase in the amount of use within the same area, so that a nonconforming use may be not only continued but also increased in volume and intensity. A nonconforming use is not limited to the precise magnitude

thereof which existed at the date of the ordinance, but may be increased by natural expansion, and a nonconforming use is not unlawfully enlarged or extended although the number of employees has almost doubled. The natural growth of a business or an increase in the amount of business done is not a change from the nonconforming use permitted by the zoning ordinances.” (101A C.J.S. Zoning & Land Planning (2009), V.E.2.b.(1), § 193, pp. 955-956 (citing *Union Quarries, Inc. v. Board or County Comm’rs* (1970) 206 Kan. 268, 276 [cited in *Hansen* at p. 573].)

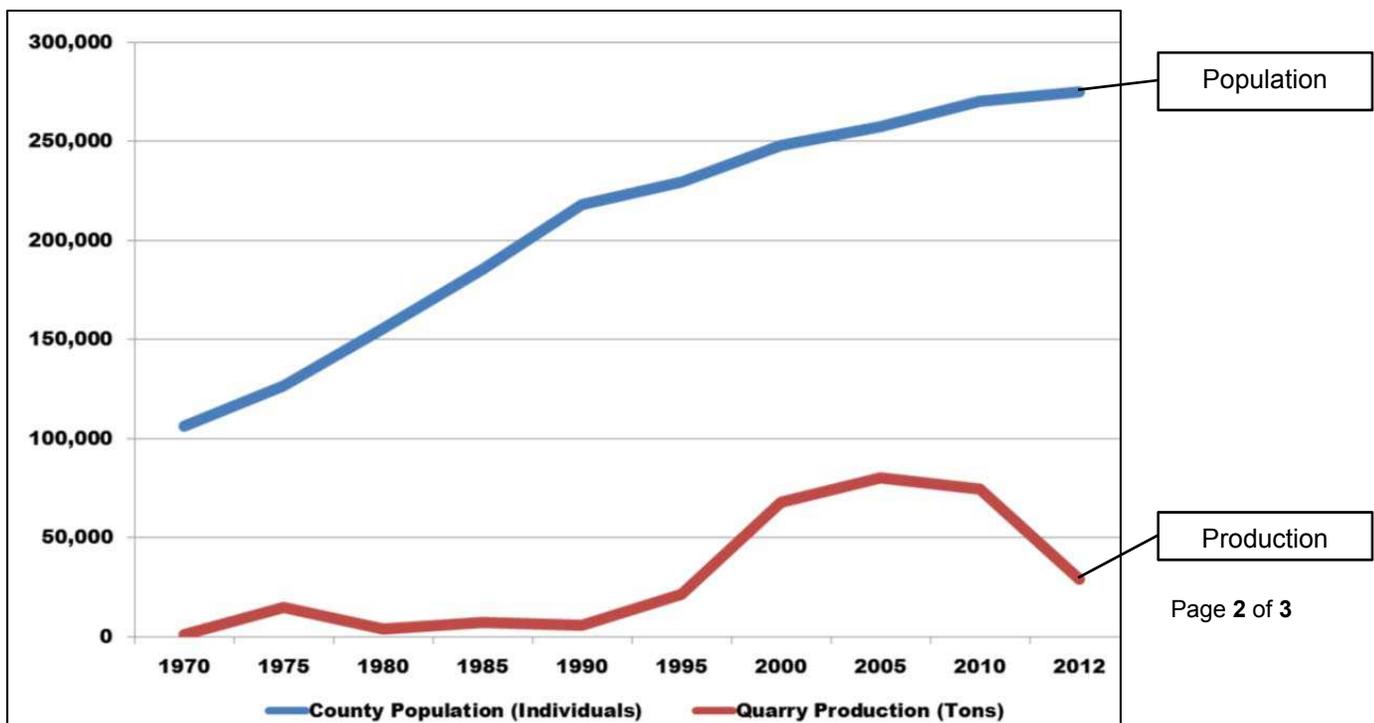
- **Supreme Court:** “Unless Hansen Brothers proposes immediate removal of quantities of rock which substantially exceed the amount of aggregate materials extracted in past years, there is no impermissible intensification of use.” (*Hansen Bros. Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 575.)
- **Supreme Court:** “Impermissible intensification of a nonconforming use is more appropriately addressed at such time as increased production actually occurs. . . . When it appears that a nonconforming use is being expanded, the county may order the operator to restrict the operation to its former level, and seek and injunction of the owner does not obey.” (*Hansen Bros. Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 573.)

Facts in the Record: Quarry production has increased naturally and gradually in response to market demand.

- **California Geological Survey:** According to the California Geological Survey (“CGS”), one way to gauge mine production relative to market demand is as a function of population growth. CGS estimates that Californians consume about 5.7 tons of aggregate per person, per year. (*Map Sheet 52: Aggregate Sustainability in California*, California Geological Survey, 2012, p. 20 [“Demand for aggregate is expected to increase as the state’s population continues to grow. . . .”].)
- **United States Census Bureau:** San Luis Obispo County’s population has increased from 106,403 to 274,804 between 1970 and 2013.

Production at the Quarry has averaged 45,175 tons annually over the past 20 years. (See also June 17, 2014 Staff Report, pp. 14-15.) Quarry production has been a natural and gradual response to market demand as illustrated by population growth.

Table 1. County Population v. Quarry Production
(Presented at June 17, 2014 Board Hearing)



- **County Inventory of Mines:** Production at the Quarry in 1979 was 3,000 cubic yards, with “more of same” anticipated. (**Attachment 1.**)
- **Quarry Reclamation Plan:** “(12) Yield (In Tons or Cu.Yds./Year): 8,000 cu. yds.” (**Attachment 2** [excerpt].)
- **County Instructions for Completing the Reclamation Plan Form:** “12. Yield – Tons or Cubic Yards/Year: The average annual production (for each mineral mined) expected over the next 5 years. Indicate ‘Tons’ or ‘Cu. Yds.’” (**Attachment 3** [excerpt].)
- **County Correspondence to Mine Operators, Dated April 13, 1979:** A reclamation plan “will provide for the reclaiming of all lands mined or otherwise disturbed by mining” . . . Finally, we would appreciate your cooperation in completing the ‘Inventory of Mines’ questionnaire which is also enclosed, and returning it to us immediately in the envelope provided. The information requested is general in nature and figures may be approximated.” (**Attachment 4** [excerpt].)
- **Neighbor Correspondence:** The Quarry’s closest neighbors all support its continued operation. (**Attachment 5.**)

Conclusions:

Staff’s proposal to restrict vested production at the Whale Rock Quarry is prohibited by law and is unsupported by, and conflicts with, facts in the record.

- Staff has cited no legal authority contrary to the authorities cited above, and in fact, none exists. The authorities cited above establish the rules governing production from a vested mine.
- Although the Quarry’s production level is not determined by “objective evidence of the owner’s intent” as Staff assert (June 17, 2014 Staff Report, p. 14), the only “evidence” staff cite are (1) the Inventory of Mines production for 1970; and (2) the reclamation plan production estimate. The County’s own correspondence show that the “Inventory of Mines” figures are “approximated” (Attachment 4), and the County’s own reclamation plan instructions state that the production figure is applicable only “over the next 5 years” (Attachment 5). Neither document supports staff’s proposal to restrict production to 8,000 cubic yards annually nearly 35 years later.
- Evidence in the record shows that the Quarry’s production has increased naturally and gradually in response to market demand, as illustrated through comparison to County population growth between 1970 and 2013. (Table 1, above.)
- Evidence in the record shows that the Quarry’s increased production over time has not caused a nuisance to its neighbors. (Attachment 5.)

* * *

PRODUCTION LEVEL – AUTHORITIES AND EVIDENCE

August 20, 2014

ATTACHMENT 1

For County Use Only

Site No. DS-6
USGS Quad _____
Mineral _____
Status _____

INVENTORY OF MINES
(Preliminary Owner/Operator Questionnaire)

MINE NAME

CANYONS PIT

MINE PROPERTY OWNERSHIP

- Surface Owner

Name: _____
Address: RT 2 MAININI
BOX 416
Phone: 543-8006

- Mineral Owner
(If Mineral Rights severed
from Surface Rights)

Name: _____
Address: _____
Phone: _____

- Mineral Lease Owner

Name: _____
Phone: _____

- Mine Operator

Name: _____
Address: _____
Phone: _____

- Operator Contact Person

Name: MAININI
Address: _____
Phone: _____

MINE PROPERTY DESCRIPTION/STATUS

- Total Acreage Mine Parcel

23.5 AC

- Approximate Acreage of Mine Site

10 AC

- On-Site Processing Plant

Yes _____ No

- Approximate Acreage, Plant
and/or Processing Area

- Type of Mining Operation
(Open pit bank, Quarry,
Underground, Dredging, Other)

PIT BANK

- Mine Status
(Active, Intermittently Active,
Abandoned)

ACTIVE

- If Intermittently Active or
Abandoned, date of last Mining
and/or Processing Activity

For Use Only

MINERAL PRODUCTION

- Mineral Commodities Produced

RED ROCK

- Current Production Per Year (tons or yds.)

3000 YDS

MINING ACTIVITY AFTER JANUARY 1, 1976

- Has the Mine and/or the Processing Plant been active since January 1, 1976?

Yes No

- Approximate total production since January 1, 1976 (tons or yds.)

9000 YD

- Approximate acreage utilized by Mining/Processing Operations since January 1, 1976

Mining 10 AC

Processing _____

FUTURE MINING PLANS

Briefly describe of plans for future Mining and/or Mineral Processing activities:

MORE OF SAME

REMARKS AND ADDITIONAL INFORMATION

QUESTIONNAIRE COMPLETED BY
(Print Name Under Signature)

SAD

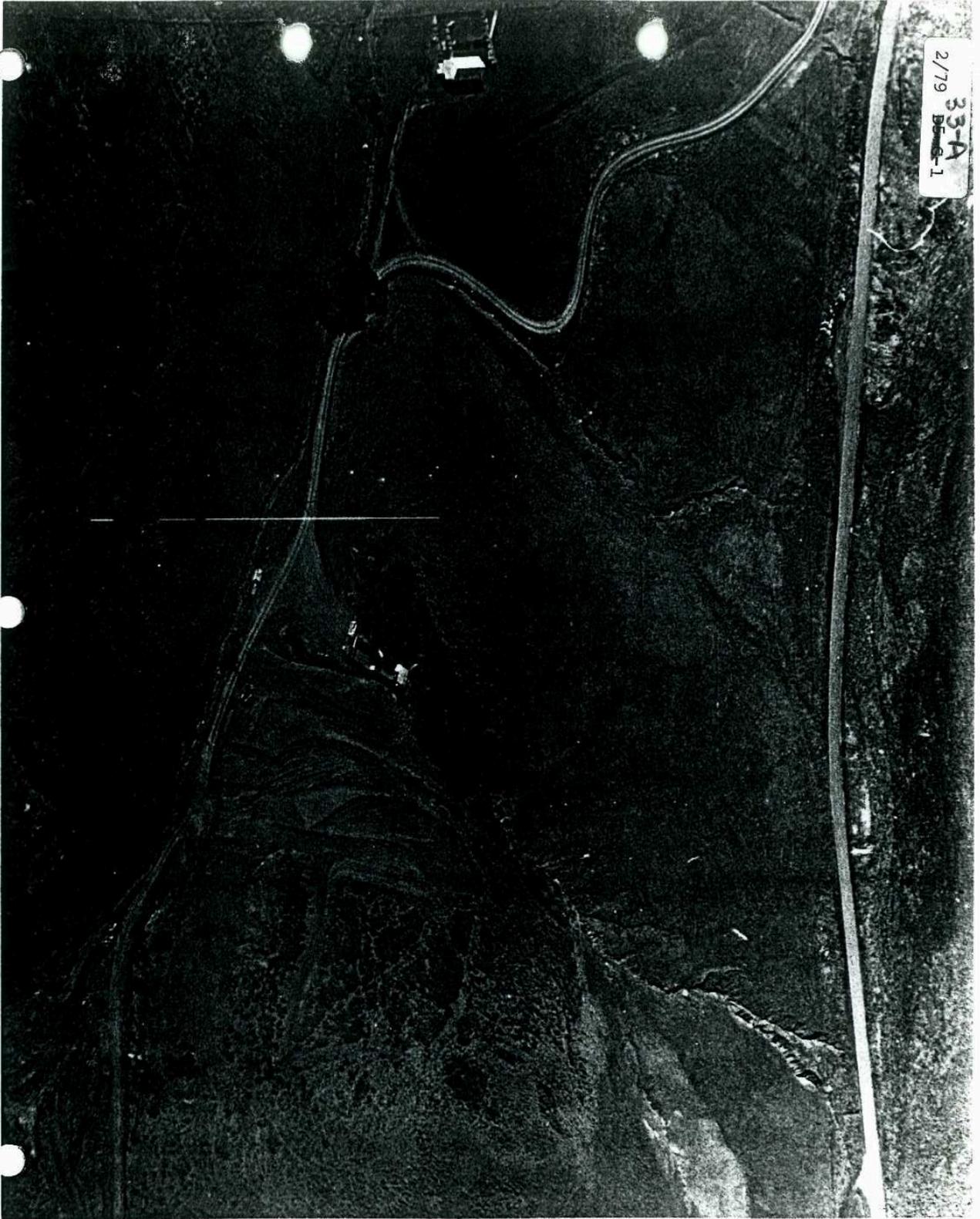
DATE 4-24-79

OFFICE INTERVIEW

PHONE _____

SITE VISIT 4-10-79

Attachment B





2/7/9 D5-G-2

PRODUCTION LEVEL – AUTHORITIES AND EVIDENCE

August 20, 2014

ATTACHMENT 2

COUNTY
PLANNING DEPARTMENT

RECLAMATION PLAN APPLICATION

Return to Courthouse Annex, Room 102, San Luis Obispo CA 93401 (805) 549-5

APPLICANT AND GENERAL INFORMATION

(1) Applicant: A. Mainini et ux.	(2) Mailing Address: Route 2, Box 416 San Luis Obispo, CA 93401	Telephone: (805) 543-8006
(3) Type of Ownership: Individual <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other <input type="checkbox"/>	(4) Status of Application: Original Application <input checked="" type="checkbox"/> Amendment <input type="checkbox"/>	(6) Date Mine (is to be) Opened: Operating
(7) Estimated Life of Operation: 10 years	(8) Conditional Use Permit Number: None required	(5) Mine Name: Whale Rock Pit
(9) Assessor's Parcel Number(s): 46-201-13	(10) USGS Quadrangle: Morro Bay North	

MINE INFORMATION

(11) Raw Materials Mined: Red rock	(12) Yield (In Tons or Cu.Yds./Year): 8,000 cu. yds.
(13) Type of Mine: Borrow Pit <input checked="" type="checkbox"/> Gravel Bar Skimming <input type="checkbox"/> Stream Bed Skimming <input type="checkbox"/> Underground <input type="checkbox"/>	Sand/Gravel Pit <input type="checkbox"/> Quarry <input type="checkbox"/> Clay Pit <input type="checkbox"/> Other (Specify) <input type="checkbox"/>
(14) Geologic Group, Formation and Member: unknown	
(15) Has Exploratory or Development Drilling been Utilized for the Operation? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(16) On-Site Processing? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(17) Total Acreage Affected by Mining after January 1, 1976: Mining 1 acre Processing none	Waste Disposal None Settling Ponds None
(18) The Operation is (or will be): Continuously Active <input type="checkbox"/> Temporarily Deactivated <input type="checkbox"/> Undeveloped <input type="checkbox"/>	Intermittently Active <input checked="" type="checkbox"/> Abandoned <input type="checkbox"/> Other (specify) <input type="checkbox"/>
(19) Total Acreage Affected by Mining prior to January 1, 1976 and not Reaffected after that Date: 6 acres	
(20) Drainage: Swale	(21) Tributary to: Willow Creek
(22) Will Mining Progress in Separate Phases? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(23) Will Groundwater be Encountered During Mining (Including any Perched, Regional, or Artesian Flow)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(24) Is Ongoing, Phased Reclamation Proposed? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(25) Is Soil Salvage and Replacement Proposed? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
(26) Will Water be Utilized for Mining or Processing? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(27) Will Settling Basins be Utilized? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(28) Will Water be Discharged from the Affected Area? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(29) Will the Operation Involve Relocation, Blockage or Alteration of any Water Course or Stream? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
(30) Highest and Best Use of Affected Land Prior to Mining: Wasteland	Grazing
(31) Proposed Use Following Reclamation: Grazing	

OFFICE USE ONLY

MAP NUMBER: _____ GENERAL PLAN: _____
DATE RECEIVED: _____ FILE NUMBER: 1M 800403.2
RECEIPT NO: _____ BY: _____

PRODUCTION LEVEL – AUTHORITIES AND EVIDENCE

August 20, 2014

ATTACHMENT 3

Reclamation Plan Guidelines

San Luis Obispo County Department of Planning and Building

Information Bulletin

INTRODUCTION

This bulletin contains instructions and guidelines to assist surface mine, quarry and borrow pit owners and operators in meeting the reclamation requirements of the County Surface Mining and Reclamation Ordinance. As required by State law, Land Use Ordinance Section 22.08.180 or Coastal Zone Land Use Ordinance Section 23.08.180 applies the standards of the California Surface Mining and Reclamation Act of 1975 to all surface mining operations in San Luis Obispo County. These standards require reclamation (restoration of the mining site to a condition suitable for a use other than mining), of all mine sites operated in the county since January 1, 1976. The State law and county ordinance also set forth requirements for establishing a new mine or reactivating abandoned mine sites, which are not discussed in full in this document (see the county Department of Planning and Building publication "Surface Mining Regulations").

These guidelines explain how to prepare and file an application for reclamation plan approval, and describe acceptable methods of reclamation for three basic types of surface mines. The application form itself is obviously a lengthy document. Note, however, that the application is intended to cover all types of surface mines, and that most operators will not need to complete every page of the form. The detailed application instructions in this booklet and the application forms themselves indicate when the various parts of the application must be completed. Assistance in completing the application forms will be provided by the Department of Planning and Building staff.

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INSTRUCTIONS FOR COMPLETING THE
RECLAMATION PLAN APPLICATION FORM

APPLICATION - PAGE 1

1. Applicant: The legal name under which the application is to be filed.
2. Mailing Address: The legal address of the applicant.
3. Type of Ownership: Check appropriate box, if "other", specify type.
4. Status: Check appropriate box; "Original Application" means the first application submitted for this site.
5. Mine Name: List a name to identify this particular operation.
6. Date Mine (is to be) Opened: If previously opened, the first date on which a mineral commodity was excavated and sold from the site. If the mine is to be opened, the proposed start-up date.
7. Estimated Life of Operation: The number of years it is estimated that the mine will yield mineral commodities in commercial quantities; or the number of years (or months) you intend to operate the mine before it is deactivated.
8. Land Use Permit File Number: If a land use permit has been obtained for this operation, enter the file number. If none issued, state "None".
9. Assessor's Parcel Numbers: List the Assessor's parcel numbers of all parcels over which the mining and processing site extends, all or in part.
10. USGS Quadrangle: The name of the USGS Topographic Map Quadrangle or Quadrangles on which the site is located.
11. Raw Materials Mined: The name or names of the mineral(s) mined, such as redrock, sand and gravel, cinnabar (mercury), crushed limestone, etc.
12. Yield - Tons or Cubic Yards/Year: The average annual production (for each mineral mined) expected over the next 5 years. Indicate "Tons" or "Cu. Yds."
13. Type of Mine: Check all that apply.
14. Geologic Group, Formation and Member: The official geologic name(s) of the Group(s), Formation(s) and Member(s) in which the mine is located, as found on the Geologic Map of California. (This information can be obtained from the county Department of Planning and Building).
15. Exploratory Drilling: If yes to this question, Supplemental "E" must be completed.

PRODUCTION LEVEL – AUTHORITIES AND EVIDENCE

August 20, 2014

ATTACHMENT 4

WED A. ROGOWAY, Director



Telephone 543-1550, Ext. 215

PLANNING DEPARTMENT

Courthouse Annex

SAN LUIS OBISPO, CALIFORNIA - 93401

April 13, 1979

Dear Mine Owner or Operator,

Within the last three months, the County has completed a detailed inventory of the active, intermittently active and significant abandoned mining sites within San Luis Obispo County as required by recent State legislation. Our survey indicates that a mining site was located on a parcel or parcels in which you have an ownership or operating interest, hence this letter to you.

For purposes of the survey and the Ordinance discussed below, a mining site is defined as any area of one acre or greater in size from which an earth material was excavated and sold, or any area less than one acre from which more than 1,000 cubic yards of material was excavated and sold.

We have attempted in the past weeks to contact by phone or personal visit all the parties we found to be involved with mining properties; so you may have heard from us already and be aware of the new changes affecting mining. But for those not familiar with how they will be affected by the new regulations, we present the following explanation and discussion.

The San Luis Obispo County Board of Supervisors adopted on December 4, 1978, a Surface Mining and Reclamation Ordinance. The Ordinance went into effect on January 4, 1979.

Adoption of the new Ordinance brings the County into compliance with the California Surface Mining and Reclamation Act of 1975 which provides that any land areas within the State of California which are disturbed or otherwise affected by a mining operation after January 1, 1976 must be reclaimed upon cessation of mining according to an approved Reclamation Plan. The law further provides that each mining operation after January 1, 1976 must be conducted under a Permit or other authorization obtained from the agency (The "Lead" Agency) responsible for administering the law. The Lead Agencies, in most cases, are the counties which implement the law through ordinances, as in the case of San Luis Obispo.

Enclosed with this letter is a complete copy of the County Surface Mining and Reclamation Ordinance along with an application form to be used in obtaining a Certificate of Vested Mining Rights (the Vested Rights provision is explained at the end of this letter and in the Ordinance).

The key elements of the new Ordinance are requirements for a Mining Permit and Reclamation Plan.

Mine Owner or Operator
 April 13, 1979
 Page 2

In order to (1) open a new mine, (2) reactivate an abandoned mine, or (3) continue an on-going mining operation after January 4, 1979, the operator or mine owner must obtain a Permit in the form of a Conditional Use Permit (or Certificate of Vested Mining Rights) and submit to the Planning Department and receive approval of a Reclamation Plan, which will provide for the reclaiming of all lands mined or otherwise disturbed by mining retroactive to January 1, 1976 (the effective date of the State Surface Mining Law).

For the opening of new mining operations or the reactivation of abandoned mines, both the Permit and Plan approvals must be obtained before work commences. For mines active as of January 4, 1979, mining may continue, provided that both the Permit or Certificate of Vested Rights and the Reclamation Plan approvals must be obtained by January 4, 1980.

To figure out generally where you stand with respect to the new Ordinance, consider the following guidelines:

IF YOU

YOU MUST

- | | |
|---|---|
| <p>1) <u>Own a mining site that was abandoned prior to January 1, 1976 and not reopened after that date,</u></p> | <p>You have no obligation for permits or reclamation unless the mine is reopened, in which case see Item 5 below.</p> |
| <p>2) <u>Own a mine that was active since January 1, 1976 but is now abandoned,</u></p> | <p>You, as landowner, are responsible for reclaiming under an "Approved Plan" that portion of the mine site utilized for mining and mineral processing after January 1, 1976.</p> |
| <p>3) <u>Own or operate a mine that was established prior to January 1, 1976 and has been active or intermittently active (as defined in the Ordinance) continuously since that time,</u></p> | <p>You must obtain a Conditional Use Permit if one was not previously obtained, or at your option apply for and receive a Certificate of Vested Mining Rights and submit and have approved a Reclamation Plan prior to January 4, 1980.</p> |
| <p>4) <u>Own or operate a mine that was established after January 1, 1976 and has been active or intermittently active continuously since that time,</u></p> | <p>You must have previously obtained, or now obtain a Conditional Use Permit and submit and have approved a Reclamation Plan by January 4, 1980. A Certificate of Vested Mining Rights does not apply in this case.</p> |
| <p>5) <u>Wish to open a new mining operation or reactivate an abandoned mine site,</u></p> | <p>You must obtain a Conditional Use Permit and submit and have approved a Reclamation Plan <u>prior to</u> commencing operations.</p> |

The requirement for obtaining a Conditional Use Permit applies to all mines initially opened or reopened (after abandonment) after January 1, 1976. However, any person who can demonstrate (1) that he obtained a vested right to operate a mine prior to January 1, 1976, and (2) that his vested right to

Mine Owner or Operator
April 13, 1979
Page 3

mine continues to the present, can avoid the Permit requirement by demonstrating to the County the existence of the Vested Rights prior to filing a Reclamation Plan. That right can be most easily verified by applying for and receiving a Certificate of Vested Mining Rights.

An application form for obtaining the Vested Rights Certificate is enclosed. The application fee is \$60.00 and is payable to the County of San Luis Obispo. That fee covers the cost to the County of researching and verifying the Vested Right.

Remember, however, that a Conditional Use Permit is required for all mines established after January 1, 1976 and must be obtained (along with the Reclamation Plan approval) by the operator or mine owner by January 4, 1980 for mining to be allowed to continue after that date.

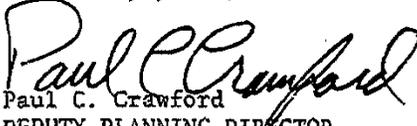
Reclamation Plan requirements are outlined in the California Surface Mining and Reclamation Act of 1975 and in subsequent Guidelines published by the California State Mining and Geology Board. These requirements have been adopted by the County by reference.

The Planning Department is in the process of developing a Reclamation Plan Application and detailed instructions for plan preparation and presentation. These materials will be available on or before May 31, 1979 and will be mailed to all mine owners and operators. However, anyone interested in beginning immediately on their Plan(s) may contact Steve Devencenzi of the Planning Department (543-1550, ext. 356).

Finally, we would appreciate your cooperation in completing the "Inventory of Mines" questionnaire which is also enclosed, and returning it to us immediately in the envelope provided. The information requested is general in nature and figures may be approximated. This will allow us to correct our files on the ownership and status of each mine site.

We very much appreciate your cooperation.

Very truly yours,


Paul C. Crawford
DEPUTY PLANNING DIRECTOR

PCC/lmh

Enclosures

PRODUCTION LEVEL – AUTHORITIES AND EVIDENCE

August 20, 2014

ATTACHMENT 5

June 12, 2014

Dear Board of Supervisors,

My name is Richard Kluver. Together with my wife, April, I live on and co-own 25 acres northeast of Whale Rock Pit. I have been doing business with Whale Rock Pit since I bought the property with David and Sharon Bisso in 1977. We first bought road base and other rock materials from Angelo Mainini. When the Negrantis took over the operation, we continued our business with them, and it has always been enjoyable.

As one of the only properties with a direct view of the operation, we have a unique perspective of this business. What we see is an extremely well run operation. The pit is well managed, with no junk, old vehicles, or broken equipment lying around. Furthermore, we have never had any problems with dust, noise, or traffic from the business. This business is essential for the production of locally-needed road base as well as the recycling of hard materials including concrete, asphalt, and rock.

Historically, this property has been a surface mine dating back to the early 1950s. The pit that was first mined to construct Whale Rock Reservoir now provides necessary surface mined rock products for San Luis Obispo County. These essential materials must come from somewhere, and without this pit, they would have to be sourced farther away. Importing rock materials from a distant source would increase pollution, consume valuable gas products in greater quantities, and make for hard use of roads at home and in other counties. Please consider allowing this upstanding business to continue as it has for the last 70 years.

Thank you for your time.

Sincerely,
Richard Kluver



1670 OLD CREEK ROAD
CAYUCOS

Department of Planning & Building
County Government Center
San Luis Obispo, CA 93408

January 5, 2010

Dear Planning Department:

We understand that you have concerns about the blasting noise from the Negranti mine on Old Creek Road. We are his neighbors directly southwest of the mine and the blasting noise has never been a problem. We rarely ever hear it. Thank you for your concern.



Barbie Molnar

Nick & Barbie Molnar
1120 Old Creek Road
Cayucos, CA 93430

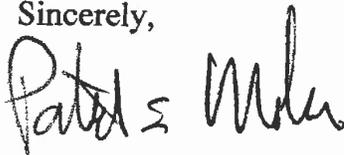
January 5, 2010

San Luis Obispo County
Department of Planning & Building
County Government Center
San Luis Obispo, CA 93408

To Whom It May Concern:

We are writing this letter on the behalf of Jon Negranti and his quarry on Old Creek Road. We understand that you have concerns on the noise from blasting. We are his neighbors and we have never been bothered by the noise from his blasting.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat & Sherrie". The signature is written in a cursive, flowing style.

Pat and Sherrie Molnar
1155 Montecito Road
Cayucos, CA 93430

4

To: County of San Luis Obispo

From: Malcolm Kingsley *Malcolm M. & Suzi E Kingsley*
900 Montecito Road
Cayucos, CA 93430

Re: Blasting at Jon Negranti's Rock Pit

I usually don't hear them blast very often, but when I do it's not very loud. I don't have a problem with it.

Malcolm Kingsley



