

Exhibit D

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PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA

RESOLUTION NO. 83-279

USE PERMIT NO. 2970

A.P. # 211-031-16 and 19

In the matter of the application of

KAISER REFRACTORIES (PC-4745)

for a Use Permit in accordance with Title 20 (Zoning) Chapter 20.96 (Use Permits) of the Monterey County Code, to allow removal of natural materials, located on Parcel B and portion of Lot 3 of Sub A of Lot 28, Assessor's Map of Natividad Rancho, Natividad area, fronting on and northerly of Old Stage Road, and

came on regularly for hearing before the Planning Commission on August 10, 1973

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. That the establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
2. Kaiser Refractories or predecessor corporations have continuously mined dolomite at the Natividad Quarry site since circa 1900. Kaiser Refractories currently operate under use permits issued by the County of Monterey and now seek to expand mining and processing operations into newly purchased adjoining parcels. The operations conducted by Kaiser Refractories at the site have significant economic impacts in the County of Monterey and have significant national defense and national industrial impact. The operations have been conducted by the company in good faith compliance with use permit conditions.
3. The Kaiser operations have resulted in large white-colored highly visible mining scars and production piles which have substantial adverse aesthetic impact in the Salinas Valley which affects the property values and economic stability of the surrounding communities. The white prominence is especially notable from the City of Salinas, the Toro Area of Development Concentration and some parts of Moss Landing. Due to the population growth of surrounding areas, the present high visibility of the processing and materials makes a significantly larger impact upon the general welfare of the County than when the operations initially commenced. The natural rolling landforms and hills impart an ambience and immediate visual escape from moments of congestion and overcrowding and warrant protection, so far as practicable, of the natural topographic conditions.
4. The Planning Commission finds that the importance of the operations coupled with their ongoing nature warrant a long term use permit. The Planning Commission further finds that the aesthetic impacts of the existing operations and the anticipated operations warrant imposition of stringent and diligently enforced reclamation and aesthetic conditions. The Planning Commission further finds that due to the technical nature of much of the operations and the need for flexibility with respect to mining of various grades of extracted minerals, it is very difficult to create conditions based upon precise mining location, precise extraction time tables or precise amounts of removable minerals. Consequently, the Planning Commission finds that use permit conditions should be broadly written to allow operational flexibility with respect to mining time tables and marketing conditions. In turn, the Planning Commission finds that the burden of establishing the need for changes in any of the use permit conditions should rest primarily with the applicant. When material or substantial changes of operations or reclamation processes become necessary due to unforeseen

events occurring during the life time of the proposed use permit (including technological improvements, significant changes in market demand or significant changes in rates of extraction) the applicant should initiate requests for modifications of use permit conditions. If it is uncertain whether operational or reclamation process modifications will be material or significant, the uncertainty should be resolved in favor of Planning Commission review.

DECISION

THEFORE, it is the decision of said Planning Commission that said application for a Use Permit be granted, subject to the following conditions:

1. All provisions of the Reclamation Plan for the Matividad Quarry of Kaiser Refractories including the Appendices, dated December 1982 and/or as revised by future agreements with the Monterey County Planning Department shall be complied with in a timely and orderly manner as outlined in that plan.
2. An update of the status of mining and reclamation activities shall be submitted to the Planning Department every five years or upon request of the Department but no more frequently than every two years. The update shall include description and aerial photographs of suitable scale of all quarry expansion and reclamation accomplished since the previous report and cumulatively to the date of the report.
3. An evaluation of the mineral extraction operation shall be submitted by the applicant to the Planning Department every five years or upon request of the Department but no more frequently than every two years. This evaluation shall be supported by the applicant's qualified geotechnical consultants with such recommendations as they deem appropriate. The evaluation shall include:
 - A. An indication as to whether or not the geotechnical portion of the reclamation plan is still adequate to comply with the conditions imposed in this use permit,
 - B. An indication as to any new or modified extraction method or actions which may be deemed necessary or advisable, and
 - C. Description of any new features which would affect the geotechnical aspect of the operations.

Any recommendations agreed to by the Director of Planning shall thereupon become on-going conditions of the use permit.
4. The applicant shall maintain enough fill material on site throughout the term of its operations so as to have sufficient material to backfill against all final cut faces regardless of when operations may terminate and regardless of market demand for the fill material. Information regarding the status of this shall be included with the update required in Condition 2 of this Use Permit. Should market demand for the fill material become sufficiently great that the applicant seeks to use backfill material not procured at the quarry site, application shall be made to the Planning Director for modification of the adopted reclamation plan.
5. The applicant shall, whenever feasible, conduct its extraction operations in a sequence which preserves aesthetic views.
6. The existing HPS pile shall continue to function as an active sorting and stockpile area for aggregate material shipped off the site. Slopes shall be hydromulched at such time as stockpiling and loading is relocated to the top of the HPS fill. The by-product material to the south shall be hydromulched prior to the end of Phase 1.
7. As outlined in the reclamation plan, during the three-year period of Phase 1, provision shall be made to convey primary material to the base of the active primary by-product pile, all of the existing slopes of the primary pile shall be hydromulched (except where the material is being conveyed), and the berm shall be constructed at the future toe of the active primary pile. Once a substantial section of the berm has been completed, the surplus flow of by-product shall be placed behind the berm in a manner to best conceal it from view until the entire berm is in place. Upon completion of the berm, by-product shall be placed behind it, to be followed by successive lifts as described in the reclamation plan.
8. Each year, any newly constructed final berms or pond embankments shall be hydromulched by late October, subject to suitable weather conditions.

9. If any alterations to the mining or reclamation phases of the project are proposed that would impact historic sites AC-285-2 or AC-285-3, these sites shall be tested by a qualified archaeologist to determine the nature, extent and significance of the sub-surface resources. A report of these findings shall be submitted to the Planning Department for development of additional conditions or mitigations for these sites. Such conditions and mitigations shall, upon approval of the Director of Planning, become ongoing conditions of the use permit.
10. If any alterations are proposed in the method of operations which would have a noticeable effect upon the visible appearance during operations or upon the final appearance of the site as proposed in the reclamation plan, a revised reclamation plan shall be prepared. Such alterations to the operations shall be deemed to include major changes in the sequence of excavation for filling, or changes which would materially affect the volume of by-product to be disposed on the site or removed from the site. The revised reclamation plan shall become a condition of the use permit upon approval of the Director of Planning.
11. The operation shall comply with the requirements of the California Regional Water Quality Control Board.
12. In the event that any of the specific conditions heretofore stated conflict with any provisions of the Reclamation Plan for the Natividad Quarry as submitted by Kaiser Refractories, the specific conditions stated in this use permit shall prevail.
13. At such time as the Planning Commission may deem a bond to be clearly required to assure completion of any phase of the reclamation plan, the Planning Commission may set the conditions for posting such a bond or equivalent security.
14. Should any conditions of the reclamation plan adopted by Resolution No. 83-280 not be complied with, this use permit shall be subject to possible revocation, as provided for in Section 20.96.060 of Chapter 20.96 of Title 20 of the Monterey County Code.
15. That this use permit expire on August 10, 2031.
16. Modifications to the reclamation plan may be made by the Director of Planning upon application, but if the Director determines that such modifications may be significant or substantial, the Director shall refer the matter to the Planning Commission for modification of the resolution with respect to these matters.

PASSED AND ADOPTED this 10th day of August, 1983, by the following vote:

AYES: Caillotto, Calcagno, Glau, Hendrick, Jimenez, Riddle, Varga

NOES: None

ABSENT: Reeves

ABSTAIN: Mull

ROBERT SLIOTON, JR.
Acting Secretary of the Planning Commission

Copy of this decision was mailed to the applicant on August 24, 1983.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEPTEMBER 3, 1983

PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA

RESOLUTION NO. 83-280

A.P. # 211-023-01 and 03,
211-031-16 and 19

FINDINGS AND DECISION

In the matter of the application of

KAISER REFRACTORIES (PC-4745)

for a Reclamation Plan in accordance with Title 16 (Environment) 16.04 (Surface Mining and Reclamation) of the Monterey County Code and came on regularly for hearing before the Planning Commission on August 10, 1983.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. Kaiser Refractories or predecessor corporations have continuously mined dolomite at the Natividad Quarry site since circa 1900. Kaiser Refractories currently operate under use permits issued by the County of Monterey and now seek to expand mining and processing operations into newly purchased adjoining parcels. The operations conducted by Kaiser Refractories at the site have significant economic impacts in the County of Monterey and have significant national defense and national industrial impact. The operations have been conducted by the company in good faith compliance with use permit conditions.
2. The Kaiser operations have resulted in large white-colored highly visible mining scars and production pilings which have substantial adverse aesthetic impact in the Salinas Valley which affects the property values and economic stability of the surrounding communities. The white prominence is especially notable from the City of Salinas, the Toro Area of Development Concentration and some parts of Moss Landing. Due to the population growth of surrounding areas, the present high visibility of the processing and materials makes a significantly larger impact upon the general welfare of the County than when the operations initially commenced. The natural rolling landforms and hills impart an ambience and immediate visual escape from remnants of congestion and overcrowding and warrant protection, so far as practicable, of the natural topographic conditions.
3. The Planning Commission finds that the importance of the operations associated with their ongoing nature warrant a long term use permit. The Planning Commission further finds that the aesthetic impacts of the existing operations and the anticipated operations warrant imposition of stringent and diligently enforced reclamation and aesthetic conditions. The Planning Commission further finds that due to the technical nature of much of the operations and the need for flexibility with respect to mining of various grades of extracted minerals, it is very difficult to create conditions based upon precise mining location, precise extraction time tables or precise amounts of removable minerals. Consequently, the Planning Commission finds that use permit conditions should be broadly written to allow operational flexibility with respect to mining time tables and marketing conditions. In turn, the Planning Commission finds that the burden of establishing the need for changes in any of the use permit conditions should rest primarily with the applicant. When material or substantial changes of operations or reclamation processes become necessary due to unforeseen events occurring during the life time of the proposed use permit (including technological improvements, significant changes in market demand or significant changes in rates of extraction) the applicant should initiate requests for modifications of use permit conditions. If it is uncertain whether operational or reclamation process modifications will be material or significant, the uncertainty should be resolved in favor of Planning Commission review.

DECISION

THEREFORE, it is the decision of said Planning Commission that said application for a Reclamation Plan be approved, subject to the following conditions:

1. The reclamation plan shall be defined as both Volume 1 Reclamation Plan for the Natividad Quarry of Kaiser Refractories and Volume 2 Appendices to the Reclamation Plan for the Natividad Quarry of Kaiser Refractories, dated December 1982.
2. A detailed revegetation plan shall be prepared and submitted to the Planning Department prior to December 29, 1983. Prior to each new phase as outlined in the Reclamation Plan, updates to the revegetation plan shall be submitted to the Planning Department. The revegetation plan shall become a condition of this resolution upon approval of the Director of Planning. Modifications to the revegetation plan may be made by the Director of Planning upon application, but if the Director determines that such modifications may be significant or substantial, the Director shall refer the matter to the Planning Commission for modification of this resolution with respect to these matters. All revegetation of the site shall be done in a timely and orderly manner as outlined in the reclamation plan.
3. Topsoil which has been excavated shall be stockpiled until such time that test results show whether it is required to promote revegetation. Any topsoil stockpiles or areas of redistributed topsoil should be stabilized by hydromulching prior to the onset of winter rains.
4. All conveyor systems which may be built to carry material to the new primary pile shall be as visibly inconspicuous as possible. The location and design of each conveyor system shall be approved by the Director of Planning prior to commencement of construction of such conveyor.
5. Provide adequate erosion control, including the use of water bars, culverts, and sediment traps.
6. All permanent down drains for erosion control and/or transport of ponding water shall be of a color and nature to be visibly inconspicuous and subject to the approval of the Director of Planning.
7. Surface-water catchment ponds shall be installed in appropriate areas to reduce runoff from disturbed areas.
8. As fills are placed in lifts behind berms, adequate provision should be made for drainage, to avoid ponding of water on the fill, and to prevent scouring of the fill face where the water drops to a lower level.
9. When the two easterly knobs are excavated, water shall be prevented from flowing off the sides by installation of a perimeter berm. A small detention pond on each shelf would aid in controlling runoff.
10. The existing settling ponds shall be returned to agricultural use, by grading the pond to create a slight incline, laying down a 6-inch base of PMS material for drainage, then regreasing available soil material.
11. Routing of haul roads shall avoid the existing areas of oak woodland in the expansion zone.
12. In accordance with the Reclamation Plan two spring-fed cisterns shall be installed to provide drinking water for wildlife. The cisterns shall be located in wooded areas near the creek drainage along the southern boundary of the property. Should the spring pipes become clogged, the water shall be supplied to the cisterns by other means.

The following conditions apply to the primary by-product pile:

13. The reclaimed by-product pile shall not be developed nor contain structures for human habitation.
14. The configuration of the by-product pile shall be constructed as shown in Figures 1-3 of the geotechnical report of the reclamation plan. The toe key and berm shall be constructed as shown in Figure 1-8 of the same document.
15. The berm shall be constructed with a 3:1 front slope and a 2:1 rear slope, and shall be constructed at the most forward point of the planned by-product pile extension.
16. The berm for the primary by-product pile shall be constructed prior to the end of Phase 1.
17. The soil beneath the berm shall be stripped to a depth of approximately 4 feet (depth may be modified as field conditions dictate).
18. The berm shall be constructed to the design grades by compacting the waste material to a minimum of 90% relative compaction as determined by the ASTM D1557 test method.
19. Filling behind the compacted berm can be by loose dumping; the final slope shall be 3:1 or flatter.

20. A subdrain shall be constructed beneath the berm, and shall be excavated to a depth necessary to reach the upper most granular soil horizon, approximately 12 feet. The drain trench shall be lined with an acceptable filter fabric and filled with permeable rock.
21. A berm shall be present at the periphery of the final by-product pile. A permanent setback zone of at least 110 feet shall be established between the toe of the berm and any future development.
22. Recompact and replant the surface where cracking and slumping has occurred. This shall be done on an annual basis prior to the rainy season.
23. A qualified geotechnical consultant shall make supplemental recommendations if unforeseen conditions are exposed during the placement of the subdrain or stripping of the berm area.
24. A qualified geotechnical consultant shall be retained by Kaiser Refractories to observe and test the construction of the subdrain and berm.
25. A qualified geotechnical consultant shall be retained by Kaiser Refractories to observe compliance with all the above requirements.
26. The proposed future by-product pile and ponds shall be constructed as shown on the drawings of Environ, and the construction sequence described in their December, 1982 report shall be implemented.

The following conditions apply to the future primary by-product pile and process water ponds:

27. The reclaimed by-product pile, designated as IIA in the geotechnical report, shall be utilized as undeveloped open space, and shall not contain structures for human habitation.
28. Slopes for the by-product pile shall not exceed 3:1, except for locally steeper slopes (1 1/2:1) where the by-product materials are compacted and will not influence the stability of the outer slope.
29. A berm shall be constructed for the primary by-product pile of approximately 50 feet wide. The height of the initial berm shall be 10 feet, with filling continuing until the entire area is leveled, and then a new berm approximately 25 feet wide shall be constructed.
30. The outer berms shall have an approximate height of 10 feet and a width of 25 feet (except for the initial berm of 50 feet wide) and shall be constructed by compacting the by-product materials to a minimum of 90% relative compaction as determined by the ASTM D1557 test method.
31. Slopes proposed inside the 3:1 outer berms may be steepened locally to 1 1/2:1 if the outer 25 feet of materials are compacted.
32. The soils in the area adjacent to the toe of the by-product pile for a distance of approximately 100 feet upstream shall be stripped to a depth of approximately 4 feet (depth may be modified as field conditions dictate).
33. Subdrains shall be installed in the positions shown of Figure II-2 and according to the details shown on Figure II-6 of the geotechnical report. The subdrains must be installed in the bottom of the stream channels as the filling operation progresses upstream and into the spring areas.
34. A toe drain shall be constructed in the approximate position shown on Figure II-2 and according to the details on Figure II-5 of the geotechnical report.
35. The specific design details for the subdrain and the toe drain systems shall be provided by the project civil engineer.
36. A berm shall always be at the periphery of the area being filled. The final slopes shall conform to those designed by Environ and evaluated in the reclamation plan.
37. A setback distance from the toe of the final slopes shall be established for all development below the by-product pile.
38. The future process water ponds shall be constructed in compliance with the Statutes and Regulations Relating to Supervision of Dams and Reservoirs, 1962, or the Division of Safety of Dams. The ponds shall be constructed parallel to the land contour and in such a manner as to avoid sub-surface erosion or water loss.
39. The embankments for the ponds shall be constructed at a slope of 3:1 by compacting the fill materials to a minimum of 90% relative compaction as determined by ASTM test method D1557.
40. A qualified geotechnical consultant shall observe and test the construction of the toe drain, subdrain, compaction of the berms, and the compaction of the embankments for the ponds.

The following conditions apply to the restoration of the mined out quarry:

41. The reclaimed area shall remain permanent open space, and no structures for human habitation are to be allowed in this area.

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42. The height of the fill in the reclaimed area shall not exceed approximately 600 feet and the inclination shall not exceed 35 degrees final slope.
 43. The fill shall be compacted to a minimum of 90% relative compaction as determined by ASTM method D1557.
 44. An outer berm shall be constructed behind which filling can occur. Spilling of material on the edge shall be avoided. The fill shall be properly drained and outer slopes shall be planted in conformance with the recommendations of the revegetation plan required by the use permit.

PASSED AND ADOPTED this 10th day of August, 1983 by the following vote:

AYES: Caillotto, Calcano, Glau, Hendrick, Jimenez, Riddle, Varga

NOES: None

ABSENT: Reeves

ABSTAIN: Mill

ROBERT SLIMEN, JR., ACTING SECRETARY
OF THE PLANNING COMMISSION

Copy of this decision was mailed to the applicant on August 24, 1983.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEPTEMBER 3, 1983.