

ROAD MAINTENANCE AGREEMENT

This Road Maintenance Agreement (hereafter "Agreement") is entered into by and between the County of Monterey ("County"), a political subdivision of the State of California, and Vance Querfurth, an individual ("Querfurth"), collectively referred to as the "Parties", this 19 day of March, 2012 with respect to the following:

RECITALS

A. Querfurth applied to Monterey County for a Use Permit for a surface mining operation on Federal Land (Bureau of Land Management) in the Williams Hill area of South Monterey County.

B. Use Permit number PLN090191 (hereinafter "Permit") was granted on October 26, 2011 by the Planning Commission pursuant to the Findings and Evidence contained in Resolution No. 11-035 attached hereto as Exhibit A, and hereby incorporated by reference.

C. The Permit was subject to certain conditions including but not limited to a condition to enter into a Road Maintenance Agreement with the County of Monterey for maintenance of Lockwood-San Ardo Road and Paris Valley Road, and a condition to cause a Road Surface Evaluation to be prepared by a licensed civil engineer or professional as required by the Department of Public Works that identifies the necessary improvements for the entire hauling route.

D. To comply with aforementioned conditions, Querfurth has caused to be prepared for the project a Road Surface Evaluation ("RSE"), dated January 30, 2012, jointly prepared by PACIFIC WASTE SERVICES, INC ("PWS") and Hatch Mott MacDonald ("HMM"), attached hereto as Exhibit B, and hereby incorporated by reference.

E. As part of the RSE, representative engineers from HMM and PWS conducted detailed observations of the existing haul route surfaces between Highway 101 at Paris Valley Road (Exit 263) and Carmel Stone Mine on San Ardo Lockwood Road. Observations and recording of road surface material, condition of the road surface, width, existing fencing, vegetation conditions, existing signs, existing topographic conditions.

F. The Parties, by and through this Agreement, intend to define Querfurth's responsibility for compliance with Condition No. 30 required by the Commission through an acceptable improvement maintenance and rehabilitation program (the "Program").

NOW, THEREFORE, the Parties mutually covenant and agree as follows:

1.0 IMPROVEMENT, MAINTENANCE AND REHABILITATION

1.1 Roadway Improvement, Maintenance and Rehabilitation.

1.11. Querfurth will undertake roadway widening and vegetation removal, consistent with the RSE, which may commence upon the execution of this Agreement and the approval of an encroachment permit by the County.

1.12. Querfurth shall install, at the earliest possible date, signage along the haul route consistent with the RSE. Querfurth will be responsible for the costs associated with sign installation.

1.13 The County currently performs grading on this road once a year. In coordination with the

County, Querfurth shall perform an additional annual grading of the haul route as described in the RSE with appropriate permits from the County as necessary.

1.14 Additional maintenance of vegetation trimming shall be performed by Querfurth throughout the duration of this Agreement.

2.0 FIVE YEAR REVIEW

2.1 On or about the fifth anniversary of the Effective Date of this Agreement (and every five (5) years thereafter during the term of this Agreement), the Parties shall jointly review the effectiveness of the Program as outlined in this Agreement and its Exhibits. If the Parties, by mutual agreement, determine that the Program requires modification, then the Program shall be modified, as the Parties shall mutually agree. If the Parties are unable to agree as to the effectiveness of the Program and/or the manner, if any, in which it should be modified, then a mutually acceptable Third Party Consultant shall be retained by the Parties to assist the Parties in achieving mutually agreeable changes to the Program. Where the Third Party Consultant is employed in this capacity, Querfurth shall pay the cost of the Third Party Consultant. If there remains any differences between the Parties notwithstanding the efforts of the Third Party Consultant, then Querfurth, shall continue with the implementation of the Program as then in effect.

2.1.2 If the Third Party Consultant is unable or unwilling to fulfill the responsibilities required under Section 2.1, or if the parties are unable to agree on the selection of the third party consultant, then the County shall name up to three potential replacements for such a consultant, and Querfurth shall select one from the list.

3.0 LIMITATION ON RESPONSIBILITY FOR THE PROGRAM

The maintenance and rehabilitation activities described in Section 1.0 represents the general work to be performed by Querfurth on an annual basis. Any future development or other sources of traffic not referred to in this Agreement that propose to utilize the subject sections shall be reviewed by the County as to percentage of possible degradation and the source's contribution per that percentage for the maintenance and rehabilitation of the subject roadways. The county shall administer and enforce such contributions from other sources of traffic as well as adjacent agricultural operations and uses as pertain to shoulder use, track out, and irrigation activities on County rights-of-ways. The Parties shall negotiate in good faith any changes to this agreement necessitated by such future development.

4.0 **INDEMNIFICATION.** Querfurth shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Querfurth's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. " Querfurth's performance" includes Querfurth's action or inaction and the action or inaction of Querfurth's officers, employees, agents and subcontractors.

5.0 INSURANCE

5.01 Evidence of Coverage:

Prior to commencement of this Agreement, Querfurth shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition Querfurth upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. Querfurth shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of Querfurth.

5.02 Qualifying Insurers:


All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

5.03 Insurance Coverage Requirements:

Without limiting Querfurth's duty to indemnify, Querfurth shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance, if Querfurth employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease. See Exhibit "C"  4-9-12

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, Querfurth shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

5.04 Other Insurance Requirements.

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such *policy* with the coverage required herein shall continue in effect for a period of three years following the date Querfurth completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction *in* coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Querfurth and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of Querfurth's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by Querfurth's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, Querfurth shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that Querfurth has in effect the insurance required by this Agreement. Querfurth shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

6.0 **TERM**

This Agreement shall terminate on the termination of the Permit.

7.0 **MISCELLANEOUS**

7.1 Governing Law. The validity, interpretation, effect, legal requirements and legal consequences of this Agreement, or arising out of or in connection with the subject matter thereof, shall be determined in accordance with and governed by the laws of the State of California.

7.2 Waivers; Modification. No waiver, amendment or modification of any term, provision, condition, covenant or agreement herein contained shall be effective unless set forth in writing, signed by all of the Parties hereto, which specifically sets forth such waiver, amendment or modification and such waiver, amendment or

modification shall be effective only to the extent set forth in such writing.

7.3 Non-Waiver. Inaction or acquiescence by a non-breaching Party in connection with any breach of any term, provision, condition, covenant or agreement herein contained, or in connection with any default or event of default hereunder shall not constitute a waiver of such breach, default or event of default and such non-breaching Party may, at any time thereafter, exercise all rights herein or at law conferred on account thereof.

7.4 Complete Agreement. This Agreement to the extent that it is consisted with Resolution No. 11-035 constitutes the entire agreement between the Parties and supersedes all agreements, representations, warranties, statements, promises, inducements and understandings, whether oral or written, with respect to the subject matter hereof, and no Party hereto shall be bound by or charged with any representations not specifically set forth in this Agreement or the exhibits hereto. Each Party hereby warrants and agrees that they have not relied upon any representations not specifically set forth herein as an inducement or as a material motivation for entering into this Agreement.

7.5 Severability. If any provision of this Agreement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

7.6 Number and Gender. Word in the singular shall include the plural, and words in a particular gender shall include either or both genders, when the context in which such words are used indicates that such is the intent.

7.7 Successors and Assigns. Subject to Sections 8.12, the terms and conditions of this Agreement shall be binding upon and shall insure to the benefit of the successors and assigns of the respective Parties.

7.8 Headings. The Article and Sections headings used in this Agreement are for convenience only, and the Parties hereto agree that such headings are not to be construed to define, limit, or extend the scope, intent or meaning of any part of this Agreement.

7.9 Venue. In case an action is brought to enforce or interpret any provision hereof, venue for such action shall be the Superior Court of the State of California, Monterey County, and nowhere else.

7.10 Notice.

7.10.1 Whenever, under the terms of this Agreement, it becomes necessary, appropriate, or desirable for a Party to give notice to the other Party, said notice shall be in writing and shall be personally delivered or given or mailed by commercial overnight courier service or by registered or certified United States mail receipt requested, with first-class postage prepaid.

7.10.2 At any time, either Party may designate a new or different address to which notices are to be sent, which notice of a new or different address shall be given as herein above immediately provided.

7.10.3 Any notice shall be deemed given as of the time (i) that the same is personally delivered to the intended recipient; (ii) as of a date two (2) days (excluding weekends and federal and state of California holidays) later than the time that the same is properly deposited in the United States mail, if such notice, deposited in the United States mail, is given as herein above provided; (iii) as of a date one day (excluding weekends and federal and state of California holidays) later than the time that the same is properly given to a commercial overnight courier service, for delivery to the other Party or (iv) as of the

date of receipt of facsimile if sent by facsimile to the facsimile number listed above during normal business hours for the recipient (or as of the next business day if sent by facsimile outside of normal business hours) and provided sender obtains a confirmation indicating that the facsimile has been transmitted without incident.

7.11 Further Assurance. Each of the Parties hereto, for itself and its respective successors, agrees to execute and deliver any and all instruments and documents and to do any acts or things reasonably necessary, proper, or appropriate for the full performance and the due effectuation of this Agreement.

7.12 Transfer of Interest. Querfurth may not assign its rights under this Agreement without the prior written consent of the County. County shall not unreasonably withhold or delay its consent. Any assignments consented to by County shall be evidenced by an instrument in such written form as is reasonably satisfactory to County and executed by Querfurth and the assignee. County may impose reasonable conditions on any proposed assignment, which may include without limitation that the proposed assignee assumes Querfurth's obligations under this Agreement (without, however, releasing Querfurth, there from).

7.13 Days. All references to "Days" shall mean calendar days unless specifically modified herein to be "business or working" days. All references to "notice" shall mean written notice given in compliance with Section 8.10. All references, if any, to "month" or "months" shall be deemed to include the actual number of days in such actual month or months.

7.14 Interpretation. It is expressly understood and agreed that the Parties have each had the opportunity to read and review this Agreement and that each Party has had the opportunity to have this Agreement reviewed by its attorney. If a Party has declined to do so, it has made an independent determination that such a review is unnecessary. Therefore, this Agreement is not to be construed either for or against either County or Querfurth, and that this Agreement shall be construed fairly, reasonably and impartially as between County and Querfurth.

7.15 Warranties. Each of the individuals signing this Agreement warrants that he/she possesses authority to bind the Party for which he/she purports to act.

7.16 Survival. Each of the provisions of this Agreement which may or must occur following the termination or expiration of this Agreement, including, but not limited to, indemnification and insurance, shall survive the termination or expiration of this Agreement.

7.17 Conflicts. In the event of any conflict between this Agreement and Attachment A, this Agreement shall be controlling. In the event of any conflict between this Agreement and Resolution No. 11-035, the terms of the Resolution shall prevail.


IN WITNESS WHEREOF, the Parties hereto have executed this Road Maintenance Agreement as of the Date below.

COUNTY OF MONTEREY

QUERFURTH

BY: _____

3-19-2012
DATE

BY: 
VANCE QUERFURTH

DATE

APPROVED AS TO FORM

BY: Aprilia A. Swanson 3-19-12
DEPUTY COUNTY COUNSEL DATE

RISK MANAGEMENT
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

By: Aprilia Schumaker
Date: 4-20-12

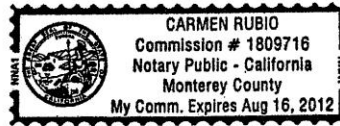
STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On MARCH 19, 2012 before me, CARMEN RUBIO, a Notary Public, personally appeared VANCE CARL QUERFURTH, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she ~~they~~ executed the same in ~~his~~ her ~~their~~ authorized capacity(ies), and that by ~~his~~ her ~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Carmen Rubio



(Seal)

Exhibit A

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:
USA-C/O BUREAU OF LAND MANAGEMENT (PLN090191)
RESOLUTION NO. 11-035

Resolution by the Monterey County Planning
Commission:

- 1) Adopting the Mitigated Negative Declaration),
and
- 2) Approving PLN090191, Use Permit and
Reclamation Plan for a surface mining operation
on approximately 12 acres on Federal land
(Bureau of Land Management). The Use Permit
allows a mining operation to excavate up a
maximum of 639,800 tons of Monterey shale
(Carmel Stone) over a 25-year period. The Permit
allows the excavation in five, five year phases as
follows: approximately 29,800 tons of material
during the first five year phase; 115,000 tons
during the second phase; 145,000 tons during the
third phase; 165,000 tons during the fourth phase,
and 185,000 tons during the fifth phase. No
permanent facilities are proposed on site. The
approval is based on the findings and evidence
and subject to the conditions of approval; and
- 3) Adopting a Condition Compliance/Mitigation
Monitoring and Reporting.

(PLN090191 USA - c/o Bureau of Land
Management, six miles west of Highway 101 and
San Ardo, northerly of San Ardo-Lockwood Road,
West of Williams Hill, a portion of Section 28, T22S,
R9E, and Section 29 T22S R9E. South County Area
Plan (APN: 422-101-002-000).

The USA-c/o Bureau of Land Management application (PLN090191) Use Permit and Reclamation Plan came on for public hearing before the Monterey County Planning Commission on October 26, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been

reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan,
- Monterey County Zoning Ordinance (Title 21)
- Monterey County Code Title 16.04, Surface Mining and Reclamation

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located six miles west of Highway 101 and San Ardo, northerly of San Ardo-Lockwood Road, east of Williams Hill, a portion of Section 28, T22S, R9E, and Section 29 T22S R9E (Assessor's Parcel Number 422-101-002-000) South County Area Plan. The parcel is zoned Resource Conservation, minimum 160 acre parcel size "RC/160", which allows the removal of minerals or natural materials for commercial purposes. The Resource Conservation land use designation is intended ensure conservation of a wide variety of resources while allowing for some limited use of these properties. The Reclamation Plan will restore the site to the existing open space/recreation consistent with the designation.
- c) The property is zoned "Resource Conservation, 160 Acre Minimum." The purpose of Resource Conservation Zoning District is to allow development in the more remote and mountainous areas in the County while protecting the significant and substantial resources of those areas. Under the approved Reclamation Plan the post-mining condition of the site would be restored to and open space/recreational end use consistent the existing pre-mining conditions and the zoning designation.
- d) Chapter 16.04 of the Monterey County Code, Surface Mining and Reclamation, establishes regulations for mining operations and reclamation. County staff reviewed the requirements of the ordinance and determined that the project complies with the requirements.
- e) The site is located in federal property under the jurisdiction of the Bureau of Land Management (BLM). Federal regulations require a mining permit and reclamation plan for the removal of minerals for commercial purposes.
- f) General Plan Policy No. C-1.11 - Under this policy, the County shall require new development to pay a Regional Traffic Impact Fee developed collaboratively between TAMC, the County, and other local and state agencies to ensure a funding mechanism for regional transportation improvements mitigating Traffic Tier 3 impacts. A Regional Traffic Impact (TAMC) fee is required for the project as a standard condition of approval.
General Plan Policy No. OS-2.2 - Mineral extraction operations shall be in keeping with sound conservation practices consistent with the Surface Mining and Reclamation Act (SMARA) and other applicable standards and adequate financial security shall be required to insure reclamation of the extraction site to a condition consistent with the surrounding natural landscape and environmental setting. The Reclamation Plan has been

reviewed by the State Office of Mining and Reclamation which has found it compliant with the provisions and standards of the SMARA. Conditions of approval include Erosion Control measures and Best Management Practices (BMP) as described in the Storm Water Pollution Prevention Plan as well as perimeter vegetation storage, revegetation and wattle installation, maintenance of drainage ditches and detention basins and use of detained water for dust control during wet and dry periods. The phased and final reclamation will restore the site to an open space recreational end use, and is consistent with this policy.

General Plan Policy No. OS-3.1 - Best Management Practices (BMPs) to prevent and repair erosion damage shall be established and enforced. A Drainage Plan and Erosion Control plan are included for the operation and phased reclamation. The drainage plan includes retaining all drainage on-site for the mining operation and concurrent and final reclamation. A perimeter soil and vegetation berm will separate the excavation including from the County Road, which also serves as visual screening, drainage, sediment, dust, wind, fire control. Upon final reclamation and closure, the final contouring and remaining detention pond and revegetation are consistent with the end use for the site, open space/recreation.

General Policy No. OS-5.16 - A biological study shall be required for any development project requiring a discretionary permit and having the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or substantially reduce the number or restrict the range of an endangered, rare, or threatened species. The site was surveyed for biological resources by the BLM ecologist (see EA/FONSI/IS/MND dated March 2, 2010). A second biological survey and assessment was completed May 31, 2011. The BLM ecologist and the biologist both concluded that there were no and no special status species were found on or near the site.

- g) The project planner conducted a site inspection on April 15, 2009 and June 23, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
- h) The project was not referred to a Land Use Advisory Committee (LUAC) for review because it is a project on Federal land. The project has been reviewed extensively by federal, state and county agencies and which have found the project consistent with applicable regulations.
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090191.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

EVIDENCE: a) The project has been reviewed for site suitability by the following departments and agencies: RMA- Public Works Department, RMA - Planning Department, Environmental Health Bureau, Water Resources

Agency, California Department of Forestry (CDF) South County Fire Protection District. There has been no indication from these departments/agencies that the site is not suitable for the proposed mining and reclamation. Conditions recommended by the RMA - Public Works Department, Environmental Health Bureau, Bureau of Land Management, RMA-Planning Department have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit C.

- b) Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed (See Finding # 4 below).
- c) The purpose of a Reclamation Plan is to ensure that: "Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses" (SMARA Section 2772(a)); and that "Residual hazards to the public health and safety are eliminated." (SMARA Section 2712(c)). The conditions of approval and Mitigation measures will be incorporated into the BLC contract. Through the review and approval of the Reclamation Plan it has been determined that the site is suitable for the proposed mining operation and that the site is suitable for restoration to pre-mining state and natural conditions.
- d) Staff conducted a site inspection on April 15, 2009 and June 23, 2009 to verify that the site is suitable for this use.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090191.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the 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.

- EVIDENCE:**
- a) The project was reviewed by the Public Works Department, Environmental Health Bureau, Water Resources Agency, and the California Department of Forestry (CDF) South County Fire Protection District. The respective departments/agencies recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Public facilities are not required for the implementation of the phased Reclamation Plan. No on-site permanent facilities are proposed or required for the operation or Reclamation Plan. No water or other utilities are necessary, water will be provided by portable truck trailer and nothing will be stored on-site.
 - c) Preceding findings and supporting evidence for PLN090191.

4. **FINDING:** CEQA (**Negative Declaration**) - On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN090191).
 - c) The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Mitigated Negative Declaration.
 - d) Issues that were analyzed in the IS/Mitigated Negative Declaration include: aesthetics air quality, biological, cultural, geology and soils; hydrology/water quality, mineral, noise, and transportation resources and would not be potentially affected by the project.

Aesthetics

The project is approximately 6.25 miles west of State Highway 101 and is too distant to be seen from 101. The site will be visible from some points along San Ardo-Lockwood Road including briefly from the road below the site from the east. From the west the site will be visible from the road adjacent to the site, to the west of the dirt driveway access. A perimeter berm would buffer visibility from the road and with the final grading and revegetation, the site will be a concave land form within the perimeter berm, and will blend in with the surrounding topography.

Air Quality

In order to ensure there will be no impacts from construction or excavation activities a mitigation measure for Best Management Practices is required by the MBUAPCD to assure a less than significant impact to air resources.

Biological Resources

The project area is a remote, arid, rocky environment with scrub brush and sparse trees. Although the U-shaped project site flanks and upper watershed of a steep drainage, no riparian or vegetation occurs. There are no creeks, rivers, ponds, lakes or any watercourses identified on the site or immediate downgrade of the site. The site was originally surveyed for biological resources by the BLM ecologist (see EA/FONSI/IS/MND dated March 2, 2010). Staff from the State Office of Mining and Reclamation (OMR) had expressed some concerns regarding biological resources as part of their review of the EA/FONSI/MND. Since the hearing before the Planning Commission, a

second biological survey *Carmel Stone Mine PLN090191 Supplemental Biological Information*, prepared by Nicole Nedeff, Consulting Ecologist, and dated May 31, 2011 (Exhibit G to the Initial Study) was completed which included an on-site survey; the report included research of the California Natural Diversity Data Base. The report and on-site survey found no special status plant or animal species on or near the site. The report was independently reviewed by the BLM ecologist and biologist and County staff who have concurred with the results of the report. Therefore, the project would not have a significant impact on biological resources.

Geology and Soils

A Site Geotechnical Report was completed as part of the revised Reclamation Plan attached as Appendix 2, and analyzed site conditions and provided recommendations for slopes and compaction. An Erosion Control Plan and Surface Water Pollution Prevention Plan (SWPPP) are included as Appendix 3. A geologic report was completed for the project and is included in the Reclamation Plan as Appendix 4. A "Technical Memorandum Topographical Surveying" is included as Reclamation Plan as Appendix 6, providing additional survey information for the project site. The reports concluded that there are no unsuitable conditions that would preclude mining activity with the implementation of the erosion control the SWPPP and Best Management Practices.

Greenhouse Gases

There will be GHG emissions associated with the production and transport of equipment to and from the project site. However, at this time, quantifying the emissions would be too speculative. Therefore, in the absence of State guidance or locally adopted thresholds, a primarily qualitative approach will be used to evaluate possible impacts for the proposed project.

Hazards/Hazardous Material

Activities at the mine are limited to mining processing and no materials or equipment will be stored on the site, it will arrive to the site daily and be removed with all equipment at the end of the day. A Hazardous Material questionnaire will be required to be submitted to the County Department of Health for review and approval of hazardous materials on-site.

Hydrology/Water Quality

An Erosion Control Plan and Surface Water Pollution Prevention Plan (SWPPP) were prepared for the Reclamation Plan. A Technical Memorandum to address Drainage Design, dated August 24, 2010, is included in the Reclamation Plan and includes drainage design calculations. Implementation of these plans and Best Management Practices will insure the project will not impact water resources.

Mineral Resources

The proposed action would have a long-term beneficial impact on the development of mineral resources on public lands because of the current demand for Monterey shale and the increased availability of these

materials as a result of the proposed action. The project would not result in adverse impacts to mineral resources.

Noise

The project is in a remote sparsely populated area and would not produce substantial new noise sources or impacts. Temporary increases in noise and will occur as a result of truck trips generated; however, these truck trips will be intermittent, temporary, and will not result in a substantial and permanent increase in ambient noise levels above the existing noise levels in the project vicinity. Operation hours are restricted to 7 a.m. to 6 pm. Monday through Saturday during the summer months, and daylight during the winter and will not on major holidays.

Transportation/Traffic

Dust will be required to be controlled with watering as a Best Management Practices for the mine operation and the unpaved portion of the road. In addition, staff identified potential impacts to Transportation/Traffic Resources. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:

- Traffic Analysis for Carmel Stone Quarry, prepared by Hatch Mott MacDonald, Gilroy CA, June 7, 2011.
- Traffic Analysis for Carmel Stone Quarry, prepared by Hatch Mott MacDonald, Gilroy CA, August 8, 2011.
- Traffic Analysis for Carmel Stone Quarry, prepared by Hatch Mott MacDonald, Gilroy CA, August 22, 2011, LIB110328.

The County RMA-Public Works Department will require two mitigation measures to reduce traffic impact to a less than significant level, including a road maintenance agreement and to pay regional traffic mitigation fees to address additional cumulative traffic on the regional roadway system. With conditions and mitigation measures incorporated, there will be no potentially adverse traffic impacts as a result of the project. An encroachment permit will be required by the RMA – Public Works Department for any work within the public right of way and along Lockwood-San Ardo Road.

- e) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation and is hereby incorporated herein by reference as Exhibit C. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- f) An EA/FONSI/IS/MND (EA) was prepared by the BLM with the County as a joint environmental review to reduce duplication between NEPA and CEQA. However, the EA addressed only the first 5 years and corresponding mining amounts of the operation. County staff

prepared second Initial Study/Proposed Mitigated Negative Declaration for the whole project in accordance with CEQA which was circulated for public review from September 6, 2011 to October 5, 2011 (SCH#: 2010031009). Issues that were analyzed in the Draft Negative Declaration include consistency with applicable local and state plans and laws, including Green House Gases, cumulative impacts, aesthetics, air quality, biological, cultural, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology/water quality, mineral, noise, and transportation resources.

- g) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings (as applicable). These documents are on file in the RMA-Planning Department (PLN090191) and are hereby incorporated herein by reference.
- h) Staff analysis contained in the Initial Study and the record as a whole indicate the project could not result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources.
- i) The County has considered the comments received during the public review period, and they do not alter the conclusions in the Initial Study and Negative Declaration. Comments included:

Comments on NEPA/CEQA document, filed March 2, 2010:

Since the NEPA/CEQA document was completed and circulated on March 2, 2010, the operator revised the project in response to public comments and submitted a revised Reclamation Plan, Carmel Stone Mine, dated July 28, 2009, revised December 11, 2009, August 31, 2010, and October 21, 2010, "Reclamation Plan". Revisions were primarily in response to a comment letter from the Office of Mine Reclamation (OMR) dated April 8, 2010 and December 15, 2010. Primarily OMR issues were with SMARA compliance, clarification and additional details required for geotechnical, hydrological, resoiling and revegetation. Other comments concerned the biological surveys and mitigation measures were identified to avoid potential impacts to biological resources. A second response letter dated December 15, 2010 was submitted by the OMR confirming that, with their recommended revisions/changes, the Reclamation Plan would be consistent with SMARA requirements. These additional revisions have been incorporated in the Reclamation Plan. The OMR submitted a letter dated September 1, 2011, stating that the revised reclamation plan dated October 21, 2010 and the revised figure adequately addressed the OMR's comments.

Comments on the Mitigated Negative Declaration filed September 2,

2011 included:

A comment letter was received from the Department of Transportation, dated September 20, 2011, concerning the production calculations, truck and employee trips. County staff responded to CalTrans clarifying that the calculations in their comment letter were based on their reading of data included in a version of the Reclamation Plan dated April 16, 2010. Staff further clarified that the correct production quantities are listed in the IS/MND and revised Reclamation Plan Addendum, dated August 31, 2011, instead of the matrix shown in the version of the Reclamation Plan dated April 16, 2010. A clarification was also provided that employee truck trips will be reduced by carpooling, not production truck trips.

A comment letter was also received from the Monterey Bay Unified Air Pollution Control District (MBUAPB) dated October 3, 2011. They confirmed that their previously comments from letter dated April 1, 2010 was included in the IS/MND. A clarification was also provided that employee truck trips will be reduced by carpooling, not production truck trips.

- j) The Monterey County Planning Department, located at 168 W. Alisal, Second Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

5. FINDING:

COUNTY AS LEAD AGENCY FOR SMARA RECLAMATION PLAN COMPLIANCE - A Memo of Understanding (MOU) dated October 19, 1992 between the State of California Department of Conservation, the State Mining and Geology Board, the U.S. Department of Agriculture, Forest Service and the Bureau of Land Management (BLM) established the County as the Lead Agency for SMARA reclamation plan compliance. The purpose is to: 1) ensure adequate and appropriate reclamation throughout the state; 2) simplify the administration of surface mining and reclamation practice requirements on Federal and private lands; 3) achieve coordination of activity governing reclamation; and, 4) eliminate duplication among the agencies.

- EVIDENCE:** a) Consistent with the MOU, to simplify and eliminate duplication, staff prepared a joint NEPA/CEQA environmental review instead of preparing a separate CEQA review. Staff reviewed the NEPA EA/FONSI for conformance with CEQA requirements for the Reclamation Plan project.

6. FINDING:

SURFACE MINING AND RECLAMATION ACT (SMARA) - Public Resources Code, Division 2, Chapter 9, Section 2710 et seq., establishes certain state authority to review mining reclamation. The project complies with the provisions of SMARA and State regulations, as those provisions may be amended from time to time. Article 5, Section 2770(a) regulates reclamation of mined lands, requires a

reclamation plan and financial assurances review and approval by the lead agency. Sections 2772 to 2774 establishes the contents of the reclamation plans, financial assurances and annual inspections. Section 2773.1 establishes the requirements for the Financial Assurances to ensure reclamation is performed in accordance with the surface mining operations approved reclamation plan. Section 2774 establishes the procedures and for the review and approval of reclamation plans and financial assurances. Section 2774(a) requires an Interim Management Plan (IMP) to implement Reclamation within 90 days of the operation becoming idle as defined in Section 2727.1.

EVIDENCE: a) The Reclamation Plan was reviewed by BLM staff to meet the Federal mining and reclamation requirements and County staff reviewed the Reclamation Plan for consistency with SMARA requirements. The Reclamation Plan includes a drainage plan to retain all drainage on-site for the mining operation and concurrent reclamation. A perimeter soil and vegetation berm will separate the excavation, including from the County Road, which also serves as visual screening, drainage, sediment, dust, wind, fire control. Reclamation includes grading and contouring to match the surrounding topography. Reclamation is phased in that only two acre areas will be mined at one time. Each two acre area will be reclaimed concurrently as a new two acre area is excavated, leaving only two acres of disturbed unreclaimed area at any time. Revegetation will include vegetating with salvaged seeds and shrubs and trees with native species. Noxious and invasive plant controlled and monitored. Existing topsoil will be stockpiled for reclamation; however, as there is little topsoil on the existing site, additional topsoil and soil amendments will be imported to ensure successful revegetation consistent with the end use. The existing dirt access road off San Ardo Lockwood Road, proposed to be widened for the operation, will remain as access road for recreational purposes. Upon final reclamation final contouring the remaining detention pond and revegetation are consistent with the end use for the site, open space/recreation.

EVIDENCE: b) County staff reviewed the requirements of the law and determined that the project complies with the requirements. The Department of Conservation, Office of Mine Reclamation reviewed and commented the revised reclamation plan and EA/FONSI/IS/MND. The OMR comments (letter dated December 15, 2010) will be incorporated into the permit and plan and the OMR has stated that the OMR comments have been addressed. Project conditions of approval require reclamation plan compliance, ongoing annual inspection, and Financial Assurances for the proposed phased reclamation.

EVIDENCE: c) All comments by the State Office of Mine Reclamation (OMR) have been adequately addressed and/or incorporated into the plan and written response provided to the OMR comments. The Office of Mine Reclamation (OMR) submitted comments on the Reclamation Plan (letter dated April 8, 2010) concerning deficiencies of the Reclamation Plan. Primarily OMR issues were with SMARA

compliance, clarification and additional details required for geotechnical, hydrological, resoiling and revegetation. The Reclamation Plan was revised in response to the OMR's comments. Other comments concerned the biological surveys and mitigation measures were identified to avoid potential impacts to biological resources. A second response letter dated December 15, 2010 was submitted. These additional revisions will be will be required to be incorporated in the Reclamation Plan as noted in the County's December 29, 2010 letter. The OMR submitted a letter dated September 1, 2011, stating that the revised reclamation plan dated October 21, 2010 and the revised figure adequately addressed the OMR's comments.

- d) County staff have reviewed and approved the Financial Assurances Cost Estimate (FACE) and determined that it is adequate for reclamation and it is in compliance with SMARA Sections 2770(d) and 2771.1(c).

EVIDENCE: e) Project conditions of approval require Reclamation plan compliance, ongoing annual inspections, and review and approval of Financial Assurances for the proposed phased reclamation consistent with SMARA.

EVIDENCE: f) See above Findings and Evidence.

7. FINDING: STATE REGULATIONS CALIFORNIA CODE OF REGULATIONS (CCR) ARTICLE 1, SECTIONS 3500-3505, ARTICLE 9, SECTIONS 3700-3713 AND ARTICLE 11 3800.

These State regulations establish the standards for reclamation plan content, reclamation performance standards, financial assurances, and financial assurances mechanisms. County staff reviewed the requirements of the law and determined that the reclamation plan complies with the requirements.

EVIDENCE: a) The Reclamation Plan project meets the minimum standards for practices required such as a Soil Erosion and Drainage Control and resoiling and revegetation. Project conditions of approval require submittal of annual Financial Assurances, including the provision of Financial Assurances Mechanism according to PRC 2773.1(e), and annual inspections as required by PRC 2774(b). The Financial Assurances ensure that the objectives of the reclamation plan will be attained.

EVIDENCE: b) The project has been forwarded to the Department of Conservation Office of Mine Reclamation (OMR) for review. See Finding No. 6, Evidence c) above.

EVIDENCE: c) All comments by the State Office of Mine Reclamation (OMR) have been adequately addressed and/or incorporated into the plan and written response provided to the OMR comments.

EVIDENCE: d) All comments by the State Office of Mine Reclamation (OMR) have been adequately addressed and/or incorporated into the plan and written response provided to the OMR comments.

EVIDENCE: e) The OMR submitted a letter dated September 1, 2011, stating that the

revised reclamation plan dated October 21, 2010 and the revised figure adequately addressed the OMR's comments.

EVIDENCE: f) See above Findings and Evidence No. 6.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.

EVIDENCE: a) Section 21.080.040.D Monterey County Zoning Ordinance (Board of Supervisors).

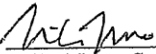
DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- 1) Adopt the Mitigated Negative Declaration; and
- 2) Use Permit and Reclamation Plan for a surface mining operation on approximately 12 acres on Federal land (Bureau of Land Management). The Use Permit allows a mining operation to excavate up a maximum of 639,800 tons of Monterey shale (Carmel Stone) over a 25-year period. The Permit allows the excavation in five, five year phases as follows: approximately 29,800 tons of material during the first five year phase; 115,000 tons during the second phase; 145,000 tons during the third phase; 165,000 tons during the fourth phase, and 185,000 tons during the fifth phase. No permanent facilities are proposed on site. The approval is based on the findings and evidence and subject to the conditions of approval; and
- 3) Adopt the attached Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this October 26, 2011 upon motion of Commissioner Brown, seconded by Commissioner Rochester, by the following vote:

AYES: Brown, Vandevere, Roberts, Rochester Salazar, Getzelman, Mendez, Diehl, Hert
NOES: None
ABSENT: None
ABSTAIN: Padilla


Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON NOV 17 2011

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE NOV 27 2011

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

RESOLUTION 11-035 - Exhibit C
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: USA - c/o Bureau of Land Management
 File No: PLN090191 APNs: 422-101-002-000
 Approved by: Planning Commission Date: October 26, 2011

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Count Number	Mits Number	Conditions of Approval and/or Mitigation Measures and Responsible Party/Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be assessed.	Responsible Party for Compliance	Verification of Compliance (date/date)
RMA - Planning Department					
1.		<p>PD001 - SPECIFIC USES ONLY</p> <p>This Use Permit and Reclamation Plan for a surface mining operation on approximately 12 acres on Federal land (Bureau of Land Management). The Use Permit allows a mining operation to excavate up a maximum of 639,800 tons of Monterey shale (Carmel Stone) over a 25-year period. The Permit allows the excavation in five, five year phases as follows: approximately 29,800 tons of material during the first five year phase; 115,000 tons during the second phase; 145,000 tons during the third phase; 165,000 tons during the fourth phase, and 185,000 tons during the fifth phase. No permanent facilities are proposed on site. This property is located approximately six miles west of Highway 101 and San Ardo, northerly of San Ardo-Lockwood Road, west of Williams Hill, a portion of Section 28, T22S, R9E, and Section 29, T22S R9E, (Assessor's Parcel Number 422-101-002-000), South County Area Plan. For the purposes of these conditions "Applicant" and "Operator" means Vance Querfurth for the Carmel Stone Mine, and his successors and assigns. This permit and reclamation plan were approved in accordance with County ordinances and land use regulations subject to the following terms and</p>	<p>Adhere to conditions and uses specified in the permit.</p> <p>Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department.</p>	<p>Owner/ Applicant</p> <p>RMA - Planning</p>	<p>Ongoing unless otherwise stated</p>

Permit Cond. Number	Wing Number	Conditions of Approval and/or Mitigation Measures and Responsible Party (See Department)	Compliance or Monitoring Actions to be Performed Where Applicable, or Specially Professionals Required for Action to be Accepted	Responsible Party for Compliance	Timing	Verification of Compliance (Time/Date)
2.		<p>conditions. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (RMA-Planning Department)</p> <p>PD004 - INDEMNIFICATION AGREEMENT The Operator/Applicant agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the</p>	<p>1. Submit signed and notarized Indemnification Agreement to the Director of RMA - Planning Department for review and signature by the County.</p> <p>2. Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA - Planning Department.</p>	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of any permits, use of the property, whichever occurs first and as applicable	

Permit/Conti. Number	Mills Number	Conditions of Approval and/or Mitigation Measures and Responsible Party/Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required or action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
3.		<p>defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)</p> <p>PD005 - FISH AND GAME FEE-NEG DEC/AIR Pursuant to the State Public Resources Code § 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning Department)</p>	<p>The applicant shall submit a check, for \$2,010.25 plus a \$50 County Clerk processing fee, payable to the County of Monterey, to the Director of the RMA - Planning Department.</p> <p>If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of the RMA - Planning Department.</p>	Owner/ Applicant	Within 5 working days of project approval	
4.		<p>PD006 - MITIGATION MONITORING PROGRAM The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (RMA - Planning Department)</p>	<p>1) Operator/Applicant shall enter into agreement with the County to implement a Mitigation Monitoring Program.</p> <p>2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.</p>	Owner/ Applicant	Within 60 days after project approval or prior to the issuance of grading and building permits, whichever occurs first.	
5.		<p>PD032(A) - PERMIT EXPIRATION (NON-STANDARD) The Use Permit and Reclamation Plan shall be granted for a time period up to 25 years, to expire on October 26, 2036, and provided that the Operator is in compliance with all permit conditions, including providing proof of a valid BLM "Non-Competitive Monterey Shale 5-year Sales Contract." The BLM mining permit is renewable after five years and applicant shall provide proof of renewal. If the BLM permit is not renewed during the</p>	<p>1. Operator/Applicant shall provide proof of a valid BLM "Non-Competitive Monterey Shale 5-year Sales Contract."</p> <p>2. The Reclamation Plan shall expire upon the expiration of the BLM contract.</p> <p>3. Reclamation shall be implemented within 30 days of the BLM contract expiration.</p>	Operator/ Applicant	Ongoing	

Permit Code Number	Mining Number	Conditions of Approval and/or Mitigation Measures and Responsible Party for Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be executed.	Responsible Party for Compliance	Timing	Verification of Compliance (time/date)
		term of this permit, the operation will cease and reclamation shall start and be completed within the time required by the BLM, the SMARA requirements, and the Reclamation Plan. Reclamation and the closure shall be approved by the Department of Conservation OMR. All reclamation shall be completed prior to expiration of the permit. (RMA - Planning Department)	4. A request for extension must be received by the Planning Department at least 30 days prior to the expiration date.			
6		PDSP001 - RECLAMATION PLAN COMPLIANCE - (NON-STANDARD) All aspects of the operation shall be conducted in compliance with the approved Mining (Operations) and Reclamation Plan, and as modified by Condition No 13, and other applicable requirements of the State Surface Mining and Reclamation Act (SMARA) and conditions of this permit and shall be conducted only within the boundaries indicated in the approved Mining and Reclamation Plan dated July 28, 2009 (Revised December 11, 2009, August 31, 2010 and October 21, 2010. (RMA - Planning Department)	Conduct all aspects of the operation in compliance with the approved Reclamation Plan and other applicable requirements of the State Surface Mining and Reclamation Act (SMARA) and conditions of this permit and shall be conducted only within the boundaries indicated in the approved Mining and Reclamation Plan	Operator/ Applicant	Prior to commencement of use, upon expiration of mining permit or BLM 5-year Sales Contract and as may be renewed, and ongoing	
7		PDSP002 - ANNUAL OPERATION INSPECTIONS - (NON-STANDARD) The Operator shall allow annual inspections of the mining operation by the RMA-Planning Department during the duration of the permit as required by Monterey County Code Chapter 16.04.100, and the Surface Mining and Reclamation Act. The operator shall reimburse the County or pay the full cost of the inspection services, including related administrative costs required pursuant to the Act. Payment of the County annual inspection fee is required within 60 days of the invoice date. (RMA - Planning Department)	Allow annual inspections of the mining operation by the RMA-Planning Department during the duration of the permit as required by the State Mining and Reclamation Act. The Operator shall reimburse the County or pay the full cost of the inspection services, including related administrative costs required pursuant to the Act. Payment of the County annual inspection fee is required within 60 days of the invoice date.	Operator/ Applicant	Within 60 days of the invoice date, annually ongoing	

Permit Cond. Number	Mills Number	Conditions of Approval and/or Mitigation Measures and Responsible Parties/Department	Compliance or Monitoring Actions to be Performed. Where applicable a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
8		<p>PDSP003 – RECLAMATION ASSURANCE – (NON-STANDARD) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, financial assurances are required as provided herein. At least 45 days prior to commencing mining activities and thereafter on an annual basis (by September 1), the operator shall submit a reclamation cost estimate and financial assurances to the RMA - Planning Department, who shall submit the financial assurances cost estimate (FAE) to the State Department of Conservation for review. Financial assurances shall comply with this condition, Monterey County Code Chapter 16.04, including but not limited to MCC Section 16.04.080.C, and the Surface Mining and Reclamation Act (California Public Resources Code Section 27110 et seq., as may be periodically amended.)</p> <p>Cost estimates for the financial assurance shall be submitted to the RMA - Planning Department for review and approval at least 45 days prior to the operator securing financial assurances. Cost estimates must be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the RMA - Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan, shall be based upon cost estimates that include but may not be limited to labor, equipment, materials, mobilization of</p>	<p>1. Submit reclamation plans along with the revised reclamation financial assurances cost estimate to the RMA - Planning Department for review and approval at least 45-days prior to commencing use. The County shall submit the financial assurances to the State Department of Conservation for review.</p> <p>2. Upon approval of the reclamation estimate by the Director of Planning Department, the Operator shall provide financial assurance, in the form of a surety bond, certificate of deposit or other suitable mechanism, to the County prior to initial commencement of operations.</p>	Operator/ Applicant	Within 30 days of Reclamation Plan approval and 45 days prior to commencement of mining operation and thereafter on an annual basis by September 1 of each year.	

Permit Cond. Number	Mile Number	Conditions of Approval and/or Mitigation Measures and Responsible Party (See Department)	Compliance or Monitoring Actions to be performed. If there are applicable a certified professional shall be required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
		<p>equipment, administration, and reasonable profit by a commercial operator other than the permittee. The estimate shall be based on local equipment and labor rates and shall include all standard reclamation tasks and contingency costs recommended by the California Department of Conservation. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next one-year period, including any required interim reclamation. The amount of the financial assurance shall be equal to the cost of completing the remaining reclamation of the site as prescribed in the approved or amended Reclamation Plan during the succeeding one-year period. The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the operator may not claim credit for reclamation scheduled for completion during the coming year. In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the County or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.</p> <p>Operator shall provide the financial assurance to the County in a form and manner acceptable to the County and State Department of Conservation under Pub. Res. Code Section 2773.1 and which County reasonably</p>				

Permit Cond. Number	Ming Number	Conditions of Approval and/or Mitigation Measures and Responsible and Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<p>determines is adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan and the requirements herein specified, such as a surety bond executed by an admitted surety insurer, irrevocable letter of credit from an accredited financial institution, or certificate of deposit. Security shall meet the requirements set forth in Section 16.04.080.C of the Monterey County Code and in Pub. Res. Code Section 2773.1. The security shall be conditioned upon the faithful performance of the Reclamation Plan, and as specified in State regulations. Financial assurances shall be made payable to the County of Monterey and the State Department of Conservation, as provided in Public Resources Code Section 2773.1(a)(4), as may be periodically amended. The form of said financial assurance shall include a provision allowing the County and the State Mining and Geology Board to require forfeiture of the financial assurances and to use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan upon a determination by the County or the State Mining and Geology Board that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without commencing reclamation, in accordance with the Public Resources Code section 2773.1(b) as periodically amended.</p> <p>Such financial assurance shall be filed annually with the Director of the Planning and Building Inspection Department. Revisions to financial assurances shall be submitted to the RMA - Planning Department each year prior to the anniversary date for approval of the financial assurances. If the mining operation is sold, or</p>				

Permit Compl. Number	Mills Number	Conditions of Approval and/or Mitigation Measures and Responsible Party to the Department	Compliance or Monitoring Actions to be performed. Where applicable a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<p>ownership is otherwise transferred, the Operator's financial assurance must remain in effect until the County has approved, after review by the State Department of Conservation, the replacement assurances.</p> <p>Operator shall maintain financial assurances in effect for the duration of the permit and any additional period required until the Planning Director determines that the site is fully reclaimed (including any maintenance required). The financial assurances shall not be released until the County determines that the site has been reclaimed, per the established reclamation standards, and revegetation is determined to be self sustaining.</p> <p>The County requires a 10% Lead Agency Administrative Cost for the "Summary of Cost" line item in the annual FAE for all mining operations as of 2010. The revised FAE shall be submitted to the RMA - Planning Department for review and approval. The County may periodically revise the Administrative Cost. The Financial Mechanism for the FAE is required to be payable to the BLM, the County, and Department of Conservation (OMR) and cannot be cashed without a release letter from each. (RMA - Planning Department)</p>		Operator Applicant	Within 90 days of the mining operation becoming idle, submit to the RMA-Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA and shall provide measures the operator shall implement to maintain the site in a stable condition taking into	
9		<p>PDSP004 - INTERIM MANAGEMENT PLAN - (NON-STANDARD)</p> <p>Within 90 days of the mining operation becoming idle (to curtail surface mining operations for a period of one year or more, by more than 90% of the operations previous maximum mineral production, with the intent to resume minimum operations at a future date), the operator shall submit to the RMA - Planning Department a proposed Interim Management Plan (IMP). The proposed IMP</p>		Operator Applicant	Within 90 days of the mining operation becoming idle, submit to the RMA-Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA and shall provide measures the operator shall implement to maintain the site in a stable condition taking into	

Permit Cont. Number	Mining Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed, where applicable, or permit/professional's required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (date)
		shall fully comply with the requirements of SMARA (Monterey County Code Chapter 16.04.095 and the Surface Mining and Reclamation Act (Public Resources Code, Section 2710 et seq.) and California Code of Regulations, Title 14, Section 3500 et seq., as may be periodically amended) and shall provide measures the operator shall implement to maintain the site in a stable condition taking into consideration public health and safety. The IMP shall be subject to the review and approval by the Monterey County RMA - Planning Director. (RMA - Planning Department)	consideration public health and safety. The IMP shall be subject to the review and approval by the Monterey County Planning Department.			
10		PDSP005 - RECLAMATION PLAN RESPONSIBILITY - (NON-STANDARD) The Operator/Applicant shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the RMA - Planning Department in the mining operator's permanent record. (RMA - Planning Department)	Sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be submitted to kept by the RMA - Planning Department in the mining operator's permanent record.	Operator/Applicant	Within 30 days of Reclamation Plan approval and prior to commencement of use/ongoing	
11		PDSP006 - UPON SALE OR TRANSFER OF OPERATION - (NON-STANDARD) Upon the sale or transfer of the operation, the new Operator shall file a notice with the RMA- Planning Department stating that: "The Operator shall accept responsibility for reclaiming the mined lands in accordance with the approved Reclamation Plan and shall operate the surface mining activity within the limits and according to the conditions of the Permit and Reclamation Plan." (RMA - Planning Department)	- Within 30 days of the transfer or sale, submit a notice to the Director of RMA - Planning Department. - The Operator shall provide a copy of the new "Non-Competitive Monterey Shale 5-year Sales Contract" to the RMA - Planning Department.	Operator/Applicant	Within 30 days of the sale of the property	

Permit Cont. Number	Mine Number	Conditions of Approval and/or Mitigation Measures and Responsible Party/Department	Committee or Monitoring Means to be Performed: Where applicable, a certified professional is required for activities to be completed.	Responsible Party/Compliance	Timing	Verification of Compliance (mine/site)
12		<p>PDSP007 – OTHER AGENCY PERMITS – (NON-STANDARD)</p> <p>Copies of all permits from other agencies shall be submitted to the RMA - Planning Department, including the BLM "Non-Competitive Monterey Shale 5-year Sales Contract". (RMA – Planning Department)</p>	<p>Within 60 days of Reclamation Plan approval and prior to commencement of use, submit copies of all permits from other agencies to the RMA - Planning Department.</p>	Operator/Applicant	Within 60 days of Reclamation Plan approval and prior to commencement of use	
13.		<p>PDSP009 – RECLAMATION PLAN REVISIONS</p> <p>The Operator/Applicant shall incorporate the following items into the Reclamation Plan as required in the Office of Mine Reclamation comment letter dated December 15, 2010, in the form of: 1) a Revised Final Grading Plan Figure 5 (item #1); and 2) a "Supplemental" addendum by the applicant/operator and submitted to the RMA Planning Department for review and approval within 30 days of the Reclamation Plan approval:</p> <p>"Mining Operation and Closure</p> <ol style="list-style-type: none"> Figure 5, Final Grading Plan will be revised to include all surface mining operations within the site boundary. (The access road was shown out side of the limits.) The applicant/operator will include a statement on the Reclamation Plan: <i>"Side casting of mined material will not occur at the site and that any material inadvertently side casted will be brought back into the mine limits."</i> <p>Geotechnical Requirements</p> <ol style="list-style-type: none"> There is no earth fill as part of the Reclamation Plan. Figure 5, Final Grading Plan, the contour lines shall be corrected to show that there is no area of earth fill. The Site Geotechnical report has no recommendations for earth fill as the mine operation has been revised and designed without earth fill. <p>Resoiling and Revegetation</p> <ol style="list-style-type: none"> The Reclamation Plan shall be revised. The performance standards on page 19 shall be deleted and replaced with the OMR's recommended 	<p>Within 30 days of the permit and reclamation plan approval, submit four copies the revised Reclamation Plan in the form of: 1) a Revised Final Grading Plan Figure 5 (item #1); and 2) a "Supplemental" addendum revised Reclamation supplemental Addendum and Final Grading Plan (Figure 5) to the RMA-Planning Department for review and approval. Staff shall forward the revised Reclamation Plan to the BLM and the OMR. Incorporate the items into the Reclamation Plan in the form of: 1) Revised Final Grading Plan Figure 5 (item #1); and 2) a "Supplemental" addendum by the and submit both documents to the RMA Planning Department for review and approval.</p>	Owner/Applicant	Within 30 days of Permit/Reclamation Approval and prior to commencement of use.	

Permit Compl. Number	Mitig. Number	Conditions of Approval/monitoring, Mitigation Measures and Responsible Party (see Department)	Compliance or Monitoring Actions to be performed. Mitig. applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)						
		<p>standards. Performance standards:</p> <table border="1" data-bbox="402 982 532 1392"> <tr> <td>Percent cover of native perennials per 50 meter transect</td> <td>50%</td> </tr> <tr> <td>Species of richness of native perennials 50 meter transect</td> <td>3 pounds/acre</td> </tr> <tr> <td>Density of native perennials per 50 meter transect</td> <td>12 pounds/acre</td> </tr> </table>	Percent cover of native perennials per 50 meter transect	50%	Species of richness of native perennials 50 meter transect	3 pounds/acre	Density of native perennials per 50 meter transect	12 pounds/acre				
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Species of richness of native perennials 50 meter transect	3 pounds/acre											
Density of native perennials per 50 meter transect	12 pounds/acre											
14.		<p>5. The last sentence on page 19 shall be deleted concerning statistical accuracy for monitoring. Other Requirements: <u>Financial Assurances Cost Estimate</u> 6. As stated in the 11/01/10 letter to OMR from the Planner, the, FAE (Attachment No. 7) in the Reclamation Plan is required to be increased to reflect the revised Reclamation Plan and details noted in the OMR letter dated April 9, 2009. The FAE shall be revised to include a Lead Agency Administrative cost line item of 10% of the total reclamation cost, increasing the total FAE from \$69,600 to \$73,906. <u>Administrative Requirements</u> 7. A signed Statement Accepting Responsibility for the Reclamation Plan is required to be added to the Reclamation Plan and submitted to the OMR (SMARA section 2772(c)(10). The Statement of Responsibility is included on page 22 of the Reclamation Plan." (RMA - Planning Department)</p>										
		<p>PDSP011 HOURS OF OPERATION (NON-STANDARD): Hours of operation shall be restricted to the hours between 7:00 a.m. and 6:00 p.m. during summer months, and daylight hours in winter months, Monday through Saturday. The site will not be operated during major holidays. (RMA- Planning Department)</p>	<p>Operations shall occur only between 7:00 a.m. and 6:00 p.m. Monday through Saturday during summer months, and daylight hours in winter months Monday through Saturday. The site will not be operated during major holidays.</p>									

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Party/Use Department	Compliance or Monitoring Actions to be performed. Where applicable, certified professionals required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
RMA - Public Works Department						
15.		PW0001 - ENCROACHMENT (COM) Obtain an encroachment permit from the Department of Public Works and construct a commercial driveway connection to San Ardo-Lockwood Road including acceleration and deceleration tapers. The design and construction is subject to the approval of the Public Works Director. (RMA - Public Works)	Applicant shall obtain an encroachment permit from DPW prior to issuance of building permits and complete improvement prior to occupying or commencement of use. Applicant is responsible to obtain all permits and environmental clearances.	Operator/ Applicant	Within 30 days of Reclamation approval and prior to commencement of use	
16.		PWSP001 - TRUCK ROUTE (NON-STANDARD) Truck access to and from the site is restricted to the portion of San Ardo-Lockwood Road east of the site towards Paris Valley Road and State Highway 101. Use of the portion of the road west of the site for truck access and the hauling of material is prohibited (RMA - Public Works)	Access the site via Lockwood-San Ardo Road to Paris Valley Road to State Highway 101.	Operator/ Applicant	Ongoing during the life of the Permit and Reclamation Plan	
17.		PW SP002 - ROAD SIGNS (NON-STANDARD) A public information sign shall be installed at the entry driveway of the mine and San Ardo-Lockwood Road, the size and location of the sign shall be approved by the County. The sign shall be visible to drivers in both directions and shall include the following: the contact information for the operator including the Operator's name and phone number where the public can contact the Operator for complaints concerning unsafe practices and/or unsafe driving. Any complaints shall be responded to and action taken to follow-up to resolve any problem within 24 hours. The sign shall be maintained in proper condition during the life of the Use Permit. (RMA - Public Works)	Install and maintain the sign as required.	Operator/ Applicant	Ongoing	

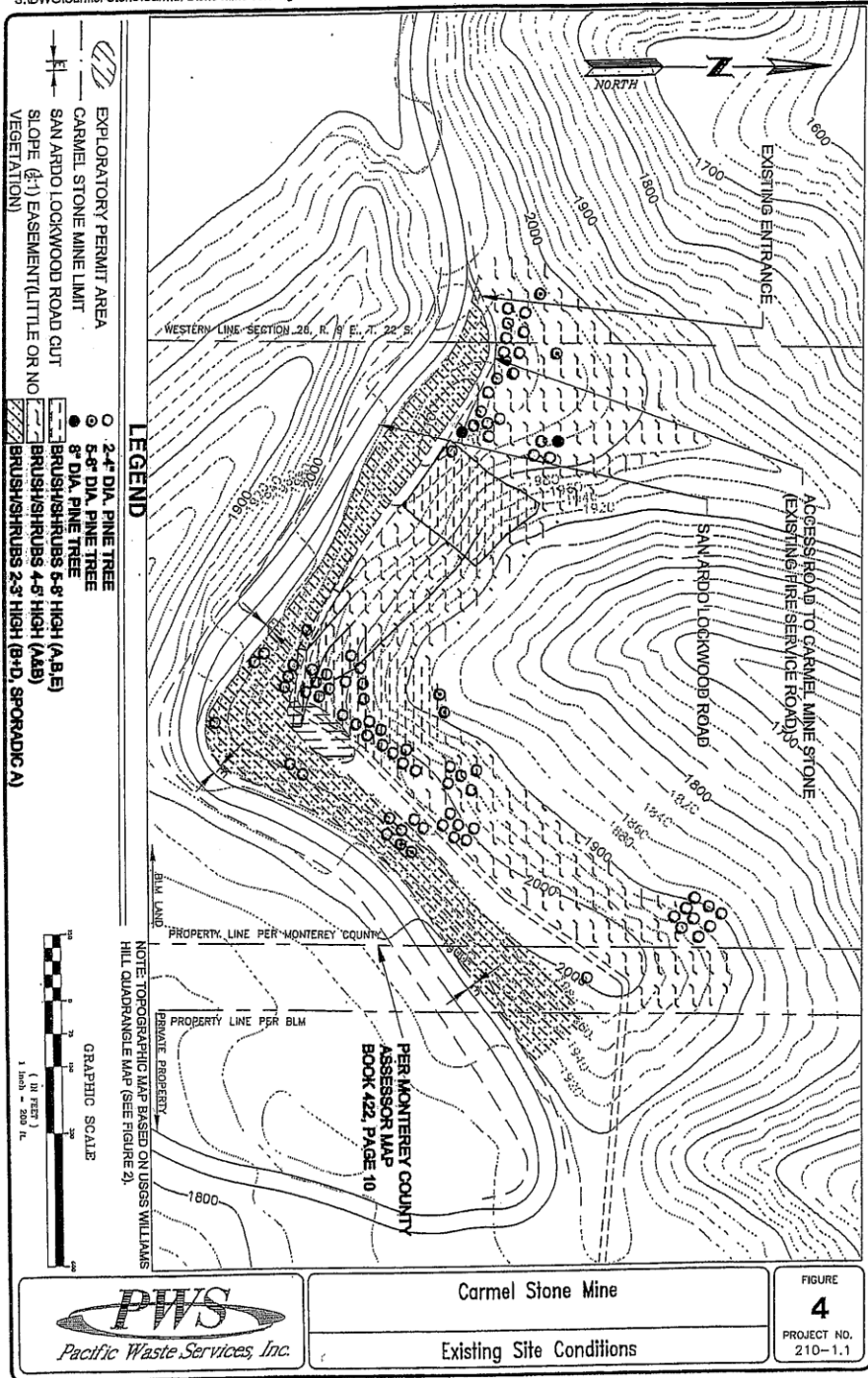
Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Party/Department	Health Department - Environmental Health Bureau Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for actions to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
18.		EHSP001 PORTABLE TOILETS (NON-STANDARD): An adequate number of portable toilets shall be provided and maintained so as not to create a public nuisance and shall be maintained by a permitted liquid waste hauler pursuant to Monterey County Code 15.20.020.B 1, 2 and 4. Portable units shall provide hand washing capacity. Submit copy of service contract to the Division of Environmental Health. (Environmental Health Bureau)	Submit copy of service contract to the Division of Environmental Health.	Operator/ Applicant	Prior to commence- ment of operation.	
19		EHSP002 HAZARDOUS MATERIAL REGISTRATION (NON-STANDARD): Comply with Title 19 of the California Code of Regulations and Chapter 6.95 of the California Health and Safety Code (Hazardous Material Registration and Business Response Plans) as approved by the Director of Environmental Health. (Environmental Health Bureau)	Contact the Hazardous Materials Program of the Division of Environmental Health Bureau.	Operator/ Applicant	Prior to commence- ment of operation	
Mitigation Measures						
20.	MM-1	ARCHAEOLOGICAL RESOURCES - If during project activities any archeological material is unearthed, all work shall halt in the area of the find and a qualified archeologist shall evaluate the discovery and initiate further mitigation measures, if necessary. (BLM and RMA - Planning Department)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Operator/ Applicant	On-going	
21	MM-2	ROADS - All vehicles shall stay on designated routes identified under the proposed action as the primary access roads to the Carmel Stone Mine. (BLM and RMA - Planning Department)	All vehicles shall stay on designated routes identified under the proposed action as the primary access roads to the Carmel Stone Mine.	Operator/ Applicant	On-going	

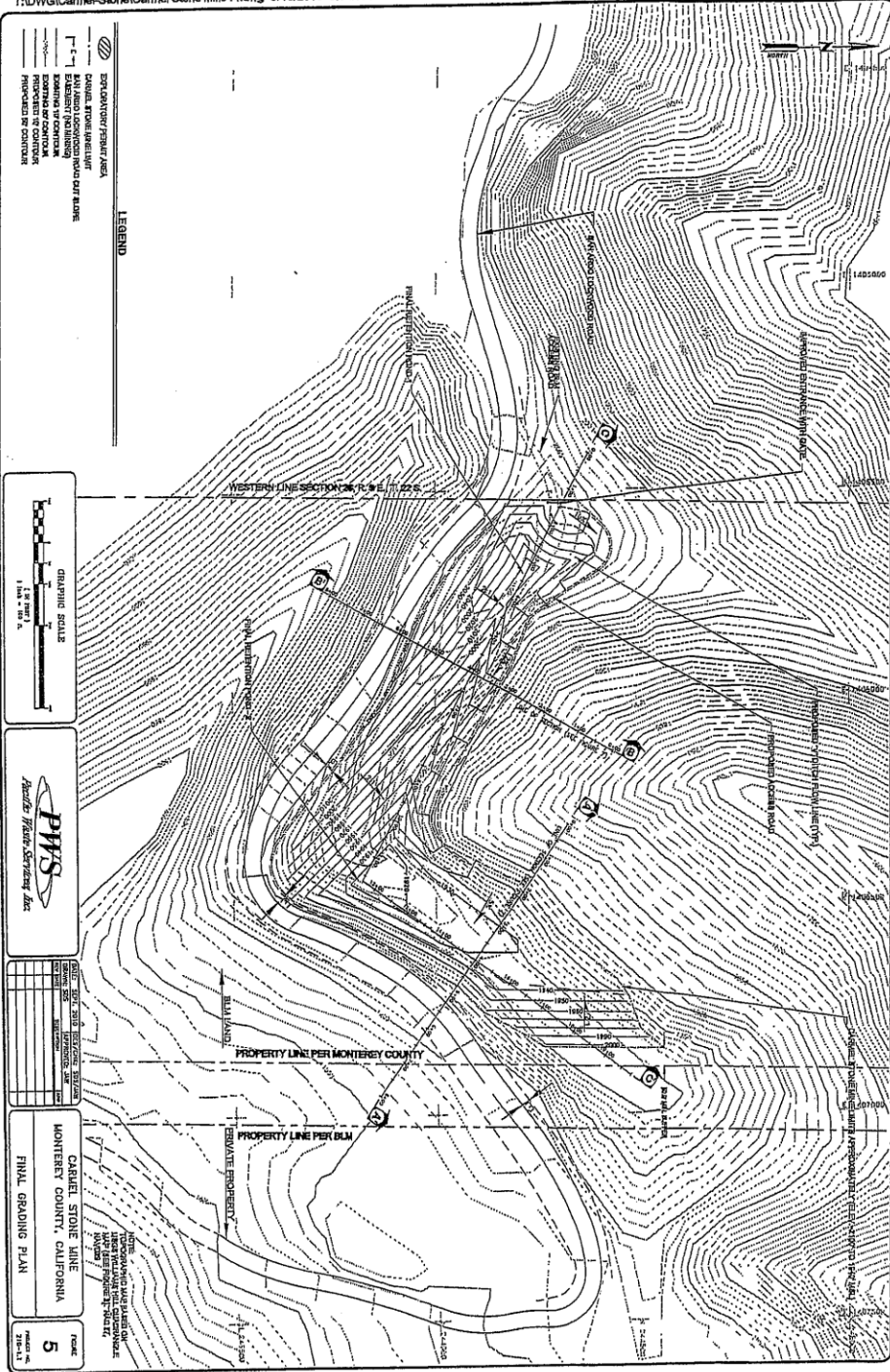
Permit Code Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Resource Department	Compliance or Monitoring Items to be performed. Where applicable a certified professional is required for action to be assestah.	Responsible Party for Compliance	Timing	Verification of Compliance (Date/Date)
22	MM-3	ROADS AND TRAILS - Roads and trails may not be closed or blocked to general public use unless specifically authorized in advance by BLM. (BLM and RMA - Planning Department)	Roads and trails may not be closed or blocked to general public use unless specifically authorized in advance by BLM.	Operator/ Applicant	On-going	
23	MM-4	LITTERING - Littering on public land is prohibited. All trash shall be contained in garbage receptacles or bags. Trash and food items shall be carried out by the operator/permittee daily. (BLM and RMA - Planning Department)	Contain all trash in garbage receptacles or bags. Carry out all trash and food items daily.	Operator/ Applicant	Daily on an on-going basis	
24	MM-5	PERMIT CONDITIONS - Non-compliance with these conditions by the Operator/permittee, or any of his agents may at the option of the Authorized Officer result in the cancellation or suspension of the mining plan of operations. (BLM and RMA - Planning Department)	Comply with these permit conditions. by the Operator/permittee, or any of his agents may at the option of the Authorized Officer result in the cancellation or suspension of the mining plan of operations	Operator/ Applicant	On-going	
25	MM-6	FEDERAL AND STATE LAWS AND REGULATIONS - The operator shall comply with applicable federal and state laws and regulations issued hereunder, existing or hereafter enacted or promulgated, affecting in any manner construction, operation, maintenance or termination of the permit. (BLM and RMA - Planning Department)	Comply with applicable federal and state laws and regulations issued hereunder, existing or hereafter enacted or promulgated, affecting in any manner construction, operation, maintenance or termination of the permit.	Operator/ Applicant	On-going	
26	MM-7	ROADS MAINTENANCE - The Operator/permittee shall be required to grade or otherwise repair portions of the primary access routes which were adversely impacted as a direct consequence of the authorized use to protect natural resources and ensure that travel by the general public, or service vehicles associated with maintenance of rights-of-way, is not impeded. (BLM and RMA - Planning Department)	Grade or otherwise repair portions of the primary access routes which were adversely impacted as a direct consequence of the authorized use to protect natural resources and ensure that travel by the general public, or service vehicles associated with maintenance of rights-of-way, is not impeded.	Operator/ Applicant	On-going	

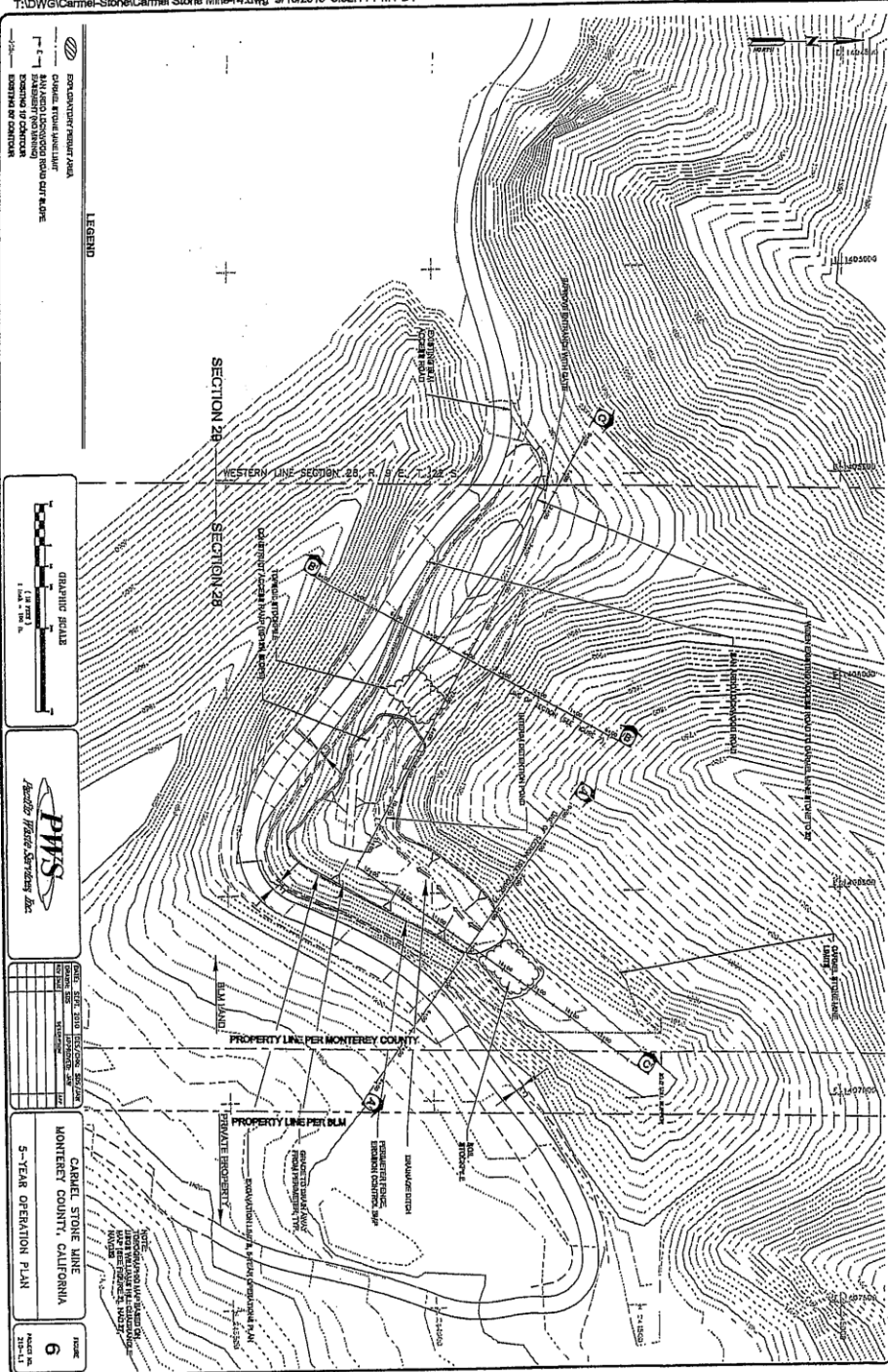
Permit Condition Number	Mines Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
27	MM-8	HEALTH AND SAFETY - The Operator is responsible for public health and safety during all phases of the mining plan of operations. These activities include; vehicle use, pedestrian use, construction, and other maintenance and operations activities. (BLM and RMA - Planning Department)	The Operator shall be responsible for public health and safety during all phases of the mining plan of operations. These activities include; vehicle use, pedestrian use, construction, and other maintenance and operations activities.	Operator/ Applicant	On-going	
28	MM3-1	AIR QUALITY BEST MANAGEMENT PRACTICES - The requirement that: "The operation shall comply with District Rule 440" will be incorporated as a condition of the BLM <i>Non-Competitive Monterey Shale 5-year Sale Contract</i> , the Mine Operation and Reclamation Plan and Five-Year Operations Plan, and include the MPUAPCD's recommended BMP's to ensure the project does not exceed the 2008 air quality thresholds for particulate matter during reclamation including: <ul style="list-style-type: none"> • Limit grading to less than 8.2 acres per day and grading and excavation to less than 2.2 acres per day. • Water graded or excavated areas at least twice daily. Frequency should be based on the type of operations, soil and wind exposure. • Water unpaved access roads used by reclamation vehicles at least twice per day. • Apply non-toxic binders to exposed areas after cut and fill operations, and hydro-seed area. • Plant vegetative ground cover which is compatible with the reclamation in disturbed areas as soon as possible. • Add mulch or other organic material to backfill or stockpiled soils. • Haul trucks shall maintain at least 2' 0" of freeboard. • Cover all trucks. • Inactive stockpiles should be covered. 	Incorporate the statement: "The operation shall comply with District Rule 440" and the MPUAPCD's recommended BMP's as a condition of the BLM Non-Competitive Monterey Shale 5-year Sale Contract, the Mine Operation in the Reclamation Plan, and a note on the "Five-Year Operations Plan" (Figure 6), within 30 days of Permit approval and prior to commencement of use or obtaining any permits.	Operator/ Applicant	Within 30 days of Reclamation Plan approval and prior to commencement of use.	

Permit Cont. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible and Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be assessed.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
29.	MM15-1	<ul style="list-style-type: none"> Minimize track-out onto San Ardo Lockwood Road by watering the unpaved access apron at least twice per day during periods of when reclamation causes an increase in truck traffic. <p>Regional Development Impact Fee In order to mitigate the project's cumulative impacts to the regional roadway system resulting from the project adding additional vehicle trips to the regional roadway system, the applicant shall pay the Regional Development Impact Fee pursuant to Monterey County Code Chapter 12.10. The fee amount shall be determined based on the parameters adopted in the current fee schedule. (RMA – Public Works Department)</p> <p>Road Maintenance Agreement In order to mitigate impacts to Lockwood- San Ardo Road and Paris Valley Road resulting from wear and tear generated by the additional truck traffic, the operator shall enter into a Road Maintenance Agreement with the County of Monterey. The agreement shall include an annual maintenance schedule and specific maintenance measures, including grading and widening of the travel way and road shoulders to a minimum of 18 foot width or as determined adequate by the RMA-Public Works Department, to mitigate wear and tear of the unpaved portion of the hauling route (Lockwood-San Ardo Road); and any other improvements necessary for the paved portion of the hauling route (Paris Valley Road to Highway 101). The necessary improvements for the entire hauling route shall be determined by a "Road Surface Evaluation" prepared by a licensed civil engineer or professional as required by the Department of Public Works. (RMA – Public Works Department)</p>	The applicant shall pay the traffic mitigation fee to the Monterey County Building Services Department within 30 days of permit approval and prior to commencement of use.	Owner/Applicant	Prior to occupancy or commencement of use	
30.	MM15-2	<p>Road Maintenance Agreement In order to mitigate impacts to Lockwood- San Ardo Road and Paris Valley Road resulting from wear and tear generated by the additional truck traffic, the operator shall enter into a Road Maintenance Agreement with the County of Monterey. The agreement shall include an annual maintenance schedule and specific maintenance measures, including grading and widening of the travel way and road shoulders to a minimum of 18 foot width or as determined adequate by the RMA-Public Works Department, to mitigate wear and tear of the unpaved portion of the hauling route (Lockwood-San Ardo Road); and any other improvements necessary for the paved portion of the hauling route (Paris Valley Road to Highway 101). The necessary improvements for the entire hauling route shall be determined by a "Road Surface Evaluation" prepared by a licensed civil engineer or professional as required by the Department of Public Works. (RMA – Public Works Department)</p>	<ol style="list-style-type: none"> The operator shall enter into a Road Maintenance Agreement with the County of Monterey maintenance of Lockwood-San Ardo Road and Paris Valley Road within 30 days of permit approval and prior to commencement of use. The operator shall submit a "Road Surface Evaluation" prepared by a licensed civil engineer or professional as required by the Department of Public Works, that identifies the necessary improvements for the entire hauling route (Project Site to Highway 101). The Evaluation shall be submitted concurrently with the Road Maintenance Agreement. Perform widening and brush clearing 	Owner/Applicant	<ol style="list-style-type: none"> Agreement to be approved prior to commencement of use. Prepare a Road Surface Evaluation prior to commencement of use. As recommended by the Road and Surface Evaluation. 	

END OF CONDITIONS







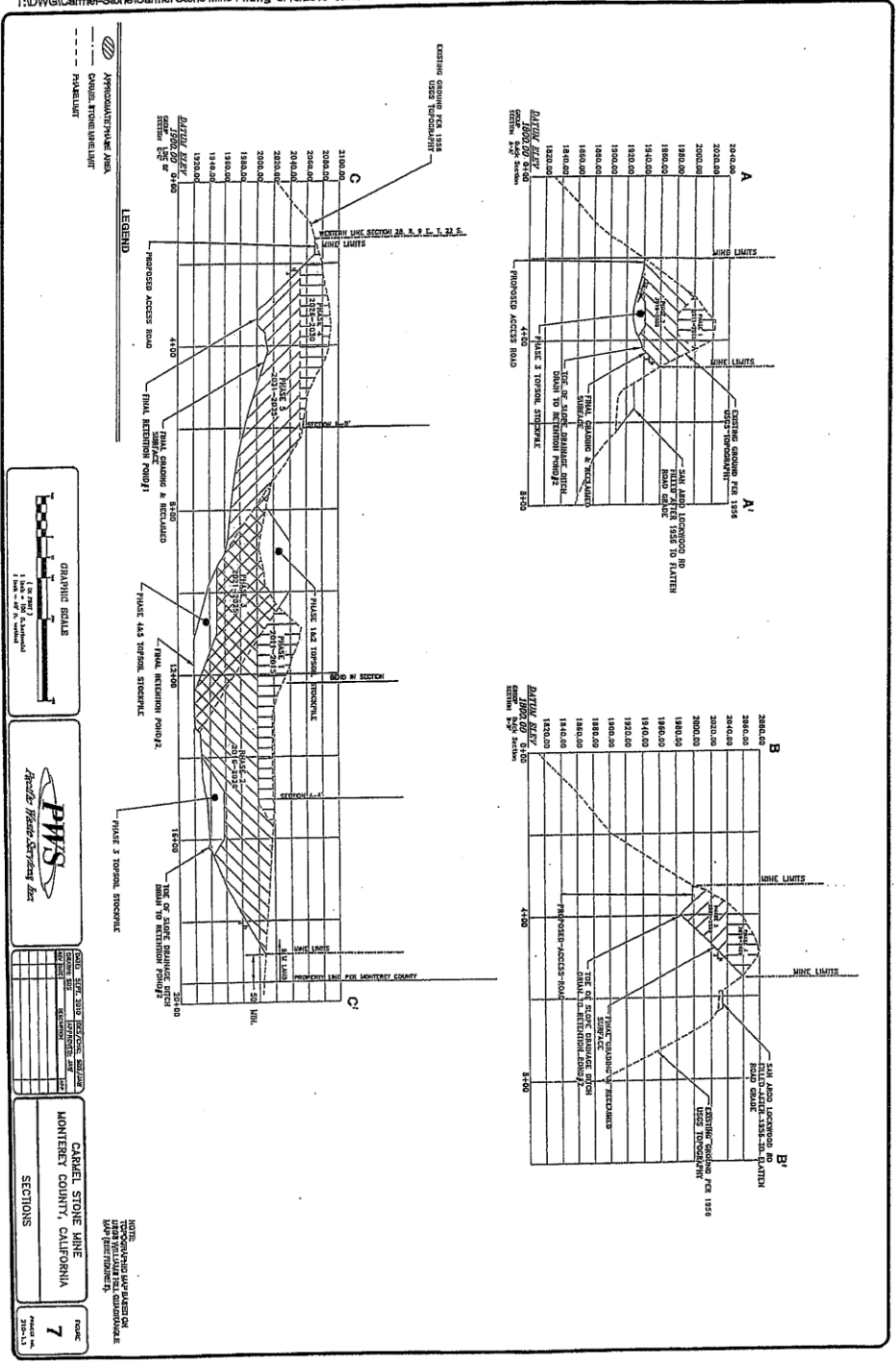


Exhibit B



Pacific Waste Services, Inc.

12925 Alcosta Blvd. Suite 1
San Ramon, CA. 94583
Office: 925-244-0392
Fax: 925-244-0210

ROAD SURFACE EVALUATION
USA-BLM/CARMEL STONE MINE
MONTEREY CO. RESOLUTION 11-035, CONDITION 30

JANUARY 30, 2012

PREPARED FOR:
VANCE QUERFURTH
P.O. BOX 1435
CARMEL VALLEY, CA. 93923

SUBMITTED TO:
ENRIQUE M. SAAVEDRA
MONTEREY COUNTY
DEPARTMENT OF PUBLIC WORKS
168 W. ALISAL STREET, 2ND FLOOR
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saavedraem@co.monterey.ca.us

PREPARED BY:
PACIFIC WASTE SERVICES, INC.
12925 ALCOSTA BLVD. #1
SAN RAMON, CA. 94583
jimw@pacificwaste.com/jwyse4@aol.com

Project No. 210-1.3

ROAD SURFACE EVALUATION

Hatch Mott MacDonald (Traffic and Civil Engineering Consultant) and Pacific Waste Services, Inc. (Mining Consultant) have conducted work efforts as described in the "Action Plan, Condition 30, USA-BLM/Carmel Stone Mine, Monterey Co. Resolution 11-035". This Road Surface Evaluation accomplished the requirements of Condition 30 where this document:

1. Prepares an existing road condition data base for use in the Road Maintenance agreement.
2. Prepares a "Road Surface Evaluation" establishing existing conditions and identification of recommended improvements where applicable along the entire haul route from the Carmel Stone Mine to Highway 101 via San Ardo Lockwood Road and Paris Valley Road.
3. Establishes recommended areas of the haul route where widening is feasible and alternatives where widening is not feasible.

Establish Access Route Stationing

Hatch Mott MacDonald prepared scaled, aerial mapped figures for the haul route from Highway 101 (Station 0+00) to Carmel Stone Mine entrance (Station 463+50). Such photographic presentation are prepared on multiple figures (Sheets L-1 to L-7) in order to provide large enough scale (1" = 100 ft.) to represent haul route stationing and existing conditions.

Existing Road Surface Evaluation

On January 11, 2012, representative engineers from Hatch Mott MacDonald and Pacific Waste Services conducted detailed observations of the existing haul route surfaces between Highway 101 at Paris Valley Road (Exit 263) and Carmel Stone Mine on San Ardo Lockwood Road. Observations and recording of road surface material, condition of the road surface, width, existing fencing, vegetation conditions, existing signs, existing topographic conditions. A combination of measuring wheel, photos, and recording on draft access route stationing figures were used to record field observations. Such field observation information is recorded on the attached figures (Sheets L-1 to L-7).

Observations found stretches of the haul route that were less than 18 feet in width. Conditions were noted in the observations on where the existing road width could be viably widened using a standard road grader without creating excavations that required removal or removal/cutting of vegetation. A few haul route sections were

less than 18 foot in width and could not be feasibly widened by either grading or vegetation removal. Limitations to widening varied from property line fencing, excessive amounts of soil excavation, steep shoulder conditions, and/or drainage ditches. These haul route sections can safely be utilized by all traffic through the installation of appropriate signage as reflected on figures.

Only 1 vehicle passed us on the San Ardo Lockwood Road section during our 4+ hour observations and recording. Such light traffic and use of San Ardo Lockwood Road is consistent with past observations of the site and traffic studies performed for the Carmel Stone Mine project.

In general, Paris Valley Road from Highway 101 (Exit 263) to San Ardo Lockwood Road has an asphalt surface which had sections improved recently with an asphalt overlay. All of San Ardo Lockwood Road from Paris Valley Road to the south and west has rock surface with varying surface conditions of firm unyielding surface to firm unyielding surface with loose gravel (1/8 to 1/4 inch). Most of the surface was smooth with a few sections that had a washboard surface. The road surface dust production is a function of speed a vehicle travels, the slower the speed the less dust.

Grading/Vegetation Removal

The January 11, 2012 access route observations were able to identify those areas of the access route which were less than 18 foot wide and what steps could viably be taken to widen to 18 foot wide. The following table shows those station areas were found to be less than 18 foot width. The table also represents what, if any viable actions can be taken to widen the existing road width to 18 foot and what actions will be taken to accomplish the road width. In areas where roadway widening is not feasible, signage will provide adequate warning to approaching vehicles.

Station Section	Existing Width., Ft.	Viable Road Improvement
140+16 to 142+50	14	Grading back existing embankment
151+60 to 153+10	16 - 17	Grading to widen
158+00 to 163+00	16 - 17	Grading to widen
163+00 to 165+80	14 - 16	Grading as much as possible, Add signs
165+80 to 178+10	12 - 14	Grading as much as possible, Add signs
178+10 to 186+40	14 - 16	Grading to widen
186+40 to 187+80	16 - 17	Grading to widen

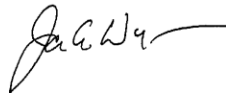
Station Section	Existing Width., Ft.	Viable Road Improvement
187+80 to 198+25	17 - 18	Grading to widen where needed, Bush trimming
198+25 to 209+10	15 - 17	Grading as much as possible, Add signs
211+00 to 215+00	17	Grading to widen
215+00 to 217+00	15 - 17	Grading to widen
220+00 to 226+00	15 - 16	Grading as much as possible
230+00 to 234+00	16	Grading cleanup and widen
290+25 to 292+75	17	Grading to widen
327+50 to 330+85	15	Grading to widen
345+85	15	Trim Vegetation
373+15 to 378+10	17 - 18	Trim vegetation

Completing this report are the figures and documentation prepared by Leo Trujillo of Hatch Mott MacDonald including recommended signage location and type. The above listed improvements can be conducted by Carmel Stone Mine equipment and manpower with appropriate written permission by Monterey County Public Works Department. Such improvements can be conducted during the summer months of 2012 even after the Carmel Stone Mine has commenced operation without creating any unsafe traffic condition. The signage installations should be installed by Monterey County Public Works Department at earliest possible date unless they delegate the sign installation to Carmel Stone Mine.

Haul Route Maintenance

Once the haul route has the signage installed, route sections widening by use of Grader, route sections widened by vegetation trimming, the long term haul route maintenance will be limited to vegetation trimming, 1 extra annual access road grading performed by Public Works crew(s). Carmel Stone Mine shall enter into an Agreement to reimburse the County for this extra annual grading.

Respectfully submitted
Pacific Waste Services, Inc.



James A. Wyse, P.E.
President
RCE 29853

Exhibit C

Workers Compensation Justification:

At the time of execution of this Agreement, Querfurth does not have employees and therefore, does not carry a Workers' Compensation Insurance coverage. Should Querfurth hire employees during the term of this Agreement, he shall comply with County's insurance requirements pertaining to Workers' Compensation as described in Section 5.03 of this Agreement.



4-9-12