ITEM 9.A.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: **Honorable City Council**

FROM: **David A. Bobardt, Community Development Director**
Prepared By: Joseph R. Vacca, Principal Planner

DATE: **October 3, 2013 (CC Meeting of 10/16/2013)**

SUBJECT: **Consider Public Workshop Related to Appeal to Ventura County Board of Supervisors of Ventura Planning Commission Certification of Final Environmental Impact Report (EIR) for Grimes Rock, Incorporated Mining Facility, and Approval of a Modified Conditional Use Permit No. 4874-2 and an Amended Reclamation Plan, Located at 3500 Grimes Canyon Road**

BACKGROUND

For several years, staff has been tracking expansion proposals by three (3) sand and gravel mining operations in unincorporated Ventura County. The proposed expansion of operations, although different for each company, involves an increased number of truckloads permitted, increased hours of operation, increased days of operation, and potential changes to haul routes. Grimes Rock, Inc. has proposed an expansion of their mining facility and an extension of their Conditional Use Permit (CUP) for operation of the facility, as reflected in the aerial photo, showing the proposed conditional use permit boundary, (Attachment 1).

On June 27, 2013, the County of Ventura Planning Commission considered and approved an application of Grimes Rock, Inc. to expand its mining operations and extend the effective term of its CUP, a copy of the Ventura County Planning Commission Agenda report is provided, (Attachment 2). The approval included certification of a Final Environmental Impact Report (FEIR), adoption of a Statement of Overriding Considerations (SOC) and approval of CUP 4874-2 and a modified Reclamation Plan, described as follows:

PROPOSED PROJECT DESCRIPTION

The applicant requests approval of Modification No.2 of Conditional Use Permit 4874 (CUP 4874-2) and the approval of a modified Reclamation Plan prepared pursuant to the Surface Mining and Reclamation Act (SMARA). The requested approvals would authorize:

- Changes to the permit boundary including the expansion of surface mining areas. The permit boundary would be expanded from approximately 164 acres to 231 acres.
- Creation of a new driveway access point which provides a direct connection from Grimes Rock mining facility, through the former "Egg City" property, and directly onto State Route 23, (this access connection to SR23 is shown within the narrow red outline on the aerial photo of the proposed conditional use permit boundary map, in Attachment 1).
- The excavation area would be expanded from approximately 45.8 acres (current condition) to 135.3 acres. *(Note: The current permitted area of excavation encompasses* 48.4 *acres.)*
- An extension of the effective term of the CUP from 2013 to an estimated end date of surface mining operations in 2040.
- An increase in sand and gravel production (i.e. material export) from 952,500 tons per year to approximately 1.8 million tons per year.
- Material hauling to occur Monday through Saturday, 6:00 a.m. until dusk.
- Onsite mining operations to occur 24 hours per day on Monday through Saturday.
- An average daily hauling truck traffic volume of 460 one-way trips.
- A maximum peak daily hauling truck volume of 600 one-way trips, (currently 300 of which only 64 may go through Moorpark on the southern haul route on Grimes Canyon Road).
- Material hauling along any route to any customer location.
- The elimination of volume and timing restrictions on trucks going south, allowing for the ability to use any route including, Walnut Canyon Road as a haul route (currently not permitted).
- Upon termination of mining at the site the proposed end use of the land is to be Open Space.

On June 26, 2013, Margaret M. Sohagi, of the Sohagi Law Group, PLC., working on behalf of the City of Moorpark, submitted a detailed comment letter to the Ventura County Planning Commission on the inadequacy of the FEIR prepared for the project; a copy of this letter is provided, (Attachment 3), and summarized as follows:.

The letter indicated that the City has undertaken a comprehensive review of the FEIR and finds it to be legally inadequate under the California Environmental Quality Act (Pub. Res. Code § 21000 et. seq. "CEQA") and the CEQA Guidelines, (Cal. Code Regs. Tit. 14, § 15000 et seq.) as well as the California Water Code §§ 10910-10915. The letter included arguments that the massive

amount of truck traffic associated with this project would negatively impact City residents on a daily basis. At least 600 Moorpark residents live immediately adjacent to the proposed truck route, and already regularly experience the deleterious effects of this traffic including noise and air quality impacts. Thousands of other Moorpark residents are faced with the negative impacts of project trucks as they move through their daily lives; when they attempt to cross the street, travel to work and school, and engage in myriad other life activities. Moorpark opposed any action on the expansion until all of the project's impacts on the City are truly mitigated, and requested that the Commission delay further consideration of this project until a legally adequate EIR is prepared that fully complies with CEQA and the project conforms to current requirements. The letter stated that the FEIR suffers from numerous inadequacies including the following significant flaws:

- *The FEIR incorrectly dismisses construction of the SR 23 bypass as infeasible; leaving City residents subject to noise, air quality and health impacts that severely affect quality of life along the haul routes.*
- *The FEIR's traffic analysis fails to include a Saturday analysis, even though the amended CUP allows up to 600 truck trips on Saturdays.*
- *The FEIR completely fails to analyze the significant and unavoidable noise impacts of project-related truck traffic.*
- *The County failed to perform a SB 610 water supply assessment in violation of CEQA and the Water Code.*
- *The studies relied upon for the FEIR's analysis of impacts are extremely outdated (many are over 10 years old) and do not adequately represent conditions on the Project site.*
- *The FEIR is legally inadequate for its failure to provide analysis of criteria pollutant $PM_{2.5}$.*
- *The cumulative impact analyses for numerous resource areas consider only the impacts of mining projects, instead of the impacts of all past, present and reasonably foreseeable future projects as required by CEQA.*
- *The FEIR's project objectives are impermissibly narrow and constrain the selection of project alternatives in violation of CEQA.*
- *The FEIR's alternatives analysis fails to present alternatives designed to avoid or substantially reduce all the significant impacts of the Project as required by CEQA.*

On June 27, 2013, Brian Baca, Ventura County Planning Manager, provided a Memorandum to the Ventura County Planning Commission, in response to Ms. Sohagi's comment letter; a copy of this letter is provided, (Attachment 4). This Memorandum

was considered by the Ventura County Planning Commission as part of their decision making process on the project application.

There were two public speakers who voiced opposition of the Grimes Rock project applications, to the Ventura County Planning Commission during the public hearing, as follows:

- David Bobardt, representing Moorpark, opposed due to lack of mitigation to address quality of life impacts on Moorpark residents.
- Resident / Property Owner on Bardsdale Avenue, opposed due to concerns of having multiple truck trips, travelling at high speeds, past her property.

On July 3, 2013, the City of Moorpark filed an appeal of the Ventura Planning Commission's approvals on this project and requested a de novo (new) hearing on the application by the Ventura County Board of Supervisors.

Next Steps
The appeal has been scheduled for October 22, 2013, to be heard by the Ventura County Board of Supervisors on that day at 2:00PM (time certain).

DISCUSSION

PROJECT HISTORY AND EXISTING OPERATIONS

The Grimes Rock project site was historically used for surface mining in the 1950s and 1960s under a previous mining operator. The site was abandoned in 1967. During its existence, the operation had mined an approximate 15-acre area. Since there were no CUP or reclamation requirements in place for mining sites in Ventura County at that time, the site was left in a disturbed and unstable condition with respect to slopes and erosion. The site was left un-reclaimed with a level area of approximately three acres, and tall pinnacles flanking the flat area were left partially mined with very steep slopes. Since mining operations ceased in 1967, the site has also been used for livestock grazing.

In 1998, the County of Ventura issued CUP 4874 to Grimes Rock, Inc. to operate a new mining operation at the previous mining site. The permit has been formally modified five times since then. The existing permit area encompasses 164 acres. Within this area mining excavation is authorized to occur in over 48 acres. The operation involves an on-site plant production of 952,500 tons per year, conducted five days per week, excluding weekends and holidays. The current permit allows a maximum of 300 one-way truck trips with operating hours generally limited to 6 a.m. to dusk. Trucks serving this mine are currently prohibited from using Walnut Canyon Road, and arrivals and departures can only occur every 15 minutes during certain AM hours.

The previous CUP required that "nearly all" of the materials produced at the site be delivered to the State Ready Mix batch plant at Vineyard Avenue and State Route (SR)118 in Saticoy. Under the CUP, delivery may take place via two approved routes:

1) A northern haul route which runs from the project site north on Grimes Canyon Road (SR-23) to SR-126, west on SR-126 to SR-118, then south to the State Ready Mix plant, and;

2) A southern haul route which extends from the project site southward on Grimes Canyon Road (SR-23) to Broadway, west on Broadway to Grimes Canyon Road South to SR-118, then west to the State Ready Mix plant.

Only 64 of the originally permitted daily maximum of 300 one-way truck trips (21.3%) were allowed to use the southern haul route. In addition, project related trucks using the southern haul route had limitations on their arrival and departure times in order to minimize traffic volumes during peak travel hours, and during school bus operations.

BACKGROUND ON THE CITY OF MOORPARK – ESTABLISHMENT OF STATE ROUTE – 23 BYPASS

The State Route (SR)-23 Bypass was not analyzed as an alternative haul route in the FEIR for the project. The City believes that the County should have analyzed SR-23 as a feasible project alternative or mitigation measure as it has been included in City's plans for over twenty years and has been studied extensively. Furthermore, the City has repeatedly requested that the County include analysis of the SR-23 Bypass in the Grimes Rock environmental documents.

The Bypass has been included in the City's General Plan Circulation Element since its adoption in 1992. It is also listed in the documents of other area transportation agencies. For example, it is listed on the long-term project list in the Ventura County Congestion Management Program, and the Ventura County Transportation Commission has adopted the SR-23 Bypass as part of its priority list of highway and rail capacity improvement projects for the allocation of State Transportation Improvement Program funds.

The City has conducted extensive and detailed studies of the SR-23 Bypass. In 2004, the City Council authorized an agreement with Parsons to prepare a feasibility study for North Hills Parkway and adopted Resolution No. 2004-2216 which appropriated funds from the City-Wide Traffic Mitigation Fund, Fund 2002, for the North Hills Parkway feasibility study. In 2005, the City executed an amendment to the Parsons agreement for Parsons to prepare a feasibility study for the SR-23 Bypass. The study was funded by Fund 2002, the City's traffic mitigation fund. The feasibility study, presented to the Moorpark City Council on May 21, 2008, contained detailed conceptual design and analysis of the Bypass including two build alternatives, analysis and discussion of the environmental and land use constraints of constructing the Bypass, a project cost

estimate, and maps and plans. The Council found the design and alignment of the preferred alternative to be consistent with the General Plan, and directed City staff to move the project forward. The Council directed City staff to work with developers of properties within and outside the boundaries of the City on efforts to fund, design and construct future projects to implement the SR-23 Bypass. This would include necessary environmental analyses and acquisition of necessary right-of-way. The Council also directed City staff to coordinate with Caltrans regarding the horizontal and vertical alignment of the SR-23 Bypass, including topographic elevations, extents of earthwork and connections to the existing SR-23 Freeway.

A second and more detailed study was prepared by RBF Consulting in 2010 to develop the horizontal and vertical alignments of the SR-23 and North Hills Parkway, including design criteria, earthwork estimates, environmental constraints and cost estimates. The City Council adopted Resolution 2009-2863 authorizing the RBF study and appropriating funds from the City-Wide Traffic Mitigation Fund, Fund 2002, for the study. The purpose of the more detailed RBF study was to advance the conceptual design of the SR-23 Bypass to a more detailed design level including the horizontal and vertical roadway alignment and extents of earthwork with the goal of ensuring seamless connections of the proposed SR-23 Bypass to Broadway Road and the proposed North Hills Parkway. A summary report of the study was submitted to the City by RBF in August 2010 for staff review and future consideration by the Council.

The City owns much of the right-of-way required for the Bypass, and has required applicants owning reserved property in the Bypass right-of-way to grade that property. Pardee Homes is required to grade two portions of the right-of-way as conditioned by the City's approval of its subdivision.

Environmental Analysis

A Draft Environmental Impact Report (DEIR) for the proposed Grimes Rock mining expansion project was prepared and circulated for public review in the summer of 2006. The County, as the CEQA lead agency, received a substantial number of written public comments on the 2006 DEIR and the County prepared written responses to these public comments pursuant to CEQA. In June 2009, the County prepared a proposed Final Environmental Impact Report (FEIR) and released it for public review and comment. In addition, the County's Environmental Report Review Committee (ERRC) held several public hearings (July 15, 2009, August 12, 2009, and March 3, 2010) on this FEIR and received public comment and testimony on the FEIR. On March 3, 2010, the ERRC voted to find the FEIR "technically adequate." The 2009 FEIR was not forwarded to the County Planning Commission for its consideration of the Grimes Rock Conditional Use Permit (CUP) Major Modification request.

Since the preparation of the 2006 DEIR and the 2009 FEIR for the Grimes Rock project, two primary changes in circumstances have occurred that affect the CEQA analysis of the Grimes Rock project and that required the recirculation of the Draft EIR for public review and comment.

1) The applicant amended the proposed Reclamation Plan and revised the project description in terms of total acreage disturbed, configuration of the final reclaimed surface, re-vegetation standards, volume of material to be extracted, and extended further into the future the estimated date for the termination of surface mining activities.

2) In June 2010, the County adopted updates and revisions to its Administrative Supplement to the State CEQA Guidelines and its Initial Study Assessment Guidelines. These changes to the County's CEQA compliance guidelines necessitated substantial revisions to the Grimes Rock DEIR in terms of discussing potential environmental impacts, mitigation measure development, and general formatting of information.

Second Access to the Site

There was a change proposed to the driveways and access to the site with the most recent application updates. The September 2012 Recirculated Draft EIR, and project application, were changed to re-route all project related traffic around Grimes Grade itself. No project-related heavy truck traffic would travel through the grade at any hour of the day. To accomplish this, the applicant proposed to construct a new internal access road within the project site and through adjacent property owned by the applicant. One end of the road starts at the existing project access road at the bottom of the grade, travels through the mining site, and up the existing slope to the previous "Egg City" site at the top of the grade.

The other end of the road is one of the existing access points to "Egg City". This road, Grimes Way, is a paved road approximately 30 feet in width which runs in a primarily north/south alignment to the west of and roughly parallel to SR-23. On its northern end, the road begins at the south edge of the mining permit boundary, and on the south end it intersects with SR-23 approximately 700 feet north of Shekell Road. The road has moderate grades and its steepest portion of grade is 11%. Grimes Way is currently used to access the Egg City site from SR-23, and it would be used by south-oriented gravel trucks entering and exiting Grimes Rock from SR-23.

City staff sent the County Planning Division a comment letter on the Notice of Preparation for the DEIR on the Grimes Mining expansion, dated December 17, 2003. Staff also sent the County Planning Division a comment letter on the DEIR, dated August 4, 2006. The EIR Consultant, Envicom Corporation, sent staff a letter in response to our comments which was included in the 2009 FEIR. Staff sent the County Planning Division a comment letter on the Response to Comments prepared for the Final EIR, dated August 19, 2009. Staff sent the County Planning Division a comment letter with Requested Project Conditions, dated March 24, 2010. Finally, staff sent the County Planning Division a comment letter on the Recirculated Draft EIR , dated October 26, 2012.

On June 27, 2013, the Ventura County Planning Commission certified the Final EIR, (FEIR). Along with the certification of the FEIR, the Ventura County Planning Commission adopted a Statement of Overriding Considerations, (SOC), finding the following impacts to be significant and unavoidable:

- Project specific potential loss of paleontological resources;
- Project-specific alteration of public views from SR23;
- Cumulative offsite dust generation along trucking routes; and
- Cumulative impacts on biological resources, loss of paleontological resources and alteration of public views from SR23.

It should be noted that shortly before approving the expanded permit for Grimes Rock, the County revoked the permit for Best Rock, a neighboring aggregate mine.

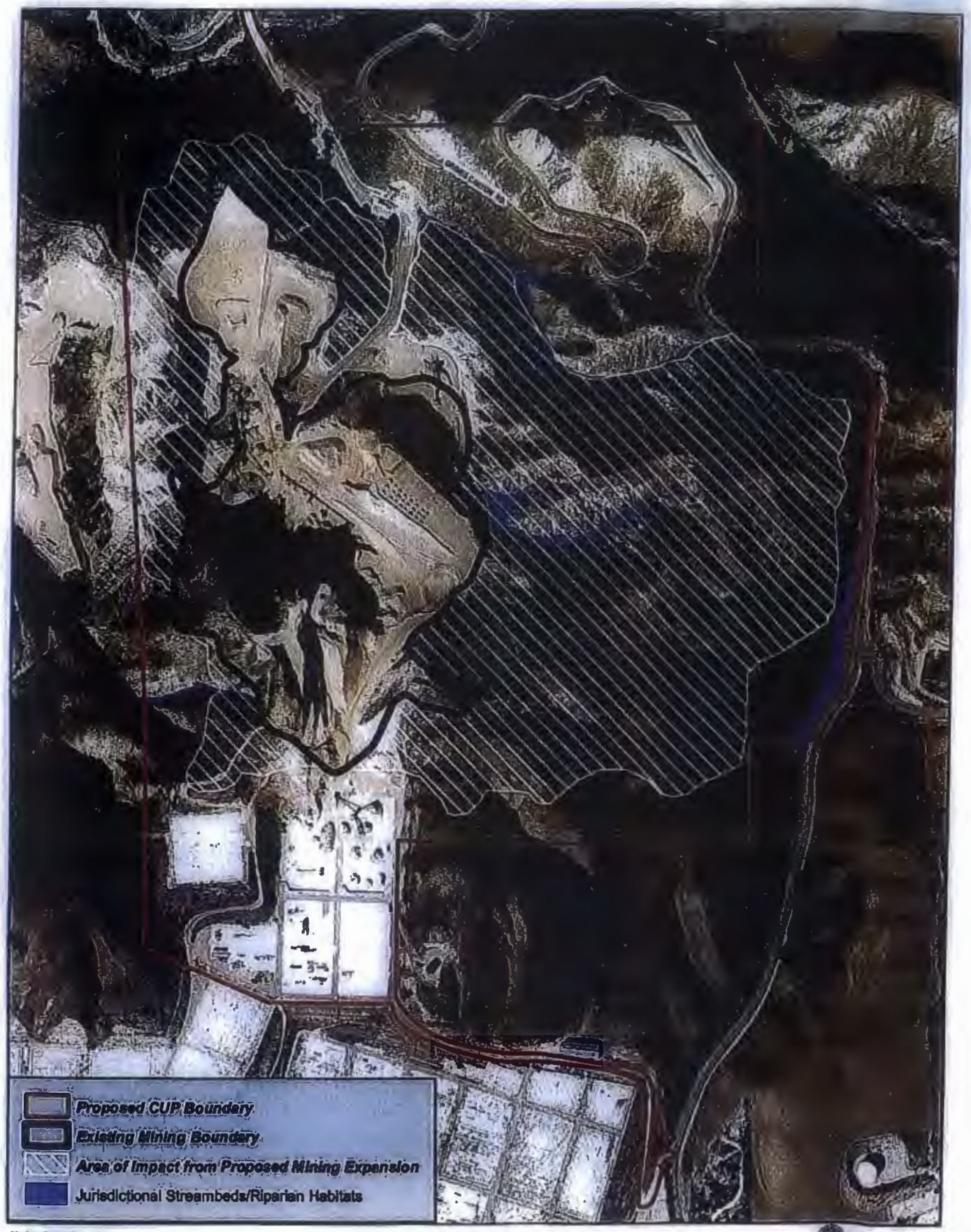
Staff believes that the FEIR certified by the County Planning Commission does not adequately address the environmental impacts of the proposed Grimes Rock expansion and its effects on the quality of life of Moorpark's residents and businesses. The increased truck trips through and across Moorpark associated with the expansion will result in impacts on air quality, noise, vibration, and traffic congestion in our community, which is already heavily impacted from the presence of trucking through Moorpark. The City has consistently presented its concerns that these issues were not adequately addressed by the County's environmental review process. The City's comments and concerns were ultimately disregarded by the Ventura County Planning Commission and Staff.

STAFF RECOMMENDATION

Hold Public Workshop, receive public comment and direct staff as deemed appropriate.

Attachments:

1. Aerial Photo: Grimes Rock, Inc., proposed Conditional Use Permit boundary
2. Ventura County Planning Commission Agenda Report, dated June 27, 2013
3. City of Moorpark, comment letter (Sohagi Law Group, PLC), dated June 26, 2013
4. Memorandum to Ventura County Planning Commission, from Brian Baca, (Ventura County Staff) dated June 27, 2013



Ventura County Resource Management Agency Information Systems

COUNTY OF VENTURA

Jurisdictional Riparian Habitats

FIGURE 4.6-2

CC ATTACHMENT 1

Planning Commission Agenda

County of Ventura · Resource Management Agency · Planning Division
800 S. Victoria Avenue, Ventura, CA 93009-1740 · (805) 654-2478 · ventura.org/rma/planning

The next regular hearing of the **PLANNING COMMISSION** will be held on **Thursday, June 27, at 8:30 a.m.** in the Hearing Room of the Board of Supervisors, County Government Center, Hall of Administration, 800 South Victoria Avenue, Ventura, California.

AGENDA

1. **8:30 A.M. HEARING CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE TO THE FLAG**

3. **ROLL CALL**

4. **PUBLIC COMMENTS** – Time set aside for comments by citizens on matters not appearing on the Agenda (Time limit per item – five minutes)

5. **CUP 4874-2** – Russell Cochran, 11011 Azahar Street, Suite 2, Saticoy CA 93004 (representing Grimes Rock, Inc.)

   Request: The applicant requests that the Planning Commission grant proposed Modification #2 of Conditional Use Permit 4874 and approve the proposed Amended Reclamation Plan to authorize changes in operational limitations, expansion of the excavation area, and the continuation of surface mining activities to the year 2040 at the existing Grimes Rock mining facility; and to certify the Final Environmental Impact Report prepared under CEQA for this project. (File: PL12-0159; CA Mine ID #91-56-0032)

   Project Location: The project site is located at 3500 Grimes Canyon Road, approximately 5 miles north of the City of Moorpark in the unincorporated area of Ventura County.
   CEQA Doc: Final Environmental Impact Report
   Case Planner: Brian R. Baca
   Assessor Parcel Nos:

500-0-050-13	500-0-090-27
500-0-090-29	500-0-090-32
500-0-090-05	500-0-090-33
500-0-090-26	500-0-050-34

6. DISCUSSION:

a) Report by the Planning Director on Board Actions and Other Matters
b) Items the Planning Commission may wish to introduce

7. MEETING ADJOURNMENT

Kim L. Prillhart, Director
Ventura County Planning Division

Materials related to an item on this Agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Planning Division at the Public Counter located at 800 S. Victoria Ave., Ventura, CA 93009, during normal business hours. Such documents are also available on the Planning Division website at http://www.ventura.org/rma/planning/hearings-agendas/live-broadcasts.html, subject to staff's ability to post the documents prior to the meeting.

Persons who require accommodation for any audio, visual or other disability in order to review an agenda, or to participate in a meeting of the Planning Commission per the American Disabilities Act (ADA), may obtain assistance by requesting such accommodation in writing addressed to the Clerk of the Commission, 800 South Victoria Avenue, Ventura, CA 93009-1740 or telephonically by calling (805) 654-2478. Any such request for accommodation should be made at least 48 hours prior to the scheduled meeting for which assistance is requested.

If you challenge the action taken on the items in this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Ventura County Planning Division at, or prior to, the public hearing.

SPECIAL NOTICE:

The Planning Division offers an E-mail Public Hearing Notification Service that allows interested stakeholders, applicants, and citizens to receive e-mail notification when a new Planning Commission Hearing is posted. You may subscribe to this service by going to the Planning Division website at: http://www.ventura.org/rma/planning/hearings-agendas/planning-commission-hearings.html and then click on Subscribe to our email notification service for these hearings.

Table of Contents

Section	Contents	Page
A	Project Information	1
B	CEQA Compliance	10
C	General Plan Consistency	19
D	Zoning Ordinance Compliance	29
E	Conditional Use Permit Findings	36
F	Reclamation Plan Findings	42
G	Public Hearing Notice	43
H	Staff Recommendations	44

A. PROJECT INFORMATION

1. **Request**: The applicant requests that the Planning Commission grant proposed Modification No. 2 of Conditional Use Permit 4874 and approve the proposed Amended Reclamation Plan to authorize changes in operational limitations, expansion of the excavation area, and the continuation of surface mining activities to the year 2040 at the existing Grimes Rock mining facility; and to certify the Final Environmental Impact Report prepared under CEQA for this project. (File: PL12-0159; CA Mine ID #91-56-0032)

2. **Applicant:** Russell Cochran, 11011 Azahar Street, Suite 2, Saticoy CA 93004 (representing Grimes Rock, Inc.)

3. **Property Owner:** Russell L. and Linda S. Cochran 11011 Azahar Street, Suite 2, Saticoy CA 93004

4. **Applicant's Representatives:**

Warren R. Coalson	*EnviroMINE, Inc.*, 3511 Camino Del Rio South, Suite 403, San Diego CA 92108
Amy Forbes Douglas Champion	*Gibson Dunn & Crutcher*, 333 South Grand Avenue, Los Angeles CA 90071-3197

5. **Decision-Making Authority:** Pursuant to Sections 8105-4, 8107-9.6.9, and 8111-1.2 et seq., of the Ventura County Non-Coastal Zoning Ordinance (NCZO), the Planning Commission is the decision-making body for the requested modified Conditional Use Permit and the concurrently-processed Amended Reclamation Plan.

6. **Project Site Location and Parcel Number:** The project site is located at 3500 Grimes Canyon Road, approximately 5 miles north of the City of Moorpark in the unincorporated area of Ventura County. The Tax Assessor's parcel numbers for the parcels that include the project site are depicted in Exhibit 2 and listed below:

500-0-050-13	500-0-090-27
500-0-090-29	500-0-090-32
500-0-090-05	500-0-090-33
500-0-090-26	500-0-050-34

7. **Project Site Land Use and Zoning Designations:**

   a. Countywide General Plan Land Use Map Designation: Open Space (10-acre minimum parcel size) (Exhibit 2)

   b. Zoning Designation:

   OS-160 ac/MRP (Open Space, 160-acre minimum lot size with Mineral Resource Protection Overlay)

   OS-130 ac/MRP (Open Space, 130-acre minimum lot size with Mineral Resource Protection Overlay)

   AE-40 ac/MRP (Agricultural Exclusive, 40-acre minimum lot size with Mineral Resource Protection Overlay) (Exhibit 2)

8. **Adjacent Zoning and Land Uses/Development (Exhibit 2):**

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	AE-40 ac/MRP (Agricultural Exclusive, 40-acre minimum lot size with Mineral Resource Protection Overlay)	Undeveloped grazing land and State Highway 23.
East	OS-160 ac/MRP (Open Space, 160-acre minimum lot size with Mineral Resource Protection Overlay)	Undeveloped open space, State Highway 23, and the Wayne J Sand and Gravel mining facility.
South	OS-20 (Open Space, 20-acre minimum lot size) and OS-130 (Open Space, 130-acre minimum lot size)	Undeveloped land. Former site of the "Egg City" facility.
West	AE-40 (Agricultural Exclusive, 40-acre minimum lot size with Mineral Resource Protection Overlay)	Existing mining facility (Best Rock Products, Inc.).

9. **Permit History:** The project site was used for surface mining from 1957 to 1965. The previous mine operator, SP Milling, abandoned the site in 1967 and left it in an un-reclaimed condition. Such abandonment was allowed prior to the enactment of the California Surface Mining and Reclamation Act (SMARA) (Pub. Res. Code section 2710 et seq.) in 1975. Approximately 15 acres were disturbed as part of the SP Milling operation. This disturbance includes the remnant "highwall" located along the western boundary of the site. The property was used for cattle grazing after the 1967 mine closure.

a. Initial CUP:

On May 21, 1998, the County of Ventura granted Conditional Use Permit 4874 to Grimes Rock, Incorporated to operate a new mining operation for 15 years until May 21, 2013 on the subject property. CUP 4874 authorized a permit area of 164 acres, an excavation area of 48 acres, throughput or production of 952,000 tons of aggregate per year, and an associated maximum truck traffic of 300 Average Daily Trips (ADTs).

b. Subsequent CUP Changes:

CUP 4874 has been the subject of several permit adjustment applications and one modification request since 1998, which are described below:

November 20, 1998: A Permit Adjustment was approved by the County to amend the text of Condition of Approval No. 71 regarding erosion and sedimentation control.

January 7, 1999: A Permit Adjustment was approved by the County to make administrative changes to the conditions of approval to better reflect to the timing of when specific conditions must be implemented.

December 13, 1999: A Permit Adjustment was approved by the County to add a piece of equipment (i.e., a "trimmer") to top off out-going trucks carrying product piled too high in the truck cargo area.

February 2, 2000: The County approved a request to allow deviations of the defined northern and southern haul routes to allow deliveries to a customer in Moorpark until either: (1) the operator of the facility authorized by CUP 4633 (now CEMEX) elects to pay certain fees allowing them to use unused vehicle trips (i.e. ADTs); or (2) CUP 4874 is amended to make the change permanent.

This approval was appealed by the City of Moorpark; on March 30, 2000 the appeal was upheld by the Planning Commission, thereby negating the Permit Adjustment approval. In addition, CEMEX paid the required trip fees, thereby triggering the first the above conditions, which negates any increase in ADTs allowed by this Permit Adjustment.

This Permit Adjustment was terminated by the County on June 8, 2000.

March 28, 2000: An application for a CUP modification (Case No. 4874-1) was filed by the Permittee to request that the facility be allowed an increase in truck traffic by 60 one-way truck trips per day. This application was withdrawn on August 22, 2001.

October 30, 2000: An Emergency Use Authorization was granted by the County to increase project-related truck trips by an additional 240 ADT for thirty days to assist in river levee construction in the City of Fillmore.

February 22, 2001: A Permit Adjustment was approved to construct a concrete pad for truck refueling and to modify water quality reporting requirements.

June 20, 2001: A Permit Adjustment was approved by the County that expanded the authorized mining excavation area by 4.1 acres and the CUP area by 4.38 acres, and amended the text of Condition of Approval No. 89 to specify a time frame for certain records to be maintained.

May 13, 2003: A Permit Adjustment was approved by the County to authorize a second portable aggregate screening device.

c. Current CUP Modification:

In 2003, the mine operator (Grimes Rock, Inc.) applied for modification No. 2 of CUP 4874. This 2003 modification request included many of the components of the current modification request before your Commission at this time. These common components included requests for an increase in the volume of material to be excavated, an enlarged footprint of disturbance, an increase in the authorized production rate with an associated increase in transport truck traffic, and additional years of operation. The original application, however, did not include a SMARA-compliant Reclamation Plan.

A Notice of Preparation for a project environmental impact report (EIR) was issued in November 2003 and circulated for public comment until January 2004. The County held a public scoping meeting in December 2003 on the EIR. Meetings with interested parties and various stakeholders were held in 2004. A Draft EIR was prepared and circulated for public review from June 5, 2006 to August 7, 2006. The County prepared a Final EIR (the 2009 FEIR) and made it available for public review in July 2009. The former County Environmental Report Review Committee held public hearings on this 2009 FEIR from July 2009 to March 2010.

The 2009 FEIR, and the proposed CUP modification, were not forwarded to the County Planning Commission for their consideration in 2010 because of a 2010

appellate court decision (*Nelson v. County of Kern*) found that a SMARA-compliant Reclamation Plan is required to be concurrently reviewed with a surface mining expansion request. At about the same time, the County adopted revised Initial Study Assessment Guidelines (ISAGs) in June 2010.

The applicant prepared a new amended Reclamation Plan that substantially changed the project description in terms of the estimated end date of mining, the volume of material extracted and the footprint of excavation. As a result of these changes, the County Planning Division prepared a Recirculated Draft EIR and provided it for public review from September 10, 2012 to October 26, 2012.

The Planning Division responded to the comments provided on the RDEIR and published a Final EIR on May 29, 2013. This document is part of the documents provided to the Planning Commission for the June 27, 2013 hearing. Refer to Section B. of this staff report for further information on the environmental review of the Grimes Rock project.

10. **Project Description:** *The "Project Description" presented below constitutes the applicant's request. Any authorization granted by the County of Ventura will be limited to the conditions of approval imposed on a granted CUP and the content of an approved Reclamation Plan.*

Summary:

The applicant requests approval of Modification No. 2 of Conditional Use Permit 4874 (Case No. CUP 4874-2) and the approval of an amended Reclamation Plan prepared pursuant to the Surface Mining and Reclamation Act (SMARA). The requested approvals would authorize:

- Changes to the permit boundary including the expansion of surface mining areas. The permit boundary would be expanded from approximately 164 acres to 231 acres. Parcels to be added to the CUP boundary include 500-0-050-34, 500-0-090-29, 500-0-090-05, and 500-0-090-33. The excavation area would be expanded from approximately 45.8 acres (current condition) to 135.3 acres. (See Exhibit 3.) *(Note: The current permitted area of excavation encompasses 48.4 acres.)*
- An extension of the effective term of the CUP from 2013 to an estimated end date of surface mining operations in 2040.
- An increase in sand and gravel production (i.e. material export) from 952,500 tons per year to approximately 1.8 million tons per year.
- Material hauling to occur Monday through Saturday, 6:00 a.m. until dusk.
- Onsite mining operations to occur 24 hours per day on Monday through Saturday.
- An average daily hauling truck traffic volume of 460 one-way trips.
- A maximum peak daily hauling truck traffic volume of 600 one-way trips,

- Material hauling along any route to any customer location.
- The elimination of volume and timing restrictions on trucks going south.
- An end use of Open Space.

Mineral extraction operations:

Under the proposed modified CUP 4874-2 and amended Reclamation Plan, the mining facility will continue sand and gravel excavation and processing operations similar to those that are currently permitted under the existing permit with the changes as described above. Proposed mining excavation and reclamation will occur over three phases as shown on the amended Reclamation Plan maps and cross sections (Appendix G in FEIR Volume 2, Exhibit 4).

Anticipated operations at the site will include phased recovery of sand and gravel resources and materials processing. Mineral resource recovery operations (excavation) will be accomplished through the use of conventional earthmoving equipment. The extracted materials will be loaded into a crusher and conveyor system for movement to the processing plant (see Figure 2-5 one page 2-17 of FEIR Volume 1, Exhibit 4). In some areas, off-highway haul trucks may be used to move extracted rock to the processing plant area. The products exported from the subject facility would include washed concrete sand, washed gravel and fill sand. The total anticipated future production (post-2011) of the extraction operation is estimated to be approximately 50 million tons. This tonnage assumes a conversion factor of 1.6 tons per cubic yard applied to the estimated 31 million cubic yards of material volume. The tonnage figure has been adjusted to account for production that has occurred since the topographic base map used to prepare the Reclamation Plan was created in 2011. Annual production amounts are anticipated to be approximately 1.8 million tons of aggregate and the project will generate approximately 460 average daily one-way trips (assumes 230 loads per day x 25 tons/load x 312 working days per year).

The operator will continue to utilize the existing processing plant and equipment to operate and process materials.

The mining activities would involve the removal of hills located within the proposed excavation area. The mining method will be to place a bulldozer on top of the promontory and push material off the top and down the face of the slope, moving from the peak of the hill towards the base of the hill. A front-end loader will place the bulldozed material on the conveyor system for processing. All new slopes will be cut to 2:1 horizontal:vertical (h:v). The lower one-third of final slopes will be graded in a concave configuration in order to blend with the floor of the mine.

The mineral resource extraction is proposed to occur in three phases as discussed below. The timing for these phases may change in the future depending upon market demand.

Phase 1 will consist of extracting aggregate resource from the existing disturbance limits down to the current (2013) pad elevation near the wash plant (approximately 1,130 feet AMSL). Also during Phase 1, existing highwalls that are located along the western property line will be removed. Excavation during Phase 1 will also progress toward the eastern and southeastern areas of the site. This plan will allow the operator to construct a new haul road that will be used by trucks that are entering or exiting through the southern end of the site. This haul road will be used throughout the project duration in order to eliminate southbound truck traffic on the hairpin turns located near the site along Grimes Canyon Road. Northbound truck traffic would continue to use the existing northern access road and also avoid travelling on the hairpin turns.

Phase 1 will result in the extraction of approximately one-third of the total aggregate reserve included in the Reclamation Plan. Extractive operations in Phase 1 are expected to continue for approximately 10 to 15 years depending on the demand for aggregate resources. At the maximum production rate, Phase 1 will take 10 years to complete. Topsoil will be salvaged from new disturbance areas and stockpiled on-site for use during reclamation. Final slopes will be graded to a maximum slope ratio of 2:1 (h:v) with undulating surfaces to blend in with the surrounding natural terrain. Upon completion of extraction operations within Phase 1, Phase 2 will commence.

In Phase 2, excavation will continue to progress toward the eastern end of the site down to a pad elevation of approximately 1,130 feet AMSL. A gradient of approximately 1% will be maintained for the interim floor created by Phase 2 excavation. Extractive operations in Phase 2 will result in an excavation footprint that encompasses approximately 58 acres. The total quantity of material to be excavated in this phase is estimated to be approximately one-third of the total aggregate reserve included in the Reclamation Plan. It is anticipated that Phase 2 will continue for approximately 10 - 15 years depending on the demand for aggregate resources. At the maximum production rate, Phase 2 will take 10 years to complete.

Final slopes of 2:1 (h:v), with undulating surfaces, will be established. Also during Phase 2, topsoil will be salvaged from new disturbance areas and stockpiled onsite for use during reclamation.

Phase 3 will involve continued extraction of aggregate resource until the final pad elevation on approximately 1,000 feet AMSL is reached. A 1% gradient will be created for the final floor configuration. Mineral extraction in Phase 3 is expected to remove the remaining approximately one-third of the total aggregate reserve included in this Reclamation Plan and will continue for approximately 10 - 15 years depending on the demand for aggregate resources. Final slopes will be graded to a maximum 2:1 (h:v) slope ratio with undulating surfaces. The lower one-third of final slopes will be graded in a concave configuration in order to

blend with the floor of the mine. Topsoil will be salvaged from newly disturbed areas of the site and either placed directly on final slope areas or stockpiled for later use.

Material hauling trucks will be filled from the stockpiles of processed materials by front-end loaders and subsequently weighed at on-site scales. Prior to departing the site for product delivery, truck exteriors will be swept to control sand, grit, or gravel that may fly off and become airborne during transport.

Total future material production from the site is estimated to be 50 million tons (31,250,000 cubic yards). Excavation would occur over a 135.3-acre area with a maximum slope height of 365 feet. The total CUP/Reclamation Plan area will be 231 acres.

The estimated date for the termination of mining, based upon the proposed extraction rate and total volume of material to be exported, is January 1, 2040.

Reclamation:

Reclamation activities will occur on an ongoing basis throughout the project life as planned mining excavations are completed. The reclamation plan maps and cross sections (Appendix G of Exhibit 4) depict the volume of material to be excavated and the proposed finished slope contours after each phase of the mining operations are completed. The site will be reclaimed to a configuration that includes a nearly level floor surrounded by maximum 2:1 gradient slopes. Runoff from the slopes will drain across the floor to be discharged at the low point (approximately 1,000-foot elevation) where an existing drainage course intersects the floor. It is anticipated that the western slope will be reclaimed first, followed by the southerly slope, and then by the easterly slope.

Reclamation phasing will generally follow the proposed extraction phasing described above. As extraction progresses to lower elevations in each phase, upper slopes will be reclaimed. Reclamation of final slopes will consist of establishing 2:1 (h:v) slope configurations and revegetation. The processing plant area will be one of the last areas to be mined and reclaimed.

The processing plant is currently (2013) located on the western portion of the site and will remain in place until the remaining reserves located beneath the plant site are excavated (during Phase 3). It is anticipated that reclamation will be divided into a minimum of four areas over the course of the project.

Reclamation will commence with the easterly-facing slope on the western portion of the site, within the Phase 1 area. It is expected that this area will be reclaimed near the end of Phase 1 mining operations. Next, the slopes within the southwestern and southern portions of Phase 1 will be reclaimed. It is anticipated that this area will be reclaimed at the beginning of Phase 2 mining

operations. The third area to be reclaimed will be the southeastern and eastern portions of the pit slopes. It is anticipated that these areas will be reclaimed sometime during Phase 2 and Phase 3.

The fourth area to be reclaimed will be the lower slopes of all three phase areas (from an elevation of 1,130 feet AMSL down to 1,000 feet AMSL). These slopes will be reclaimed at the completion of mining operations and once the ultimate pit depth has been reached during Phase 3. Final reclamation will include removal of the processing plant and all mining equipment, followed by revegetation of any remaining disturbance areas that are not necessary for post-extraction uses (e.g. access roads) All compacted areas will be ripped to achieve a consistency and permeability similar to that of the original soils.

When final slopes are established in individual areas, the land surface will be reclaimed. This will include revegetation of the areas outlined in the revegetation plan (Figure 2-4c of Exhibit 4). The lower one-third of final slopes will be graded in a concave configuration in order to blend with the floor of the mine. Any roads that are not necessary for the proposed open space end use will be removed and revegetated in accordance with the revegetation plan.

Upon reaching the final contours of the finished mined slopes, the operator will revegetate disturbed areas with native plant species consistent with the surroundings and the vegetation that existed prior to disturbance from mining. Finished slopes will be revegetated with a native revegetation seed mix approved by the County of Ventura and the State Office of Mine Reclamation (OMR). The objective is to restore the mining site with native vegetation that is similar in species composition and density to the pre-mining vegetation.

The revegetated surfaces will be compatible with native flora, self-perpetuating, provide habitat value to wildlife, and stabilize the onsite soils. Using a native seed mix (as specified in the proposed modified Reclamation Plan), the finished slopes will be revegetated in the fall of the year each mined area is completed. This timing is intended to take advantage of seasonal rainfall to start plant growth. A Coastal Sagebrush mix will be used to seed the side slopes, while a Grass Woodland mix will be used for the flat areas. No irrigation will be used to germinate and establish plants as the selected species are adapted to the climate and rainfall conditions at the project site. The finished slopes will be overlain with topsoil that is salvaged from new disturbance areas. However, no topsoil has been salvaged from the existing disturbance areas. In any case, topsoil and suitable growth media, including fine material that is used to augment the topsoil, will be redistributed over the disturbance areas at a minimum thickness of 3 inches.

Upon completion of all surface mining activities and the commencement of final reclamation, the operator will remove most of its plant facilities and all equipment from the site. Some infrastructure improvements (including the access road and

water supply pond) would remain on-site to support the future end use. All unused foundations, pavement, and the plant will be removed. The shop and office buildings will be converted to storage use and would remain to support maintenance of the property and future by-right uses of the land. The compacted areas will be ripped and reworked to a consistency and permeability similar to that of the original soils, and remaining unvegetated areas will be re-graded to conform with the local topography and revegetated.

The Grimes Rock site was abandoned in 1967 by a previous operator. Several "highwalls," or near vertical banks were left on the site at that time. The proposed mining project would create flatter slopes throughout the proposed project area. The "highwalls" would be eliminated with the proposed project. Any previously disturbed areas that are disturbed again by the proposed project must be reclaimed pursuant to the SMARA and County requirements. Material obtained from reclamation of the "highwalls" will be sold as product.

It is proposed that the site will be reclaimed to an end use of open space consistent with the County General Plan designation of the site.

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code §21000 et seq.) and the CEQA Guidelines (Title 14, California Code or Regulations, §15000 et seq.), the subject CUP and Reclamation Plan applications comprise a "project" that is subject to environmental review.

In response to the 2003 application for a modified conditional use permit, County staff prepared an Initial Study in accordance with the County's Initial Study Assessment Guidelines. Based on the information contained in the Initial Study, the County prepared an Draft Environmental Impact Report (DEIR) and made the DEIR available for public review and comment in May and June of 2006. The 2006 DEIR was revised in response to the several hundred public comments included in the 51 letters received by the County. In June 2009, the County prepared and released a Proposed Final Environmental Impact Report (FEIR) for further public review and comment. This document was found to be "technically adequate" by the County Environmental Report Review Committee in March 2010.

Neither the 2009 FEIR nor the CUP modification request were brought before the Planning Commission for its consideration because an appellate court decision (*Nelson v. County of Kern*) found that a SMARA-compliant Reclamation Plan is required to be concurrently reviewed with a CUP modification request. This appellate court decision is applicable to the Grimes Rock proposal and affects the County's permitting process. Subsequently, the mine operator prepared an Amended Reclamation Plan, and an associated revised project description. In addition, revisions of the County of Ventura's Initial Study Assessment Guidelines (ISAGs) were adopted in June 2010. The ISAG changes involved land use, biological resources, and other issues. The analysis of the

amended Reclamation Plan and the new project description, and the use of the new ISAGs, required revision of the 2009 FEIR.

This 2009 FEIR was substantially revised and a "Re-circulated Draft EIR" (RDEIR) was released for public review and comment from September 10 to October 26, 2012. In addition to a notification published in the Ventura Star, all property owners within 1,000 feet of the project site or within 300 feet of the proposed material hauling routes received a written notice of the availability of the RDEIR. The Notice of Availability and the RDEIR were posted on the County Planning Division website. The RDEIR was also provided to the State Clearinghouse for distribution to State agencies.

The 2013 FEIR under consideration by your Commission includes the letters of public comment received on the RDEIR and specific responses to each comment (See FEIR Volume 3). The 2013 FEIR includes revisions in the text necessary to address issues raised by the public.

1. **Certification of the Final EIR:** The CEQA Guidelines §15090(a) state:

   Prior to approving a project the lead agency shall certify that:

   (1) The final EIR has been completed in compliance with CEQA;

   (2) The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and

   (3) The final EIR reflects the lead agency's independent judgment and analysis.

   Subsequent to the September 10 to October 26, 2012 public review and comment period, the RDEIR was revised in response to comments [see Exhibit 4]. This revised document will be referred to as the Final EIR (FEIR).

   The FEIR identifies the following potentially significant environmental impacts that could result from project implementation:

   Traffic/Circulation
   Air Quality
   Hydrology/Water Resources
   Biological Resources
   Paleontological Resources
   Visual Resources

   Feasible mitigation measures are identified in the FEIR that would reduce most of the identified impacts to a less than significant level. These measures include

limitations on peak-hour truck traffic, payment of in-lieu fees to fund air pollutant emission reduction programs, installation of flood control facilities, and protection of offsite biological habitat areas. With incorporation of the mitigation measures (and the mitigation monitoring and reporting program included in each measure) into the conditions of approval for the modified CUP, significant and unavoidable impacts would remain as follows:

Project-specific impacts:

Paleontological Resources: Loss of fossil resources.
Visual Resources: Alteration of views from SR 23.

Cumulative impacts:

Air Quality: Offsite dust generation along trucking routes.
Biological Resources: Effects on habitat and sensitive species.
Paleontological Resources: Loss of fossil resources.
Visual Resources: Alteration of views from SR 23.

Nineteen comment letters were received in response to the RDEIR. Most of the commentary was focused on the effects of the truck traffic associated with material export from the mining site. These comments did not provide a basis for substantial revision of the analysis of traffic issues in the RDEIR. The analysis of offsite (on road) noise impacts presented in the RDEIR was substantially revised to conform to the 2010 County Initial Study Assessment Guidelines. The threshold of significance for noise impacts established in these guidelines reads as follows:

Any project that produces noise in excess of the standards for noise in the Ventura County General Plan Goals, Policies and Programs (Section 2.16) or the applicable Area Plan, has the potential to cause a significant noise impact. Noise-generating uses that either individually or when combined with other recently approved, pending, and probable future projects, exceeds the noise thresholds of General Plan Noise Policy 2.16.2-1(4) are considered to have a potentially significant impact.

The proposed expanded mining facility would be a "noise-generating" use subject to General Plan Noise Policy 2.16.2-1(4). This policy states:

(4) Noise generators, proposed to be located near any noise sensitive use, shall incorporate noise control measures so that ongoing outdoor noise levels received by the noise sensitive receptor, measured at the exterior wall of the building, does not exceed any of the following standards:

a. Leq1H of 55dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m.
b. Leq1H of 50dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m.
c. Leq1H of 45dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.

Section 2.16.2(4) ***is not applicable*** *to increased traffic noise along any of the roads identified within the 2020 Regional Roadway Network (Figure 4.2.3) Public Facilities Appendix of the Ventura County General Plan (see 2.16.2-1(1)). In addition, State and Federal highways, all railroad line operations, aircraft in flight, and public utility facilities are noise generators having Federal and State regulations that preempt local regulations.* [emphasis added]

As stated in the General Plan policy above, the noise limitations listed in Policy 2.16.2-1(4) do not apply to increased traffic noise along any of the roads in the County regional roadway network or along Federal or State highways. The local haul routes identified for the project (e.g. State Route 23, Grimes Canyon Road South) are all part of the regional road network or a State highway. Thus, the increased traffic noise along these roads due to expanded mining operations does not constitute an impact under the County Initial Study Assessment Guidelines. The discussion of project-related traffic noise presented in the RDEIR has been deleted from the FEIR.

No other issue areas required substantial revision or a change in the level of impact. Thus, recirculation of the RDEIR is not required. As stated above, detailed responses to each letter of comment are included in the FEIR (Sections A and B of FEIR Volume 3, Exhibit 4).

Staff recommends that the decision-makers certify that the FEIR has been prepared in accordance with the CEQA Guidelines and the County Initial Study Assessment Guidelines, and find that this document reflects the County's independent review and analysis of the effects of the proposed project. Exhibit 6 of this staff report is a draft resolution of the Planning Commission to certify the FEIR.

2. **Findings for Approval of the Project:** The CEQA Guidelines §15091(a) state:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The CEQA Guidelines §15091(c) also state:

> *The finding in* §15091(a)(2) *shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.*

The project-specific and cumulative significant and unavoidable impacts identified in the FEIR are listed in the table below along with a summary of the proposed CEQA findings of approval included as Exhibit 6.

Table 1 – Identified impacts and summary of CEQA findings

Issue area	Impact	Summary of CEQA Findings
Paleontological resources	Project-specific and cumulative loss of paleontological resources due to the expansion of the area and depth of excavation.	The loss of paleontological resources will be minimized through the implementation of mitigation measure PR 1-1 as a condition of approval of the modified permit. This measure requires that new excavation areas be surveyed prior to disturbance and that representative samples of any fossils discovered by retained. A qualified paleontologist shall also be on call to recover any substantial fossil remains uncovered during mining excavation. Thus, changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as

		identified in the final EIR.
Visual Resources	Project-specific and cumulative impact on public views from SR 23 due to the expansion of the area disturbed by mining activities.	Mitigation measures VR 1-1 and BR 11-1 serve to minimize the impacts of the proposed project on public views along SR 23. These measures limit the acreage of disturbed land during mining operations and limit the use of night lighting. Thus, changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
Air Quality	Cumulative impact involving the generation of fugitive dust along trucking routes.	Mitigation measures AQ 1-1, 1-2, and 1-3 would minimize the fugitive dust generated by project operations. These measures require the preparation of an enhanced dust control plan, compliance with APCD rules and regulations and the covering of material loads. Thus, changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
Biological resources	Cumulative loss of existing habitat due to mining excavation.	Implementation of mitigation measures BR 1-1, 1-2, 1-5, 4-1, 7-1, 7-2A, 7-2B, 10-1 and 11-1 would minimize the effects of the proposed project on biological resources. These measures would require the permanent protection of offsite habitat land, protect sensitive species found on the site, limit the area of active mining operations, require coordination with the State and Federal wildlife agencies, and limit the use of night lighting. Thus, changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Based on the information presented above, the decision-maker can make the findings required by Sections 15043, 15090, 15091, 15092 and 15093 of the

CEQA Guidelines. Staff recommends that the Planning Commission adopt the resolution included as Exhibit 7 of this staff report.

3. **Mitigation Monitoring or Reporting:** CEQA section 21081.6 and CEQA Guidelines §§15091(d) and 15097state that, when approving a project for which a EIR has been prepared, the agency shall also adopt a program for reporting on, or monitoring, the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

   The mitigation and monitoring program is incorporated into each mitigation measure identified in the FEIR. Each of the required measures has been incorporated into the recommended conditions of approval (Conditions 22-27 and 29-50, Exhibit 5) for the requested modified conditional use permit.

   Based on the foregoing information, the decision-maker can satisfy the requirement to adopt a mitigation monitoring program through the imposition of the recommended conditions of approval.

4. **Overriding Considerations:** The CEQA Guidelines §15093(a) state:

   > *CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'*

   The CEQA Guidelines §15093(b) further state:

   > *When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened (to a less-than-significant level), the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.*

   As disclosed in the FEIR (Volume 1, Exhibit 4) and discussed above, the proposed expansion of the Grimes Rock mining facility will have significant and unavoidable impacts on the environment related to paleontology, visual resources, air quality and biological resources. . The beneficial effects of the approval of this mining project are discussed below. It is staff's recommendation

that these benefits be found to outweigh the adverse effects of the project. A draft Planning Commission Resolution to certify the FEIR and adopt a Statement of Overriding Considerations (SOC) is attached as Exhibit 7 of this staff report.

The reasons to approve the project despite the significant and unavoidable impacts are focused on the economic necessity for adequate aggregate (sand and gravel) resources sufficient to satisfy the ongoing societal need for this material. In addition, the permitting of local sources for this material will reduce overall air pollutant emissions and vehicle miles travelled by material haul trucks. The following factors justify the adoption of a SOC for the proposed project:

1. Development of mineral resources of Statewide significance: The project site has been designated as Mineral Resource Zone 2 (MRZ-2) by the State Mining and Geology Board. This designation is placed on lands underlain by known mineral resources that are present in sufficient quantities to be of economic significance to the region or State. Pursuant to Section 2762 of SMARA, lands designated as MRZ-2 must be incorporated into the land use General Plan of the Lead Agency to "emphasize the conservation and development of identified mineral deposits." The proposed mining site is identified in the County General Plan as a Mineral Resource Area and in the County Non-Coastal Zoning Ordinance with a Mineral Resource Protection Zone Overlay. Thus, continued production of aggregate from the project site is consistent with State policy, County policy and the County Non-Coastal Zoning Ordinance.

2. Need for additional permitted aggregate reserves: According to the California Department of Conservation (DOC), Ventura County had permitted 106 million tons of aggregate reserves for extraction in 2006. This amount constitutes only 34 percent of the DOC-estimated 309 million tons of aggregate needed to satisfy the 50-year (2006-2055) aggregate demand in the County, taking into account estimated population growth and associated increases in demand for construction materials. Approval of the proposed Grimes Rock mine expansion project would add approximately 50 million tons to the permitted aggregate reserves of Ventura County. The resulting 156 million tons (based on 2006 data) would represent 50 percent of the estimated 50-year demand for such resources in the County. A local aggregate supply is preferred over a supply from a more remote mining facility. The availability of a local source reduces the adverse economic and environmental effects of the long-distance transport of aggregate materials. A 50-year supply of permitted aggregate reserves for each production-consumption area of the State is a goal set by the State Mining and Geology Board.

3. Provision of a local aggregate supply: Authorization of continued and expanded surface mining at the Grimes Rock site would provide for a long-term local source of aggregate mineral resources. Aggregates are a high

volume, low value mineral material. The unit price of this material largely depends on the transport cost from the mining site to the point of delivery. With a local source centrally located in Ventura County, the cost of importing this material from more distant mining facilities, including those located outside of Ventura County can be avoided. Public projects, such as road maintenance and repair, and private construction projects would benefit from reduced material cost. The availability of a local aggregate source would provide this general economic benefit.

4. Reduction in criteria air pollutant and greenhouse gas emissions: Although the FEIR estimates the emissions from the proposed project and identifies required mitigation as required under CEQA, the denial of the proposed permit could have a substantial adverse effect on regional air quality. Because aggregate is an essential component for the manufacture of concrete and paving products, the demand for this material will always be met. The only question is: "Where will this commodity come from?" Absent adequate local sources of aggregate, this material would be imported to County job sites and end users from more remote surface mining facilities, including those located at substantially greater distance in adjoining jurisdictions. The additional vehicle miles travelled (VMTs) would increase the emissions of criteria air pollutants and greenhouse gases per ton of aggregate delivered. Such a result would conflict with current California efforts under the California Global Warming Solutions Act of 2006 (Health & Safety Code section 38500 et seq.) and the Sustainable Communities and Climate Protection Act of 2008 (SB 375) to reduce VMTs and, thus, improve air quality and climate sustainability. Authorization of the proposed project would minimize the VMTs and have a corresponding air pollution reduction and represent a region-wide and statewide environmental benefit.

5. Project does not involve the development of a new mining site: The Grimes Canyon area is the major source of aggregate in the County of Ventura. Mining has occurred in this area for more than 40 years with four mining facilities, including Grimes Rock, currently in operation. Grimes Rock has been in operation for the last 15 years since its current permit was granted in 1998. As with the other three mines, the existing setting for the Grimes Rock facility includes an existing processing plant, a large area of disturbance and ongoing material excavation and trucking operations. The permitting and development of a new mining operation at an alternative location to meet current and future County demand would involve substantially more impacts on the environment (such as increased disturbance of biological habitat) than the continued utilization and expansion of the existing facility.

6. Improvement in traffic safety and flow on Grimes Grade: The proposed development of a southern entrance to the Grimes Rock mining site will eliminate the travel of Grimes Rock-related material hauling trucks on the steep and winding Grimes Grade section of State Highway 23. The removal

of these truck trips from this section of the highway would improve traffic flow and reduce hazards.

For the reasons listed above, staff recommends that the Statement of Overriding Considerations, included as Exhibit 7 of this staff report, be adopted for the proposed expansion of the Grimes Rock mining project.

With the certification of the FEIR (Exhibit 4) and the adoption of a Statement of Overriding Considerations (Exhibit 7), the proposed project will have been reviewed in conformance with CEQA and CEQA Guidelines requirements.

C. CONSISTENCY WITH THE COUNTY GENERAL PLAN

The Ventura County General Plan *Goals, Policies and Programs* (2011, page 4) states:

> *...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.*

Furthermore, the Ventura County NCZO (§8111-1.2.1.1.a) states that in order for a CUP to be granted, a proposed project must be found consistent with all applicable policies of the Ventura County General Plan. In this case, the proposed project would be authorized with the granting of a CUP and the approval of an Amended Reclamation Plan.

Evaluated below is the consistency of the proposed project with the applicable policies of the General Plan *Goals, Policies and Programs.*

1. **Resources Policy 1.1.2-1:** *All General Plan amendments, zone changes and discretionary development shall be evaluated for their individual and cumulative impacts on resources in compliance with the California Environmental Quality Act.*

   As discussed in Section B (above) and in the FEIR prepared for the proposed project (Exhibit 4), the project's individual impacts and contribution to cumulative impacts on resources have been evaluated in compliance with CEQA.

   Based on the discussion above, the proposed project is consistent with Policy 1.1.2-1.

2. **Resources Policy 1.1.2-2:** *Except as otherwise covered by a more restrictive policy within the Resources Chapter, significant adverse impacts on resources identified in environmental assessments and reports shall be mitigated to less*

than significant levels or, where no feasible mitigation measures are available, a statement of overriding considerations shall be adopted.

As discussed in Section B (above) and in the FEIR (Exhibit 4), the proposed project will have potentially significant but mitigable impacts on hydrology/water resources, air quality, biological resources and traffic. The CUP would include the mitigation measures identified in the FEIR as conditions of approval (Exhibit 5, Condition Nos. 22 through 27 and 29 through 50). With the implementation of these conditions of approval, impacts in these issue areas will be less than significant.

The FEIR also identifies significant and unavoidable impacts in the following issue areas:

Project-specific impacts:

Paleontological Resources: Loss of fossil resources.
Visual Resources: Alteration of views from SR 23.

Cumulative impacts:

Air Quality: Offsite dust generation along trucking routes.
Biological Resources: Effects on habitat and sensitive species.
Paleontological Resources: Loss of fossil resources.
Visual Resources: Alteration of views from SR 23.

Despite the inclusion of several mitigation measures into the CUP conditions of approval, residual impacts in the above-listed issue areas remain significant. A Statement of Overriding Considerations is included as Exhibit 7 of this staff report. For the reasons stated in Section B.4 of this staff report, staff recommends that this statement be adopted by the decision-makers.

Based on the discussion above, the proposed project is consistent with Policy 1.1.2-2.

3. **Resources Policy 1.2.2-3:** *Discretionary development that would have a significant adverse air quality impact shall only be approved if it is conditioned with all reasonable mitigation measures to avoid, minimize or compensate (offset) for the air quality impact. Developers shall be encouraged to employ innovative methods and technologies to minimize air pollution impacts.*

The proposed project will be subject to conditions of approval (Exhibit 5) to minimize and offset air pollutant emissions. Condition of Approval No. 29 requires the preparation and implementation of an enhanced dust control plan. Condition of Approval No. 31 requires that all material loads be covered or otherwise contained in accordance with State Law during transport. Condition of

Approval No. 32 requires the Permittee to pay in-lieu fees of $210,455 to help fund air pollutant emission reduction programs to offset the emissions of ozone precursors that will result from the project. Condition of Approval No. 32 also allows the Permittee the alternative of implementing equipment improvements at the mining facility to reduce pollutant emissions. Thus, the proposed project has been conditioned to avoid, minimize and compensate for identified air quality impacts.

Based on the discussion above, the proposed project is consistent with Policy 1.2.2-3.

4. **Resources Policy 1.2.2-5:** *Development subject to APCD permit authority shall comply with all applicable APCD rules and permit requirements, including the use of best available control technology (BACT) as determined by APCD.*

   The proposed project will be subject to Condition of Approval No. 30 (see Exhibit 5) that requires all construction and operation to be in conformance with APCD rules and regulations.

   Based on the discussion above, the proposed project is consistent with Policy 1.2.2-5.

5. **Resources Policy 1.3.2-4:** *Discretionary development shall not significantly impact the quantity or quality of water resources within watersheds, groundwater recharge areas or groundwater basins.*

   As discussed in Chapter 4.5 of the FEIR, the proposed project involves an increase in the use of groundwater of 48.9 Acre-Feet per Year (AFY). Total use of groundwater would be 121.9 AFY upon implementation of the proposed mine expansion. The Fox Canyon Groundwater Management Agency (FCGMA) has established a pumping allocation of 198.72 AFY for the wells that serve the project site. Thus, the Grimes Rock facility will have an adequate water supply that is in conformance with FCGMA regulations. In addition, the changes in site topography due to mining excavation would not adversely affect groundwater recharge. Because the slope of the groundwater recharge area would be lessened with project implementation, average annual recharge would increase as a result of the project. Based on these factors, impacts on the quantity of groundwater will be less than significant.

   Potentially significant impacts on the quality of surface water and groundwater due to the storage of hazardous materials and the future use of the site for animal keeping are disclosed in the FEIR. Feasible mitigation measures are identified in the FEIR, and included in the conditions of approval, that reduce these impacts to less than significant.

Based on the above discussion, the proposed project will be consistent with this policy.

6. **Resources Policy 1.3.2-8:** *All discretionary development shall be conditioned for the proper drilling and construction of new oil, gas and water wells and destruction of all abandoned wells on-site.*

   According to the California Division of Oil and Gas and Geothermal Resources (DOGGR), four abandoned oil wells are located on the project site. The mine operator will be required (Condition of Approval No. 69, Exhibit 5) to locate and re-abandon any well that would be affected by the proposed mining excavation prior to the initiation of such excavation.

   Based on the above discussion, the proposed project will be consistent with this policy.

7. **Resources Policy 1.4.2-1:** *Applications for mineral resource development shall be reviewed to assure minimal disturbance to the environment and to assure that lands are reclaimed for appropriate uses which provide for and protect the public health, safety and welfare.*

   The proposed expanded mining project would increase the total disturbed acreage from 48 to 135 acres. The project would be conditioned, however, to have no more than 60 acres disturbed at any one time. This would involve an increase in disturbed acreage of 12 acres (60 – 48 = 12) over the current condition. The impacts on wildlife habitat would be addressed by several mitigation measures incorporated into the project (Conditions of Approval Nos. 40 through 49, Exhibit 5), including the requirement to permanently protect existing habitat on offsite land. For a major mining project, this level of exposed excavated land represents minimal disturbance of the environment.

   The mined lands would be reclaimed in accordance with the proposed amended Reclamation Plan. This Reclamation Plan has been reviewed by the County Planning Division and the State Office of Mine Reclamation. It has been found by the staff of both agencies to meet the requirements of County Ordinance, the Surface Mining and Reclamation Act and the State Mining and Geology Board reclamation regulations. These regulations require that the mining site be reclaimed to a condition suitable for an alternate end use. The creation of stable slopes and the revegetation of the site are among the minimum reclamation requirements.

   Based on the above discussion, the proposed project will be consistent with this policy.

8. **Resources Policy 1.4.2-2:** *Mining operations shall comply with the requirements of the County Zoning Ordinance and standard conditions, and State laws and guidelines relating to mining and reclamation.*

   The proposed expanded mining project will be subject to the requirements of Section 8107-9 of the Ventura County NCZO, the standard conditions of approval developed by the County Planning Division, the requirements of the Surface Mining and Reclamation Act, and the State Mining and Geology Board reclamation regulations. The expanded mining facility will be required to operate in conformance with the conditions of approval of the requested modified CUP and the requirements of the amended Reclamation Plan.

   Based on the above discussion, the proposed project will be consistent with this policy.

9. **Resources Policy 1.4.2-8:** *Discretionary development within a Mineral Resource Area (see Resource Protection Map) shall be subject to the provisions of the Mineral Resource Protection (MRP) Overlay Zone, and is prohibited if the use will significantly hamper or preclude access to or the extraction of mineral resources.*

   The proposed project involves the expansion and continued operation of an existing mining facility. This project involves increased access to and extraction of mineral resources.

   Based on the above discussion, the proposed project will be consistent with this policy.

10. **Resources Policy 1.5.2-1:** *Discretionary development which could potentially impact biological resources shall be evaluated by a qualified biologist to assess impacts and, if necessary, develop mitigation measures.*

    The project site has been evaluated by qualified biologists during the review of the proposed mining project. A list of reports prepared from 2001 to 2004 that address various biological issues is provided in Section 4.6 of the FEIR. In addition, field inspections of the project site were conducted in 2012 by the County Planning Division biologist and biologists from the California Department of Fish and Game to confirm the findings presented in the earlier reports. Based on the available studies, impacts have been evaluated and mitigation measures identified in the FEIR.

    Based on the above discussion, the proposed project will be consistent with this policy.

11. **Resources Policy 1.7.2-1:** *Notwithstanding Policy 1.7.2-2, discretionary development which would significantly degrade visual resources or significantly alter or obscure public views of visual resources shall be prohibited unless no*

feasible mitigation measures are available and the decision-making body determines there are overriding considerations.

As identified in the FEIR, the proposed expanded mining project would involve significant and unavoidable impacts on visual resources. Despite implementation of the mitigation measures identified in the FEIR, significant impacts would remain. Public views of lands disturbed by mining activities from SR 23 would be increased with the proposed expansion of the Grimes Rock facility. Staff recommends that a Statement of Overriding Considerations (Exhibit 7) be adopted for the reasons presented above in Section B.4 of this staff report.

Based on the above discussion, the proposed project will be consistent with this policy.

12. **Resources Policy 1.8.2-1:** *Discretionary developments shall be assessed for potential paleontological and cultural resource impacts, except when exempt from such requirements by CEQA. Such assessments shall be incorporated into a Countywide paleontological and cultural resource data base.*

    Appendix F of the FEIR includes the archaeological and paleontological assessment reports for the Grimes Rock mining site. These reports are incorporated into the County database.

    Based on the above discussion, the proposed project will be consistent with this policy.

13. **Hazards Policy 2.13.2-1:** *All discretionary permits shall be required, as a condition of approval, to provide adequate water supply and access for fire protection and evacuation purposes.*

    Public Facilities and Services Policy 4.8.2-1: *Discretionary development shall be permitted only if adequate water supply, access and response time for fire protection can be made available.*

    Water is supplied to the project site by three existing water wells located on the mining site and the adjacent "Egg City" property. According to the mine operator, these wells can individually produce from 100 gallons per minute (gpm) to 600 gpm. These wells currently supply approximately 73 AFY to the mining site and would supply about 121 AFY should the proposed project be approved. In addition to the well capacity, a water truck is available on the site along with a concrete pond that holds 1 acre-foot of water. Thus, the amount of water available on the site is substantial and sufficient to meet any fire suppression requirement.

The existing entrance road to the site is connected to SR 23 and paved. This entrance road is used by material hauling trucks and provides adequate access for fire protection and evacuation purposes.

The project site is located approximately 5 miles north of an existing fire station located in the City of Moorpark. Response time from this station would be adequate.

Based on the above discussion, the proposed project will be consistent with policies 2.13.2-1 and 4.8.2-1.

14. **Hazards Policy 2.13.2-2:** *All discretionary permits in fire hazard areas shall be conditioned to include fire-resistant vegetation, cleared firebreaks, or a long-term comprehensive fuel management program as a condition of approval. Fire hazard reduction measures shall be incorporated into the design of any project in a fire hazard area.*

    The proposed mining project involves the clearing of vegetation over the active excavation area. Thus, little to no vegetation would be present in the areas where heavy earth-moving equipment would be operating. The excavation areas would effectively serve as cleared firebreaks. Thus, the project is designed to minimize fire hazards.

    Based on the above discussion, the proposed project will be consistent with this policy.

15. **Hazards Policy 2.16.2-1:** All *discretionary development* shall be reviewed for noise compatibility with surrounding uses. Noise compatibility shall be determined from a consistent set of criteria based on the standards listed below. An acoustical analysis by a qualified acoustical engineer shall be required of *discretionary developments* involving noise exposure or noise generation in excess of the established standards. The analysis shall provide documentation of existing and projected noise levels at on-site and off-site receptors, and shall recommend noise control measures for mitigating adverse impacts.

    (1) *Noise sensitive uses* proposed to be located near highways, truck routes, heavy industrial activities and other relatively continuous noise sources shall incorporate noise control measures so that:

    a. Indoor noise levels in habitable rooms do not exceed CNEL 45.
    b. Outdoor noise levels do not exceed CNEL 60 or Leq1H of 65 dB(A) during any hour.

    (2) *Noise sensitive uses* proposed to be located near railroads shall incorporate noise control measures so that:

a. Guidelines (1)a. and (1)b. above are adhered to.
b. Outdoor noise levels do not exceed L10 of 60 dB(A).

(3) Noise sensitive uses proposed to be located near airports:

a. Shall be prohibited if they are in a CNEL 65 or greater, noise contour.
b. Shall be permitted in the CNEL 60 to CNEL 65 noise contour area only if means will be taken to ensure interior noise levels of CNEL 45 or less.

(4) Noise generators, proposed to be located near any noise sensitive use, shall incorporate noise control measures so that ongoing outdoor noise levels received by the noise sensitive receptor, measured at the exterior wall of the building, does not exceed any of the following standards:

a. Leq1H of 55dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m.
b. Leq1H of 50dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m.
c. Leq1H of 45dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.

Section 2.16.2(4) is not applicable to increased traffic noise along any of the roads identified within the 2020 Regional Roadway Network (Figure 4.2.3) Public Facilities Appendix of the Ventura County General Plan (see 2.16.2-1(1)). In addition, State and Federal highways, all railroad line operations, aircraft in flight, and public utility facilities are noise generators having Federal and State regulations that preempt local regulations.

(5) Construction noise shall be evaluated and, if necessary, mitigated in accordance with the County Construction Noise Threshold Criteria and Control Plan.

The proposed expanded mining site would be a noise generator and not a noise sensitive use. Thus, sections (1), (2), and (3) of the above policy are not applicable to the proposed project.

The proposed expanded mining site is located approximately 2,400 feet from the nearest existing residence. As indicated in the FEIR, the noise generated on the project site would be substantially attenuated (reduced) by both the distance to this sensitive use and intervening topography. The FEIR concludes that the noise detected at the nearest sensitive receptor due to daytime and nighttime operations at the mining site would not exceed County standards listed under Section (4) above. In addition, Condition of Approval No. 61 addresses potential noise effects on the future residences that may be constructed in the future on the lots included in the currently-unrecorded Tract Map 5277.

The proposed project also involves an increase in the volume of truck traffic to transport aggregate materials. Project-related trucks would travel on SR 23 to either the City of Fillmore on the north or the City of Moorpark on the south. The proposed haul routes (SR 23, SR 126, Grimes Canyon Road south) are either State highways or roads included in the County regional road network. Thus, Section (4) of the policy is not applicable to the increased traffic noise associated with the proposed project.

Based on the above discussion, the proposed project will be consistent with this policy.

16. **Public Facilities and Services Policy 4.1.2-1:** *Discretionary development shall be conditioned to contribute land, improvements or funds toward the cost of needed public improvements and services related to the proposed development.*

    Mitigation measures identified in the FEIR and incorporated into the recommended conditions of approval include the payment of a Traffic Impact Mitigation Fee and a requirement to improve the entrance road to the facility. Thus, the applicant will be required to contribute improvements and funds to address the effects of the proposed project.

    Based on the above discussion, the proposed project will be consistent with this policy.

17. **Public Facilities and Services Policy 4.1.2-2:** *Development shall only be permitted in those locations where adequate public services are available (functional), under physical construction or will be available in the near future.*

    Adequate public and private services are currently available and being utilized at the existing mining operation. No new services are required to support the proposed expansion of the Grimes Rock facility.

    Based on the above discussion, the proposed project will be consistent with this policy.

18. **Public Facilities and Services Policy 4.2.2-4:** *Except as otherwise provided in the Ojai Area Plan, County General Plan land use designation changes and zone changes shall be evaluated for their individual and cumulative impacts, and discretionary development shall be evaluated for its individual impact, on existing and future roads, with special emphasis on the following:*

    (a) Whether the project would cause existing roads within the Regional Road Network or Local Road Network that are currently functioning at an acceptable LOS to function below an acceptable LOS;

(b) Whether the project would add traffic to existing roads within the Regional Road Network or the Local Road Network that are currently functioning below an acceptable LOS; and

(c) Whether the project could cause future roads planned for addition to the Regional Road Network or the Local Road Network to function below an acceptable LOS.

Public Facilities and Services Policy 4.2.2-5: [in relevant part] ... *discretionary development that would individually cause any of the impacts identified in subparagraphs (a) through (c) of Policy 4.2.2-4 shall be prohibited unless feasible mitigation measures are adopted that would ensure that the impact does not occur or unless a project completion schedule and full funding commitment for road improvements are adopted which ensure that the impact will be eliminated within a reasonable period of time.*

The potential effects of the applicant-proposed increases in truck traffic on the level of service at area intersections and along key roadway segments are evaluated in the FEIR consistent with Policy 4.2.2-4. This analysis is summarized in the following table:

Table 2 - Potentially significant traffic congestion impacts identified in the FEIR.

Impact type	Facility type	Facility affected
Project-specific	Unsignalized intersections	None
	Signalized intersections	SR 23 / SR 126 during AM and PM peak periods
	Road segments	SR 23 north of Best Rock and south of Grimes Rock, AM and mid-day peak periods
		SR 23 south of Wayne J, PM peak period
Cumulative	Unsignalized intersections	SR 23 at Bardsdale, AM and PM peak periods
		SR 23 at Broadway, AM and PM peak periods
	Signalized intersections	SR 23 at SR 126, AM and PM peal periods
	Road segments	SR 23 AM and PM peak periods

The above listed impacts all reflect the estimated increase in the average daily Peak Hour Trips (PHTs) of truck traffic associated with the proposed increase in the aggregate production rate. Mitigation measures T 1-1, T 1-1A, T 1-1B, T 1-4, T 3-1 are identified in the FEIR and will be incorporated into the CUP as Conditions of Approval Nos. 22 through 25 (Exhibit 5). These measures impose limitations on the generation of new PHTs, require that a new external access point be developed on SR 23, authorize overnight parking of trucks on the mining site, require entrance road improvements, and the payment of County, City of Moorpark and City of Fillmore traffic impact fees. With the implementation of

these measures, project-specific and cumulative impacts would be less than significant.

In summary, the project has been reviewed consistent with Policy 4.2.2-4 and the impacts listed in sections (a), (b), and (c) of this policy have been avoided through imposition of feasible mitigation measures incorporated into the conditions of approval.

Based on the above discussion, the proposed project would be consistent with policies 4.2.2-4 and 4.2.2-5.

D. ZONING ORDINANCE COMPLIANCE

Pursuant to the requirements of Section 8105-4 of the Ventura County NCZO, the proposed mining facility expansion is allowed in the Agricultural Exclusive (AE) and open Space (OS) zone districts with the granting of a CUP. A Reclamation Plan is also required pursuant to Section 8107-9.6.9 of the NCZO, SMARA and the SMGB regulations. Upon the granting of the CUP, and the approval of an amended Reclamation Plan, the proposed project will be authorized in accordance with the requirements of the Ventura County NCZO.

The proposed expansion and continued operation of the Grimes Rock mining facility is subject to the special use guidelines and standards set forth in Sections 8107-9.5 and 8107-9.6 of the NCZO. The conformance of the proposed project with the applicable guidelines and standards is evaluated in the following table.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
§8107-9.5.1: All mining and reclamation shall be consistent with the County General Plan, the Ventura County Water Management Plan, and the state Surface Mining and Reclamation Act of 1975 (SMARA), as amended, and State policy adopted pursuant to SMARA.	**Yes.** The proposed project will be consistent with the County General Plan, the Surface Mining and Reclamation Act, and the State Mining and Geology Board reclamation regulations. Refer to Section C of this staff report. as discussed in Section C, above.
§8107-9.5.4: All surface mining activities shall strike a reasonable balance with other resource priorities such as water, farmland, fish and wildlife and their habitat, groundwater recharge, sediment for replenishment of beaches and the protection of public and private structures and facilities.	**Yes.** The project involves the expansion and continued operation of an existing mining facility. The continued extraction of aggregate minerals from this site would minimize the environmental effects of the development of additional mineral reserves. The proposed project would not involve residual significant effects on groundwater resources or farmland. No public or private structures would be substantially affected by the project. Impacts on wildlife and habitat would be addressed through several mitigation measures, including the permanent protection of offsite undisturbed habitat lands.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
	Based on the above discussion, the project would reflect a balance of resource priorities consistent with this standard.
§8107-9.5.7: Appropriate and reasonable monitoring and enforcement measures shall be imposed on each mining operation which will ensure that all permit conditions, guidelines and standards are fulfilled.	**Yes.** The operation will be subject to mandatory annual site inspections for SMARA compliance and periodic condition compliance review. The requirements for monitoring the proposed operation are included in the recommended conditions of approval of the requested modified CUP.
§8107-9.5.8: Reclamation of a site shall include the removal of equipment and facilities and the restoration of the site so that it is readily adaptable for alternate land use(s) which is consistent with the approved reclamation plan as well as the existing and proposed uses in the general area. Reclamation shall be conducted in phases on an ongoing basis, where feasible.	**Yes.** The proposed amended Reclamation Plan includes the removal of equipment and facilities, and reclamation of the site consistent with SMARA standards. The proposed amended Reclamation Plan includes phased reclamation of the site.
§8107-9.6.1: Projects shall be located, designed, operated and reclaimed so as to minimize their adverse impact on the physical and social environment, and on natural resources. To this end, dust, noise, vibration, noxious odors, intrusive light, aesthetic impacts, traffic impacts and other factors of nuisance and annoyance, erosion, and flooding shall be minimized or eliminated through the best accepted mining and reclamation practices, applicable to local conditions, which are consistent with contemporary principles and knowledge of resource management, storm water quality, groundwater quality and quantity, flood control engineering and flood plain management.	**Yes.** Issues involving traffic, aesthetics, dust, noise, lighting, groundwater, and flood control are addressed in the FEIR. Mitigation measures have been identified to minimize adverse effects in these issue areas and are incorporated into the recommended conditions of approval of the CUP. The proposed amended Reclamation Plan has been found to meet SMARA performance standards for slope stability, revegetation, erosion control and restoration of wildlife habitat.
§8107-9.6.2: No processing equipment or facilities shall be permanently located, and no mining or accessory uses shall occur, within: a) 100 feet of any dedicated public street or highway unless the Public Works Agency determines a lesser distance would be acceptable; b) 100 feet of any dwelling not accessory to the project, unless a waiver is signed pursuant to Section 8107-9.6.13 of the NCZO allowing the setback to be reduced. In no case shall permanent processing facilities, equipment, or mining be located	**Yes.** The design of the proposed expanded mining facility as depicted in the proposed amended Reclamation Plan is in conformance with these setback standards.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
less than 50 feet from said structures. c) 200 feet of any institution, school or other building used as a place of public assemblage, unless a waiver is signed pursuant to Section 8107-9.6.13 of the NCZO allowing the setback to be reduced. In no case shall permanent processing facilities or equipment or mining be located less than 100 feet from said structures. Other facilities and structures shall be set back distances which ara applicable for accessory structures for the zone in which the use is located.	
§8107-9.6.3: Mining operations and their accessory uses, access roads, facilities, stockpiling of mineral resources and related mining activities shall be consistent with current engineering and public works standards and in no case shall obstruct, divert, or otherwise affect the flow of natural drainage and flood waters so as to cause significant adverse impacts, except as authorized by the Public Works Agency.	**Yes.** The engineering practices utilized as part of the existing mining operation will not change with the proposed expansion of this facility. The conditions of approval will require that drainage from the site be conveyed consistent with County standards. As indicated in the proposed amended Reclamation Plan, the site will be reclaimed in accordance with the performance standards for drainage, erosion control and slope stability established in the SMGB reclamation regulations.
§8107-9.6.4: Contaminants, water run-off and siltation shall be controlled and generally contained on the project site so as to minimize adverse off-site impacts.	**Yes.** The conditions of approval will assure that the water pollution in surface runoff will be minimized in accordance with applicable regulations. These conditions require the operator to comply with NPDES and State stormwater regulations, limit the gradient of final reclaimed slopes, and require drainage facilities to be installed in conformance with the Watershed Protection District hydrology and hydraulics design manuals. The design of equipment maintenance areas will also be required to minimize the potential for leakage of fuels and other fluids used as part of the operation.
§8107-9.6.5: The project site and all roads or hauling routes located between the public right-of-way and the subject site shall be improved or otherwise treated as required by the County and maintained as necessary to prevent the emanation of dust.	**Yes.** The recommended conditions of approval of the modified CUP 4874-2 include the requirement to prepare and implement an enhanced dust control plan. This plan must include measures to minimize the emanation of dust from the onsite roadways. Compliance with the adopted Rules and Regulations of the Ventura County Air Pollution Control District will also be required.
§8107-9.6.6: Light emanation shall be controlled so as not to produce excessive levels of glare or abnormal light levels directed at any neighboring uses.	**Yes.** A condition of approval requires that project lighting shall be shielded such that lighting elements will not be visible to drivers along SR 23. In addition, the intensity of light spillover into lands outside the limits of disturbance shall not exceed 0.5 foot-candles.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
§8107-9.6.8: The permit area shall be maintained in a neat and orderly manner so as not to create unsightly conditions visible from outside the permitted area or any hazardous conditions. Equipment and materials may be stored on the site that are appurtenant to the operation and maintenance of mining operations.	**Yes.** This issue is addressed in a standard condition of approval (Condition 5, Exhibit 5).
§8107-9.6.9: No mining permit shall be approved without an approved reclamation plan, unless it is exempted from said reclamation plan by the State Department of Conservation. Where reclamation plans are not processed concurrently with a discretionary land use entitlement, at least one noticed public hearing on the reclamation plan must be held prior to its approval. Such reclamation plans are subject to all rights of appeal associated with permit approval. All reclamation plans must be found to be consistent with and approved in accordance with: the Ventura County Zoning Ordinance, as amended; the provisions of SMARA (Public Resource Code (PRC) § 2710 et seq.), PRC Section 2207, and State regulation Title 14 California Code of Regulations (CCR) § 3500 et seq., as amended; the regulations, guidelines and other measures adopted by the State Mining and Geology Board; Ventura County Public Works Agency standards; any and all locally adopted resource management goals and policies; and compatible with the existing geological and topographical features of the area. Additional considerations, such as the following, shall also be addressed in the reclamation plan and permit: (AM. ORD. 4092 - 6/27/95) a. The creation of safe, stable slopes and the prevention of subsidence; b. Control of water run-off and erosion; c. Views of the site from surrounding areas; d. Availability of backfill material; e. Proposed subsequent use of the land which will be consistent with the General Plan and existing and proposed uses in the general area; f. Removal or reuse of all structures and equipment; g. The time frame for completing the	**Yes.** The requested modified conditional use permit is being processed concurrently with an amended Reclamation Plan. This amended Reclamation Plan has been reviewed by staff of the County Planning Division and by the California Department of Conservation, Office of Mine Reclamation. These agencies have found this amended Reclamation Plan to be in conformance with the Ventura County Non-Coastal Zoning Ordinance, the Surface Mining and Reclamation Act (SMARA), and the State Mining and Geology Board reclamation regulations. A Financial Assurance of $459,814 is currently posted with the County and State Department of Conservation to assure reclamation of the site in conformance with the current Approved Reclamation Plan. The amount of Financial Assurance posted for the site must be updated annually to reflect the physical conditions on the mining site, anticipated disturbance over the upcoming year, and the requirements of the applicable Reclamation Plan. Given the expanded surface mining activities, it is likely that the Financial Assurances required for the facility will increase.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
reclamation; h. The costs of reclamation if the County will need to contract to have it performed; i. Revegetation of the site; j. Phased reclamation of the project area; k. Provisions of an appropriate financial assurance mechanism to ensure complete implementation of the approved reclamation plan. (ADD. ORD. 4092 - 6/27/95) Upon receipt of a complete reclamation plan, the Planning Director shall forward the plan to the State Department of Conservation for review. Following review by the State, the reclamation plan may be approved by the County in accordance with the requirements of SMARA, as amended. Termination of the use or revocation of the use permit does not absolve the responsible parties for the reclamation of the site pursuant to the adopted reclamation plan and/or SMARA requirements. Failure to reclaim mined lands constitutes a violation of this Chapter and the property owner is ultimately responsible for such reclamation.	
§8107-9.6.10: All equipment, except that which is required to complete the reclamation plan, and all facilities and structures on the project site, except those approved for retention in support of the authorized "end use", shall be removed from the site in accordance with the reclamation plan, within 180 days after the termination of the use, unless a time extension is approved by the Planning Director.	**Yes.** Removal of mining equipment is incorporated into the proposed amended Reclamation Plan. The timing of removal, consistent with this standard, is included in the recommended conditions of approval (Condition 2, Exhibit 5).
§8107-9.6.14: The permittee shall immediately notify the Planning Director of any incidents such as fires, explosions, spills, land or slope failures or other conditions at the permit site which could pose a hazard to life or property outside the permit area. Upon request of any County agency, the permittee shall provide a written report of any incident within seven calendar days which shall include, but not be limited to, a description of the facts of the incident, the corrective measures used and the steps taken to prevent recurrence of the incident.	**Yes.** A standard condition of approval (Condition 19, Exhibit 5) requires notification of the Planning Director of major events and the preparation of a written report if requested by the County.
§8107-9.6.15: The permittee shall provide the Planning Director with the current name(s) and/or position title, address and	**Yes.** This requirement is included in the recommended conditions of approval (Condition 17, Exhibit 5) of the

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
phone number of the person who shall receive all orders, notices and communications regarding matters of condition and code compliance. The person(s) in question shall be available by phone during the hours that activities occur on the permit site, even if this means 24 hours a day.	modified conditional use permit.
§8107-9.6.17: Monitoring of the permit or aspects of it may be required as often as necessary to ensure compliance with the permit conditions. In any case, the permit and site shall be reviewed and inspected by the Planning Division or its contractors at least once a year. The purpose of said review is to ascertain whether the permittee is in compliance with all conditions of the permit and current SMARA requirements and whether there have been significant changes in environmental conditions, land use or mining technology, or if there is other good cause which would warrant the Planning Director's filing of an application for modification of the conditions of the permit. If such an application is filed, it shall be at the County's expense and modification of conditions would not occur without a duly noticed public hearing. More frequent inspections may be mandated at the discretion of the Planning Director after violations have been discovered on the site. The permittee shall pay the County the annual inspection fee established by resolution of the Board of Supervisors.	**Yes.** Annual inspections of the site are ongoing and mandated by SMARA and the SMGB Regulations. The ability of the Planning Director to file a permit modification application is established in existing ordinance. In any case, the provisions of this standard will be incorporated into the recommended conditions of approval (Condition 2, Exhibit 5).
§8107-9.6.18: Permit conditions shall be imposed which will enable the County to recover the reasonable and appropriate costs necessary for the reviewing and monitoring of permit operations and the enforcing of the applicable requirements of the Zoning Ordinance and the conditions of this permit.	**Yes.** Provisions for County cost recovery are included in the recommended conditions of approval (Condition 12, Exhibit 5).
§8107-9.6.20: Performance bonds or other securities may be imposed on any permit to ensure compliance with certain specific tasks or aspects of the permit. The amount of the security shall be based upon the actual anticipated costs for completing the subject task if the County were forced to complete it rather than the permittee. The performance security may be posted in	**Yes.** The mine operator is required to post a Financial Assurance with the State and County to assure reclamation of the site in conformance with the applicable approved Reclamation Plan. The required Financial Assurance is subject to annual review and adjustment by the County.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
phases as tasks are undertaken or required to be completed.	
§8107-9.6.21: The permittee shall maintain, for the life of the permit, liability insurance of not less than $500,000 for one person and $1,000,000 for all persons, and $2,000,000 for property damage, unless the Ventura County Risk Management Agency deems higher limits are necessary. This requirement does not preclude the permittee from being self-insured.	**Yes.** Insurance requirements are included in the recommended conditions of approval (Condition 2, Exhibit 5).
§8107-9.6.22: Unless herein exempted, operations associated with an approved mining permit shall not produce noise, measured at a point outside of occupied sensitive uses such as residences, schools, health care facilities, or places of public assembly, that exceeds the following standard or any other more restrictive standard that may be established as a condition of a specific permit. Noise from the subject property shall be considered in excess of the standard when the average sound level, measured over one hour at the sensitive use, is greater than the standard that follows. The determination of whether a violation has occurred shall be made by the Planning Director in accordance with the provisions of the permit in question, where such provisions exist. If the permit has no such violation determination provisions, then best common practice shall be used. Nomenclature and noise level descriptor definitions are described in the Ventura County General Plan Goals, Policies and Programs and the Ventura County General Plan Hazards Appendix. Measurement procedures shall be guided by the Ventura County General Plan Hazards Appendix and other contemporary procedures in effect. The maximum allowable average sound level is as follows: One Hour Average Noise Levels (LEQ) • Leq1H of 55 dB(A) or ambient noise level plus 3 dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m. • Leq1H of 50 dB(A) or ambient noise level plus 3 dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m. • Leq1H of 45 dB(A) or ambient noise level	**Yes.** According to the noise analysis included in the FEIR, the noise from onsite operations will not exceed the listed standards at any nearby sensitive receptor. Pursuant to General Plan Policy 2.16.2-1(4), noise generated by project-related truck traffic on State Highways and roads included in the regional road network are not subject to the noise standards listed in NCZO §8107-9.6.22.

Table 3 – Special Use Standards Consistency Analysis

Special Use Standard	In conformance?
plus 3 dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.	

The proposed project is located within a Mineral Resource Protection (MRP) Overlay Zone and, therefore, is subject to the standards set forth in Section 8109-4.4 of the Ventura County NCZO. Table 3 below lists the applicable MRP Overlay Zone standards along with an evaluation of the conformance of the project to those standards.

Table 3 – Mineral Resource Protection Overlay Zone Standards Consistency Analysis

Overlay Zone Standard	Complies?
Discretionary permits shall not be granted within areas with a "MRP" overlay zone designation if the use will significantly hamper or preclude access to, or the extraction of, a mineral resource ...	**Yes.** The proposed project involves enhanced access to mineral resources in the MRP overlay zone.

E. CUP FINDINGS AND SUPPORTING EVIDENCE

The Planning Commission must make certain findings in order to grant a conditional use permit pursuant to Section 8111-1.2.1.1 of the Ventura County Non-Coastal Zoning Ordinance. The ability to make the required findings is evaluated below.

1. **The proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code [§8111-1.2.1.1.a].**

   Based on the information and analysis presented in Sections C and D of this staff report, the finding that the proposed development is consistent with the intent and provisions of the County's General Plan and the NCZO can be made.

2. **The proposed development is compatible with the character of surrounding, legally established development [§8111-1.2.1.1.b].**

   The Grimes Rock mining facility has been in operation since 1998 at a site that was previously mined by another company in the 1960s. Thus, the site has been disturbed by mining activities for at least the past 40 years. Implementation of the proposed mine expansion will increase the visual impact of this facility but will not substantially change the disturbed character of the site. This disturbed character of the site is similar to that of the two other surface mining operations (i.e., Best Rock and Wayne J Sand and Gravel) located directly east and west of the site. To the south of the site is property upon which the Egg City facility formerly

operated. The Egg City property is now vacant and undeveloped. *(Please see Finding No. 5 below for additional information on this property.)* To the north of the site is undeveloped agriculturally-zoned (AE-40) grazing land. The mining facility is located in a remote mountainous area away from dense residential uses. Upon the completion of mining excavation, the site would be reclaimed to an open space use. Given these factors, the proposed expanded mining operation is compatible with the character of surrounding development.

Based on the above discussion, this permit approval finding can be made.

3. **The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [§8111-1.2.1.1.c].**

The Grimes Rock mining facility has been in operation since 1998 at a site that was previously mined by another company in the 1960s. Thus, the site has been disturbed by mining activities for at least the past 40 years. Implementation of the proposed mine expansion will increase the visual impact of this facility but will not substantially change the disturbed character of the site. This disturbed character of the site is similar to that of the two other surface mining operations (i.e., Best Rock and Wayne J Sand and Gravel) located directly east and west of the site. To the south of the site is property upon which the Egg City facility formerly operated. The Egg City property is now vacant and undeveloped. *(Please see Finding No. 5 below for additional information on this property.)* To the north of the site is undeveloped agriculturally-zoned (AE-40) grazing land.

The mining facility is located in a remote mountainous area away from dense residential uses. The proposed expansion and continued use of the Grimes Rock facility would have no adverse effect on the other adjacent and nearby surface mining operations. In addition, this project poses no new obnoxious or harmful effect on the undeveloped neighboring properties to the north and south. The current uses of these properties would not be impaired by the proposed project. Note that the neighboring property to the south of this project may be residentially developed in the future in accordance with an existing subdivision tract map. There are provisions in the Conditions of Approval that address the potential effects that the proposed mining project might have on that development. See Finding No. 5 below for more detail.

Upon the completion of mining excavation, the site would be reclaimed to an open space use in accordance with the amended Reclamation Plan. The ultimate reclaimed condition of the site is not anticipated to have any adverse effect of neighboring properties.

As discussed in Section C of this staff report, the proposed project will be consistent with County General Plan policies that pertain to air quality (Policies 1.2.2-3 and 1.2.2-5), reclamation of the site (Policy 1.4.2-1), visual resources

(Policy 1.7.2-1), fire hazards (Policy 2.13.2-2), noise generation (Policy 2.16.2-1), and traffic (Policy 4.2.2-5).

Based on the above discussion, this permit approval finding can be made.

4. **The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [§8111-1.2.1.1.d].**

As described in Section C of this staff report, the proposed project will be consistent with County General Plan policies that pertain to hazards and safety. Refer to the discussion in Section C on policies 2.13.2-1, 2.13.2-2, and 4.1.2-2. There are adequate services and resources to assure the continued safe operation of the mining facility.

The proposed project is evaluated in the FEIR (Exhibit 4) for impacts related to traffic/circulation, visual resources, air quality, biology, water resources, community character, paleontological resources, and climate change. The only project-specific significant and unavoidable impacts involve paleontology and visual resources. These issues do not represent a new project impact that would be detrimental to the public interest, health, safety, convenience, or welfare.

Although noise from material hauling trucks is not an environmental impact assessed under the County's Initial Study Assessment Guidelines (refer to the discussion of the ISAG noise thresholds on pages 11-14 above), the noise generated by material hauling trucks travelling on area roadways can affect sensitive receptors and development. To minimize the truck noise, Condition of Approval No. 60 has been included to limit the use of engine braking by material hauling truck drivers.

The only regional offsite impact of the project identified in the FEIR involves the contribution of project traffic to the generation of cumulative dust emissions along the material haul routes. While the project would contribute to dust emissions, the generation of dust due to truck traffic would still exist with or without the project because of the ambient traffic volume. Refer to pages 4.2-17, 18, 29 and 30 of the FEIR.

Furthermore, should the proposed project not be approved, the demand for aggregate would most likely be satisfied by existing local quarries and surface mines (i.e., Best Rock, Wayne J and CEMEX) using the same hauling routes or from more remote quarries in Los Angeles, Santa Barbara, San Bernardino and Riverside Counties which would travel greater distances to serve the demand. The traffic volume of material hauling trucks is a function of demand that will always be satisfied. Thus, the new contribution to dust generation due to the proposed project would occur in any case. Thus, implementation of the proposed project is not expected to be detrimental to the public interest, health, safety, convenience, or welfare.

Based on the above discussion, this permit approval finding can be made.

5. **The proposed development, if allowed by a Conditional Use Permit, is compatible with existing and potential land uses in the general area where the development is to be located [§8111-1.2.1.1.e].**

The Grimes Rock mining facility has been in operation since 1998 at a site that was previously mined by another company in the 1960s. Thus, the site has been disturbed by mining activities for at least the past 40 years. Implementation of the proposed mine expansion will increase the visual impact of this facility but will not substantially change the disturbed character of the site. This disturbed character of the site is similar to that of the two other surface mining operations (i.e., Best Rock and Wayne J Sand and Gravel) located directly east and west of the site. Further to the east is a fourth mining facility operated by CEMEX. To the south of the site is property upon which the Egg City facility formerly operated. The Egg City property is now vacant and undeveloped. To the north of the site is undeveloped agriculturally-zoned (AE-40) grazing land.

The mining facility is located in a remote mountainous area away from dense residential uses. Upon the completion of mining excavation, the site would be reclaimed to an open space use. Given these factors, the proposed expanded mining operation is compatible with the surrounding existing land uses.

Two changes in land use are reasonably forseeable that involve properties in the vicinity of the proposed project. Each of these changes are discussed below:

<u>Proposed Expansion of the Wayne J Sand and Gravel Mining Operation:</u> The existing Wayne J Sand and Gravel mining facility is proposed to be expanded to incorporate land that is located immediately east of the Grimes Rock site on the other side of State Highway 23. The Wayne J facility would continue to use its existing entrance on SR 23. The Grimes Rock and Wayne J operations are very similar and would not be in conflict with one another. Thus, the Grimes Rock project is compatible with a future expanded Wayne J facility.

<u>Recordation and development of the TM 5277 subdivision (former Egg City property):</u> Tract Map No. 5277 was tentatively approved by the Ventura County Board of Supervisors on January 25, 2005. This decision occurred after the 2003 release of the Notice of Preparation for the Grimes Rock project EIR. In addition, TM 5277 has not yet been recorded. The 12 lots shown on the tentative map would range from 10.42 to 27.93 acres in area. These 12 lots, and any residences that may be developed on these lots, do not currently exist. Residences on TM 5277 are not part of the existing environmental setting upon which project-specific impacts are measured in either the RDEIR or FEIR for this surface mining project. TM 5277 is, however, included in the related projects list

included in Table 3-1 of the FEIR and was considered in the analysis of project's contribution to any significant cumulative impacts.

The TM No. 5277 subdivision is a reasonably foreseeable potential land use located adjacent to the proposed Grimes Rock project. The excavation area for the proposed expanded Grimes Rock mining facility will remain a substantial distance (a minimum of 800 feet), and be topographically separated, from the potential residences on the TM 5277 site. However, the material hauling trucks will use an existing onsite paved road to access the proposed new southern entrance of the mining facility. On this paved road, hauling trucks will travel along the northern and eastern boundaries of the TM 5277 property. Although this same road will serve as a secondary (emergency) access for the TM 5277 project, the potential subdivision's primary ingress and egress is provided through another road. In any case, there is the potential that noise from the material hauling trucks could adversely affect the future residences.

In order to assure that the proposed project would be compatible with the potential future development of the TM 5277 subdivision, condition of approval 61 requires the analysis of noise effects on future residences on the TM 5277 site, and implementation of any necessary noise suppression measures, to assure that noise levels experienced at primary residences do not exceed the limits specified in County policy. As there are currently no residences developed on the property and no recorded subdivided lots, any noise analysis conducted at this time would be speculative and not provide definitive results. In any case, the implementation of condition of approval 61 is adequate to assure compatibility of the project with the potential land uses on TM 5277.

Based on the above discussion, this permit approval finding can be made.

6. The proposed development will occur on a legal lot [§8111-1.2.1.1f].

Each of the properties represented by the Assessor's Parcel Numbers (APNs) listed in the following table are legal lots based on the County-approved actions listed in the table. The Grimes Rock Project is encompassed by these legal lots.

APN	County instrument establishing legal status (LLD, LLS, LLA, or PMW)
500-0-050-13	Legal with APN 500-0-090-26 per LLD dated 1-4-94
500-0-090-05	LLA 050823-0209443
500-0-090-26	Legal with APN 500-0-090-26 per LLD dated 1-4-94
500-0-090-27	LLA 000107796
500-0-090-29	LLA 000107796
500-0-090-32	LLA 050823-0209443
500-0-090-33	LLA 000189812
500-0-050-34	Legal lot with 500-0-050-11, -12, -41, and 500-0-100-01 by deed. (LLD by Planning Division)

Based on the above discussion, this permit approval finding can be made.

7. **The establishment or maintenance of this use will not significantly reduce, restrict or adversely affect agricultural resources or the viability of agricultural operations in the area [§8111-1.2.1.2.a].**

   The land involved in the Grimes Rock project was used for grazing in the past but has not recently been used for agricultural purposes. The lands surrounding the project site are used for open space, mining or cattle grazing. Thus, implementation of the proposed project would not significantly reduce, restrict or adversely affect agricultural resources or the viability of agricultural operations in the area.

   Based on the above discussion, this additional permit approval finding for the AE zone can be made.

8. **The structures will be sited to minimize conflicts with agriculture, and other uses will not significantly reduce, restrict or adversely affect agricultural activities on-site or in the area, where applicable [§8111-1.2.1.2.b].**

   There are no new structures included in the proposed project. Thus, this finding can be made.

9. **The use will be sited to remove as little land from agricultural production (or potential agricultural production) as possible [§8111-1.2.1.2.c].**

   The lands proposed to be included in the expanded mining facility are not used for agriculture. Thus, no land will be removed from agricultural production as a result of this project.

   Based on the above discussion, this finding can be made.

10. **Discretionary permits shall not be granted within areas with a "MRP" overlay zone designation if the use will significantly hamper or preclude access to, or the extraction of, a mineral resource, except where one or more of the following findings can be made:**

    a. **Such use is primarily intended to protect life or property.**
    b. **Such use provides a significant public benefit.**
    c. **The resource is not present at the site.**
    d. **Extraction of the resource is not technically or economically feasible.**
    e. **Extraction of the resource is not feasible due to limitations imposed by the County.**

The proposed project is a proposed expansion of an existing mining facility. Thus, access to and extraction of mineral resources in the MRP Overlay Zone will be enhanced with the implementation of the proposed project.

F. RECLAMATION PLAN FINDINGS AND SUPPORTING EVIDENCE

The Planning Commission must make certain findings in order to approve a Reclamation Plan pursuant to NCZO Section 8107-9.6.9. The ability to make the required findings is evaluated below.

1. **The reclamation plan must be consistent with and approved in accordance with:**

   - **The Ventura County Zoning Ordinance**
   - **The provisions of SMARA (Public Resources Code Section 2710 et seq.).**
   - **Public Resources Code Section 2207 (i.e. State Annual Reporting and Fee requirements).**
   - **State mining regulations (14 CCR Section 3500 et.seq.).**
   - **The regulations, guidelines and other measures adopted by the State Mining and Geology Board**
   - **Ventura County Public Works Agency standards**
   - **Any and all locally adopted resource management goals and policies.**

   The proposed Amended Reclamation Plan (RP12-0001) was prepared on the County of Ventura Reclamation Plan application form. This form lists all applicable reclamation regulations and requires the Reclamation Plan to include documentation of conformance with each regulatory standard. Based on review by County staff and staff of the State Office of Mine Reclamation, the proposed Plan (Appendix G of FEIR Volume 2, Exhibit 4) includes the required documentation of conformance with the above-listed statutory and regulatory requirements.

   Based on the above discussion, this finding can be made.

2. **The reclamation plan must be compatible with the existing geological and topographical features of the area.**

   The Amended Reclamation Plan includes an engineering excavation plan that accounts for the geological and topographic features of the project area. Upon the completion of mining activities, the mining site will be reclaimed to an open space use with stable slopes having a maximum gradient of 2:1 (H:V). The site will be re-vegetated and drainage control measures will be installed to minimize erosion and sedimentation. The condition of the reclaimed slopes will be

compatible with the undisturbed slopes that will surround the former excavation area.

Based on the above discussion, this finding can be made.

3. **Additional considerations, such as the following, shall be addressed in the reclamation plan and permit:**

- **The creation of stable slopes and the prevention of subsidence;**
- **Control of water run-off and erosion;**
- **Views of the site from surrounding areas;**
- **Availability of backfill materials;**
- **Proposed subsequent use of the land which will be consistent with the General Plan and existing and proposed uses in the general area;**
- **Removal or reuse of all structures and equipment;**
- **The time frame for completing reclamation;**
- **The costs of reclamation if the County will need to contract to have it performed;**
- **Revegetation of the site;**
- **Phased reclamation of the project area;**
- **Provisions of an appropriate financial assurance mechanism to ensure complete implementation of the approved reclamation plan.**

Section 2.11 of the Amended Reclamation Plan (Appendix G of Exhibit 4) adequately addresses each of the issues specified above based on review by County staff and the State Office of Mine Reclamation.

Based on the above discussion, this finding can be made.

G. PLANNING COMMISSION HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS

The Planning Division provided public notice regarding the Planning Commission hearing on this matter in excess of the requirements of Government Code §65091, and Ventura County NCZO §8111-3.1. The Planning Division mailed notice to owners of property within 1,000 feet of the property on which the project site is located and placed a legal ad in the Ventura County Star. In addition, the owners of all properties located within 300 feet of the material hauling routes (SR 23 and Grimes Canyon Road) between the City of Fillmore and the City of Moorpark were provided notice. Finally, each city in Ventura County, the State Office of Mine Reclamation, State and Federal wildlife agencies, the California Highway Patrol, Caltrans, other organizations, responsible and trustee agencies, and each person who commented on the Re-circulated Draft EIR were noticed. As of the date of this document, no public comments in response to the hearing notice were received regarding the proposed project.

H. RECOMMENDED ACTIONS

Based upon the preceding analysis and information provided here and in the referenced exhibits, attachments and appendices, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Planning Commission has reviewed and considered this staff report and all exhibits thereto, including the proposed FEIR (Exhibit 4), Mitigation Measures and Mitigation Monitoring and Reporting Program (Exhibit 5), CEQA Findings (Exhibit 6) and Statement of Overriding Considerations (Exhibit 7), and has considered all comments received during the public comment process;

2. **CERTIFY** based on the whole of the record before the Planning Commission, including any comments received during the public hearing process, that the Final EIR (Exhibit 4):

    a. has been completed in compliance with CEQA;

    b. was presented to the Planning Commission and that the Planning Commission reviewed and considered the information contained therein prior to approving the project; and,

    c. reflects the County's independent judgment and analysis;

3. **APPROVE** and **ADOPT** by resolution the proposed CEQA Findings (Exhibit 6), Mitigation Monitoring and Reporting Program included in the conditions of approval (Exhibit 5), and the Statement of Overriding Considerations (Exhibit 7) based upon the substantial evidence provided in the administrative record of proceedings, including the Planning Division Staff Report for this project and public testimony;

4. **MAKE** the required findings to grant a Major Modification of a CUP pursuant to Section 8111-1.2.1.1 of the Ventura County NCZO, based on the substantial evidence presented in Section E of this staff report and the entire administrative record of proceedings on this matter;

5. **GRANT** a Modified Conditional Use Permit (Case Nos. CUP 4874-2; PL12-0159), subject to the conditions of approval (Exhibit 4);

6. **FIND** that the Amended Reclamation Plan [Appendix G of the FEIR (Exhibit 4)] has been prepared in conformance with the requirements of Section 8107-9 of the Ventura County NCZO, the California Surface Mining and Reclamation Act (Pub. Res. Code § 2710 et seq.), and the State Mining and Geology Board regulations (14 Cal. Code of Regs, § 3500 et seq.);

7. **APPROVE** the amended Reclamation Plan [Appendix G of the FEIR (Exhibit 4)]; and

8. **SPECIFY** that the Clerk of the Planning Commission is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the conditional use permit and reclamation plan have been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date. (See NCZO Section 8111-7 et. seq.)

This staff report has been reviewed by the office of the County Counsel.

If you have any questions concerning the information presented above, please contact either Kim Prillhart at (805) 654-2481 or Brian R. Baca at (805) 654-5192. You may also reach Mr. Baca at brian.baca@ventura.org.

Prepared by:

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Ventura County Planning Division

Reviewed by:

Kim L. Prillhart, Director
Ventura County Planning Division

EXHIBITS

Exhibit 2(a-c) Vicinity Map, General Plan and Zoning Designation Map
Exhibit 3 Aerial Photograph (CUP and Reclamation Plan boundaries)
Exhibit 4 Final EIR (3 volumes)
Exhibit 5 Conditions of Approval and Mitigation Monitoring and Reporting Program
Exhibit 6 Resolution to Certify the EIR and Make the required CEQA Findings
Exhibit 7 Statement of Overriding Considerations

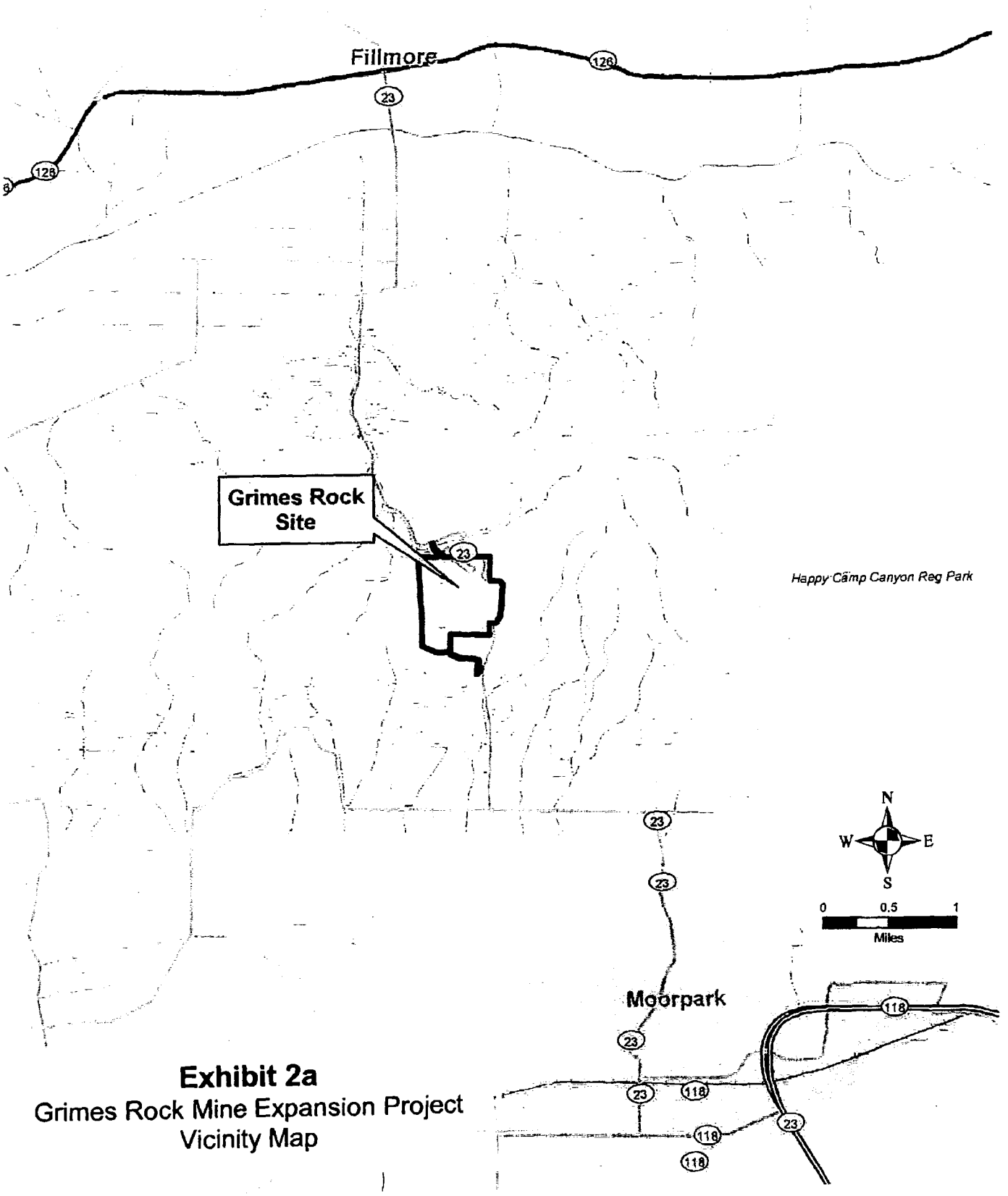


Exhibit 2a
Grimes Rock Mine Expansion Project
Vicinity Map

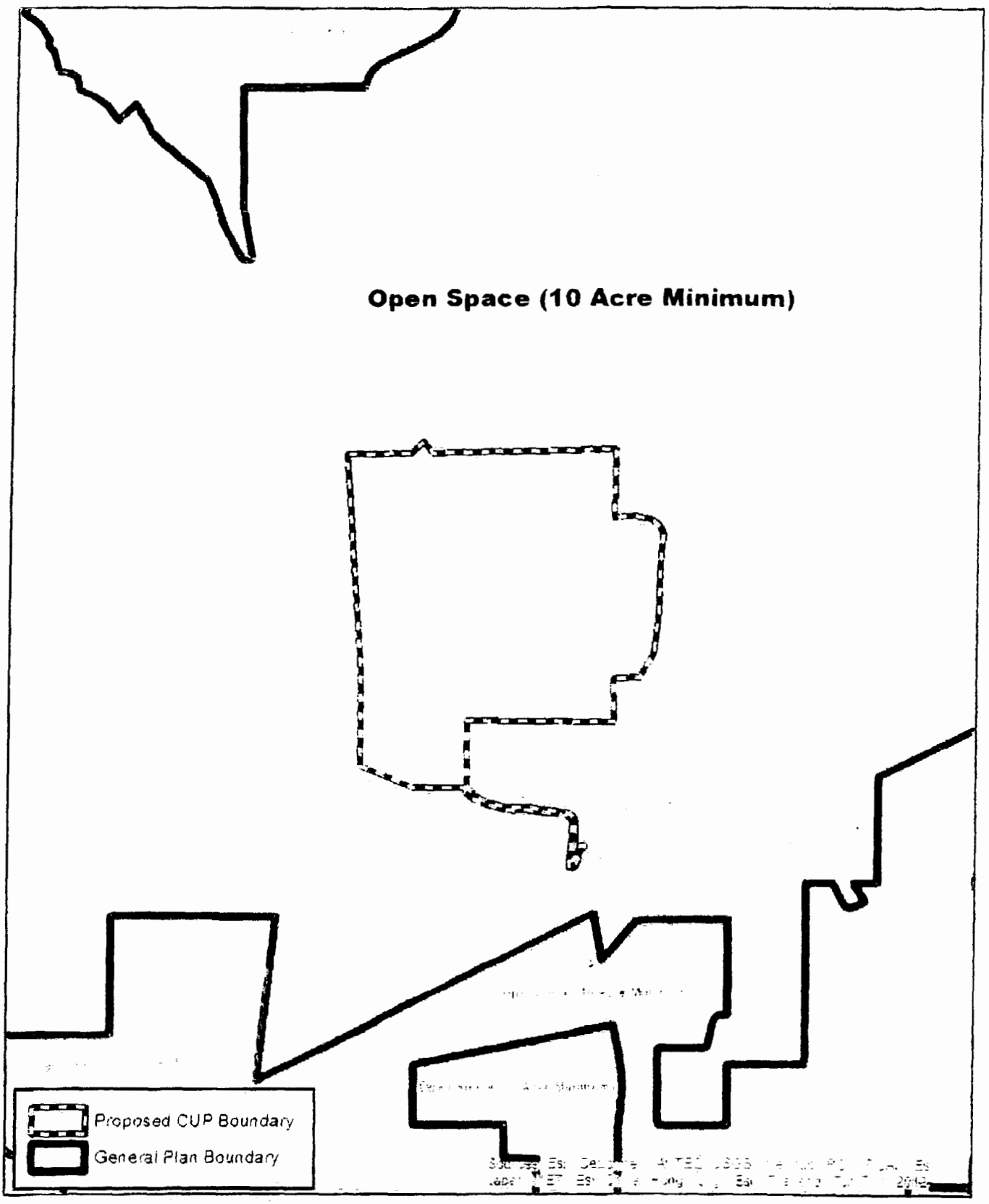


Exhibit 2b
Grimes Rock Mine Expansion Project
General Plan Designation Map

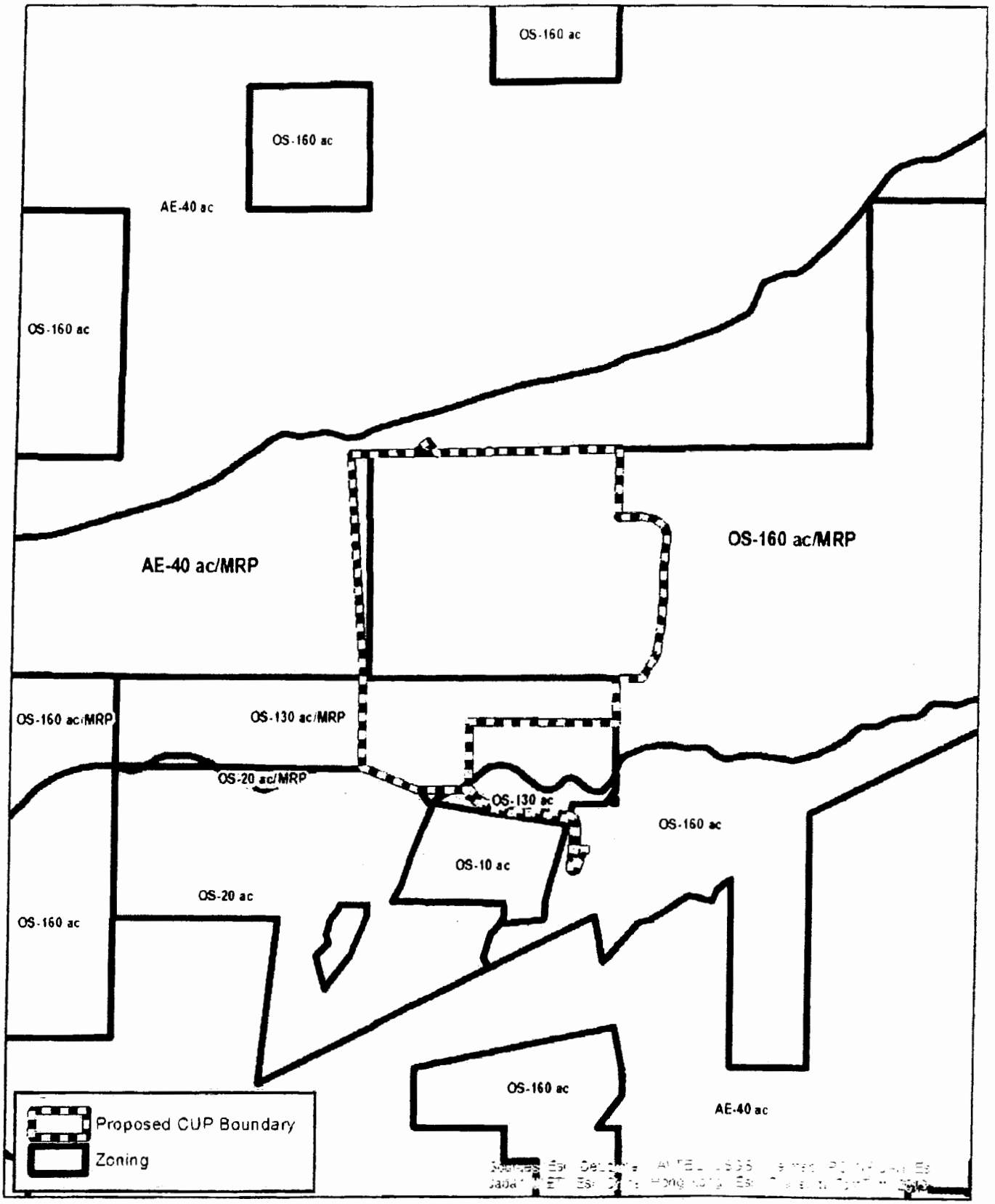
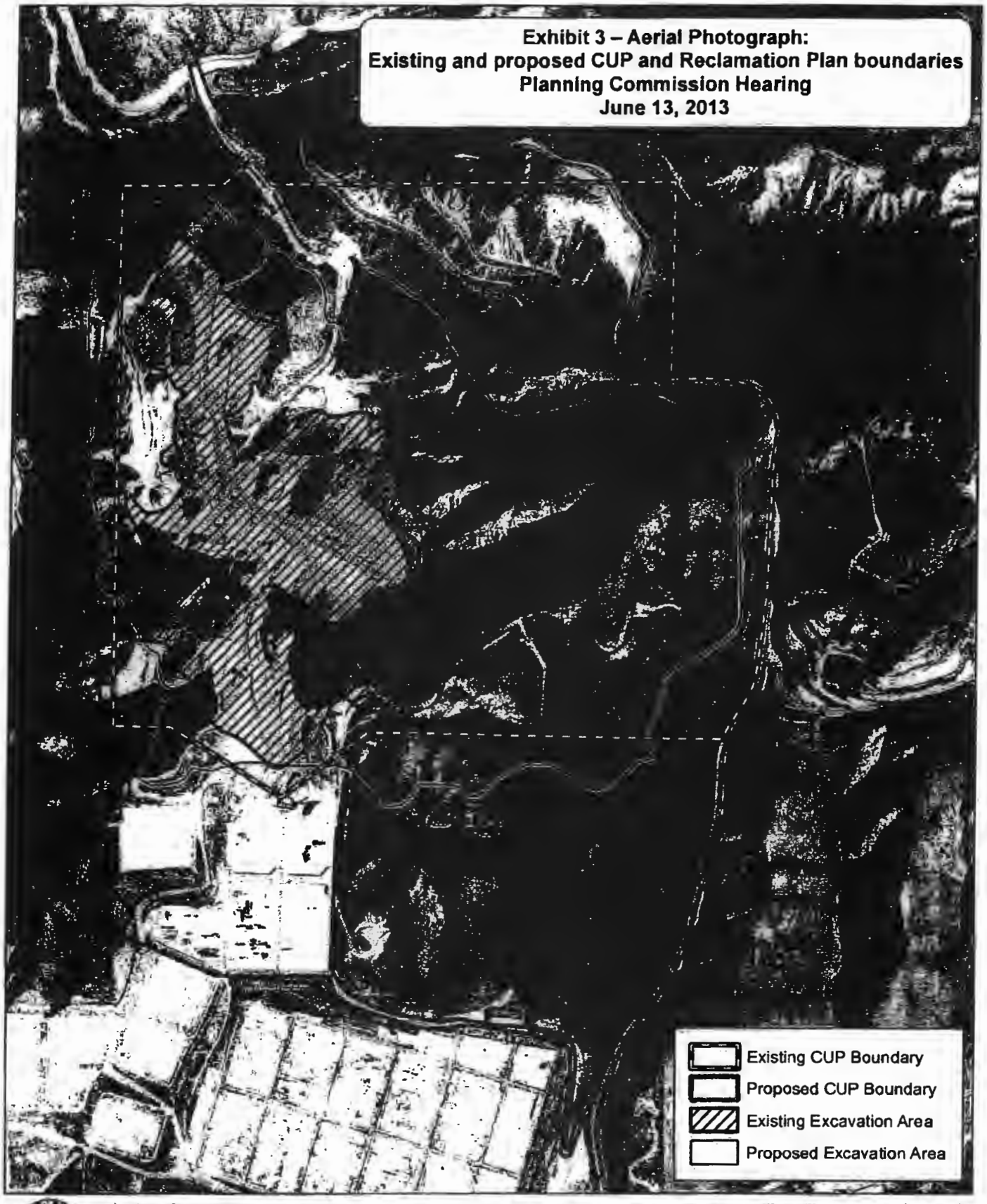


Exhibit 2c
Grimes Rock Mine Expansion Project
Zoning Map



Ventura County
Resource Management Agency
Information Systems Department
Map created on 05/06/2013
This aerial imagery is under the copyrights of Pictometry
Source: Pictometry, January 2013

RMA GIS

Grimes Rock
CUP-4874-1

0 200 400 800 Feet

Disclaimer: this map was created by the Ventura County Resource Management Agency, Mapping Services - GIS, which is designed and operated solely for the convenience of the County and related public agencies. The County does not warrant the accuracy of this map and no decision involving a risk of economic loss or physical injury should be made in reliance therein

Exhibit 4

GRIMES ROCK, INC.
EXPANDED MINING FACILITY

FINAL
ENVIRONMENTAL IMPACT REPORT

CUP MODIFICATION 4874-2 and
AMENDED RECLAMATION PLAN

Volume 1 of 3

Prepared by and for:

COUNTY OF VENTURA
Resource Management Agency
Planning Division
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Ventura, California 93009
Attn: Brian R. Baca
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SCH# 2003111064

June 2013

Available on the County Planning Division website at:

http://www.ventura.org/rma/planning/ceqa/eir.html

TABLE OF CONTENTS: **PAGE**

A.	DISCUSSION OF RECIRCULATION OF DRAFT EIR	ii
1.0	EXECUTIVE SUMMARY	1-1
2.0	PROJECT DESCRIPTION	2-1
3.0	RELATED PROJECTS	3-1
4.0	ENVIRONMENTAL SETTING AND IMPACT ANALYSIS	
4.1	Traffic/Circulation	4.1-1
4.2	Air Quality	4.2-1
4.3	Noise	4.3-1
4.4	Community Character	4.4-1
4.5	Hydrology and Water Resources	4.5-1
4.6	Biological Resources	4.6-1
4.7	Paleontological Resources	4.7-1
4.8	Visual Resources	4.8-1
4.9	Climate Change	4.9-1
5.0	ALTERNATIVES	5-1
6.0	SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES	6-1
7.0	GROWTH INDUCING IMPACTS	7-1
8.0	PREPARERS OF THE EIR, CONTACTS AND REFERENCES	8-1

VOLUME II - APPENDICES

Appendix A – NOP/Initial Study And Comments
Appendix B – Transportation/Circulation
Appendix C – Air Quality
Appendix D – Hydrological/Water Resources
Appendix E – Biological Resources
Appendix F – Paleontological Resources
Appendix G – Proposed amended Reclamation Plan

VOLUME III - PUBLIC COMMENTS AND RESPONSES TO COMMENT
Section A – Letters of Public comment on RDEIR
Section B – Responses to public comment
Section C – Supplemental traffic information

EXHIBIT 5
CONDITIONS OF APPROVAL FOR

MODIFIED CONDITIONAL USE PERMIT 4874-2
GRIMES ROCK MINING FACILITY

APNs 500-0-050-13, 500-0-050-34, 500-0-090-26, 500-0-090-27, 500-0-090-29, 500-0-090-05, 500-0-090-32, 500-0-090-33
(File# PL12-0159; CA Mine ID #91-56-0032)

The following conditions of approval constitute the modified Conditional Use Permit 4874-2 for the Grimes Rock Surface Mining Facility. These conditions of approval supersede all past permit approvals. This modified permit does not authorize any mining activities that are inconsistent with the Approved Reclamation Plan for this facility approved pursuant to the California Surface Mining and Reclamation Act (SMARA). (Note: Amended Reclamation Plan RP12-0001is being considered by the County decision-makers concurrently with the requested CUP modification.)

Consistent with SMARA, mining operations are prohibited unless the operator has been granted a valid Conditional Use Permit (as effectuated through the issuance of a Zoning Clearance), has obtained an approved Reclamation Plan, and has posted a Financial Assurance deemed adequate by the State and the County.

1. Permitted Land Uses (Project Description)

The following project description includes the operational limitations and requirements imposed by the terms of this conditional use permit and the reclamation requirements of the associated Amended Reclamation Plan (RP12-0001). All of the requirements of RP12-0001 are hereby incorporated into these conditions of approval. All surface mining activities must be conducted in conformance with the Conditional Use Permit and Approved Reclamation Plan that are currently in effect for the Grimes Rock facility.

Summary:
This modified Conditional Use Permit (CUP 4874-2) and the associated Amended Reclamation Plan (RP12-0001) incorporated herein authorize the following changes to the Grimes Rock surface mining facility:

- Changes to the permit boundary including the expansion of surface mining areas. The permit boundary would be expanded from approximately 164 acres to approximately 231 acres. Parcels to be added to the permit area (i.e. to be inside the CUP boundary) include 500-0-050-34, 500-0-090-29, 500-0-090-05, and 500-0-090-33. The excavation area would be expanded from approximately 45.8 acres (current condition) to approximately 135.3 acres. *(Note: The current permitted area of excavation encompasses 48.4 acres.)*

- An extension of the effective term of the CUP from 2013 to an estimated end date of surface mining operations in 2040.
- An increase in sand and gravel production (i.e. material export) from 952,500 tons per year to approximately 1.8 million tons per year.
- Material hauling to occur Monday through Saturday, 6:00 a.m. until dusk. *(For purposes of this limitation, the term "dusk" refers to 30 minutes after the time for "sunset" as published in a local newspaper of general circulation.).*
- Onsite mining operations to occur 24 hours per day on Monday through Saturday.
- An annual average daily hauling truck traffic volume of 460 one-way trips.
- A maximum peak daily hauling truck volume of 600 one-way trips,
- An end use of Open Space.

Mineral extraction operations:
Under the proposed modified CUP 4874-2 and Amended Reclamation Plan, the mining facility will continue sand and gravel excavation and processing operations similar to those that are currently permitted under the existing permit with the changes as described above. Proposed mining excavation and reclamation will occur over three phases as shown on the Amended Reclamation Plan maps and cross sections.

Anticipated operations at the site will include phased recovery of sand and gravel resources and materials processing. Mineral resource recovery operations (excavation) will be accomplished through the use of conventional earthmoving equipment. The extracted materials will be loaded into a crusher and conveyor system for movement to the processing plant. In some areas, off-highway haul trucks may be used to move extracted rock to the processing plant area. The products exported from the subject facility would include washed concrete sand, washed gravel and fill sand. The total anticipated production (2011-2040) of the extraction operation is estimated to be approximately 50 million tons. This tonnage assumes a conversion factor of 1.6 tons per cubic yard applied to the estimated 31 million cubic yards of material volume. The tonnage figure has been adjusted to account for production that has occurred since the topographic base map used to prepare the Reclamation Plan was created. Annual production amounts are limited to a maximum of 1.8 million tons of aggregate and a maximum of 460 average daily one-way truck trips. *(These figures assume the following calculation: 230 loads per day x 25 tons/load x 312 working days per year = 1,794,000 tons/year).*

The operator will continue to utilize the existing processing plant and equipment to operate and process materials.

The mining activities would involve the removal of hills located within the proposed excavation area. The mining method will be to place a bulldozer on top of the promontory and push material off the top and down the face of the slope, moving from the peak of the hill towards the base of the hill. A front-end loader will place the bulldozed material on the conveyor system for processing. All new slopes will be cut to

2:1 horizontal:vertical (h:v). The lower one-third of final slopes will be graded in a concave configuration in order to blend with the floor of the mine.

The mineral resource extraction will occur in three phases. The timing for these phases may change in the future depending upon market demand.

Phase 1 will consist of extracting aggregate resource from the existing disturbance limits down to the current (2013) pad elevation near the wash plant (approximately 1,130 feet AMSL). Also during Phase 1, existing highwalls that are located along the western property line will be removed. Excavation during Phase 1 will also progress toward the eastern and southeastern areas of the site.

There is an existing paved access road to the southern part of the project site that connects to Grimes Canyon Road (SR 23) approximately 700 feet north of Shekell Road. This road will be used for onsite material hauling and to access SR 23. Material hauling trucks arriving from the south or departing to the south on SR 23 will use this existing paved road. The use of this existing paved road will eliminate project-related hauling truck traffic on the steep and curving portion of SR 23 (i.e. Grimes Grade).

Phase 1 will result in the extraction of approximately one-third of the total aggregate reserve included in the Reclamation Plan. Extractive operations in Phase 1 are expected to continue for approximately 10 - 15 years depending on the demand for aggregate resources. At the maximum production rate, Phase 1 will take 10 years to complete. Topsoil will be salvaged from new disturbance areas and stockpiled on-site for use during reclamation. Final slopes will be graded to a maximum slope ratio of 2:1 (h:v) with undulating surfaces to blend in with the surrounding natural terrain. Upon completion of extraction operations within Phase 1, Phase 2 will commence.

In Phase 2, excavation will continue to progress toward the eastern end of the site down to a pad elevation of approximately 1,130 feet AMSL. A gradient of approximately 1% will be maintained for the interim floor created by Phase 2 excavation. Extractive operations in Phase 2 will result in an excavation footprint that encompasses approximately 58 acres. The total quantity of material to be excavated in this phase is estimated to be approximately one-third of the total aggregate reserve included in the Reclamation Plan. It is anticipated that Phase 2 will continue for approximately 10 - 15 years depending on the demand for aggregate resources. At the maximum production rate, Phase 2 will take 10 years to complete.

Final slopes of 2:1 (h:v), with undulating surfaces, will be established. Also during Phase 2, topsoil will be salvaged from new disturbance areas and stockpiled onsite for use during reclamation.

Phase 3 will involve continued extraction of aggregate resource until the final pad elevation on approximately 1,000 feet AMSL is reached. A 1% gradient will be created for the final floor configuration. Mineral extraction in Phase 3 is expected to remove the remaining approximately one-third of the total aggregate reserve included in this

Reclamation Plan and will continue for approximately 10 - 15 years depending on the demand for aggregate resources. Final slopes will be graded to a maximum 2:1 (h:v) slope ratio with undulating surfaces. The lower one-third of final slopes will be graded in a concave configuration in order to blend with the floor of the mine. Topsoil will be salvaged from newly disturbed areas of the site and either placed directly on final slope areas or stockpiled for later use.

Material hauling trucks will be filled from the stockpiles of processed materials by front-end loaders and subsequently weighed at on-site scales. Prior to departing the site for product delivery, truck exteriors will be swept to control sand, grit, or gravel that may fly off and become airborne during transport.

Total future material production from the site is estimated to be 50 million tons (31,250,000 cubic yards). Excavation would occur over a 135.3-acre area with a maximum slope height of 365 feet. The total CUP/Amended Reclamation Plan area will encompass 231 acres.

The estimated date for the termination of mining, based upon the proposed extraction rate and total volume of material to be exported, is January 1, 2040.

Reclamation:
Map, cross sections and diagrams that illustrate all aspects of the required reclamation of the site are included in the Amended Reclamation Plan (RP12-0001). All surface mining activities and reclamation of the site shall be in conformance with the RP12-0001 Amended Reclamation Plan.

Reclamation activities will occur on an ongoing basis throughout the project life as planned mining excavations are completed. The reclamation plan maps and cross sections depict the volume of material to be excavated and the proposed finished slope contours after each phase of the mining operations are completed. The site will be reclaimed to a configuration that includes a nearly level floor surrounded by maximum 2:1 gradient slopes. Runoff from the slopes will drain across the floor to be discharged at the low point (approximately 1,000-foot elevation) where an existing drainage course intersects the floor. It is anticipated that the western slope will be reclaimed first, followed by the southerly slope, and then by the easterly slope.

Reclamation phasing will generally follow the proposed extraction phasing. As extraction progresses to lower elevations in each phase, upper slopes will be reclaimed. Reclamation of final slopes will consist of establishing 2:1 (h:v) slope configurations and revegetation. The processing plant area will be one of the last areas to be mined and reclaimed.

The processing plant is currently (2013) located on the western portion of the site and will remain in place until the remaining reserves are located beneath the plant site (during Phase 3). It is anticipated that reclamation will be divided into a minimum of four areas over the course of the project.

Reclamation will commence with the easterly-facing slope on the western portion of the site, within the Phase 1 area. It is expected that this area will be reclaimed near the end of Phase 1 mining operations. Next, the slopes within the southwestern and southern portions of Phase 1 will be reclaimed. It is anticipated that this area will be reclaimed at the beginning of Phase 2 mining operations. The third area to be reclaimed will be the southeastern and eastern portions of the pit slopes. It is anticipated that these areas will be reclaimed sometime during Phase 2 and Phase 3.

The fourth area to be reclaimed will be the lower slopes of all three phase areas (from an elevation of 1,130 feet AMSL down to 1,000 feet AMSL). These slopes will be reclaimed at the completion of mining operations and once the ultimate pit depth has been reached during Phase 3. Final reclamation will include removal of the processing plant and all mining equipment, followed by revegetation of any remaining disturbance areas that are not necessary for post-extraction uses (e.g. access roads) All compacted areas will be ripped to achieve a consistency and permeability similar to that of the original soils.

When final slopes are established in individual areas, the land surface will be reclaimed. This will include revegetation of the areas outlined in the revegetation plan. The lower one-third of final slopes will be graded in a concave configuration in order to blend with the floor of the mine. Any roads that are not necessary for the proposed open space end use will be removed and revegetated in accordance with the revegetation plan.

Upon reaching the final contours of the finished mined slopes, the operator will revegetate disturbed areas with native plant species consistent with the surroundings and the vegetation that existed prior to disturbance from mining. Finished slopes will be revegetated with a native revegetation seed mix approved by the County of Ventura and the State Office of Mine Reclamation (OMR). The objective is to restore the mining site with native vegetation that is similar in species composition and density to the pre-mining vegetation. The revegetated surfaces will be compatible with native flora, self-perpetuating, provide habitat value to wildlife, and stabilize the onsite soils. Using a native seed mix (as specified in the proposed Amended Reclamation Plan), the finished slopes will be revegetated in the fall of the year each mined area is completed. This timing is intended to take advantage of seasonal rainfall to start plant growth. A Coastal Sagebrush mix will be used to seed the side slopes, while a Grass Woodland mix will be used for the flat areas. No irrigation will be used to germinate and establish plants as the selected species are adapted to the climate and rainfall conditions at the project site. The finished slopes will be overlain with topsoil that is salvaged from new disturbance areas. However, no topsoil has been salvaged from the existing disturbance areas. In any case, topsoil and suitable growth media, including fine material that is used to augment the topsoil, will be redistributed over the disturbance areas at a minimum thickness of 3 inches.

Upon completion of all surface mining activities and the commencement of final reclamation, the operator will remove most of its plant facilities and all equipment from

the site in accordance with Section 8107-9.6.10 of the Ventura County Non-Coastal Zoning Ordinance. Some infrastructure improvements (including the access road and water supply pond) would remain on-site to support the future end use. All unused foundations, pavement, and the plant will be removed. The shop and office buildings will be converted to storage use and would remain to support maintenance of the property and future by-right uses of the land. The compacted areas will be ripped and reworked to a consistency and permeability similar to that of the original soils, and remaining unvegetated areas will be re-graded to conform with the local topography and revegetated.

The Grimes Rock site was abandoned in 1967 by a previous operator. Several "highwalls," or near vertical banks, were left on the site at that time. The proposed mining project would create flatter slopes throughout the proposed project area. The "highwalls" would be eliminated with the proposed project. Any previously disturbed areas that are disturbed again by the proposed project must be reclaimed pursuant to SMARA and County requirements. Material obtained from reclamation of the "highwalls" will be sold as product.

The site will be reclaimed to an end use of open space.

RMA PLANNING DIVISION

2. Compliance with Mining and Reclamation Standards

Purpose: In order to assure compliance with applicable mining and reclamation standards.

Requirement: The Permittee shall operate and reclaim the Grimes Rock mining facility in conformance with the mining and reclamation standards of Section 8107-9 of the Ventura County Non-Coastal Zoning Ordinance (NCZO), the California Surface Mining and Reclamation Act (Public Resources Code 2710 et. seq.;SMARA), and the State Mining and Geology Board reclamation regulations (Title 14 CCR Section 3500 et.seq.). These requirements include but are not limited to the following:

a. Reclamation of the site shall be completed in accordance with the approved Reclamation Plan.
b. All surface mining operations shall be conducted in conformance with the phasing and other requirements of the approved Reclamation Plan.
c. Removal of equipment and facilities shall be accomplished in accordance with the amended Reclamation Plan and Section 8107-9.6.10 of the NCZO.
d. The Permittee shall maintain liability insurance for the effective period of this permit in conformance with the requirements of Section 8107-9.6.21 of the NCZO.

e. No excavation of the site shall occur below the final reclaimed surface or outside of the mapped limits of excavation specified in the approved Reclamation Plan for the Grimes Rock facility.
f. A Financial Assurance for reclamation shall be posted by the Permittee (mine operator) with the County of Ventura and California Department of Conservation in accordance with Section 8107-9.6.20 of the NCZO and Section 2773.1 of SMARA.
g. The Permittee shall provide access to the site to County personnel upon receiving reasonable notice of an upcoming inspection. The mining facility shall be inspected at least once per year in order to monitor compliance with the conditions of approval of this permit, the approved Reclamation Plan, SMARA and the County Non-Coastal Zoning Ordinance. The number of inspections conducted in addition to the statutory minimum shall be determined by the Planning Director. *("Reasonable notice" shall mean notification at least 10 days in advance.)*

Documentation: The Permittee shall annually provide evidence to the County Planning Division for review and approval that liability insurance consistent with ordinance standards has been obtained. The Permittee shall also annually provide a Financial Assurance Cost Estimate (FACE) and post a Financial Assurance Mechanism (FAM) that meets SMARA standards as determined by the Planning Director. *Surface mining inspection reports prepared by County staff will document the physical condition of the mining site and its conformance with the approved Reclamation Plan and the conditions of approval of this conditional use permit. The Annual Status Report prepared by the Permittee under Condition No. 3 will also document the condition of the site.*

Timing: The Permittee shall submit and obtain approval of the evidence of liability insurance no later than 60 days after the annual inspection of the site is conducted by the County. The FACE and FAM shall be submitted 90 days after the annual inspection of the site by the County.

Monitoring: The Planning Division will monitor compliance with this condition through the annual site inspections required by SMARA, additional inspections determined necessary by the Planning Director, and through enforcement actions authorized by §8114-3 of the *Ventura County Non-Coastal Zoning Ordinance.*

3. Annual Compliance Report

The Permittee shall submit an Annual Compliance Report (ACR) to the County Planning Division that describes the current area and depth of mining excavation and the extent of any reclamation activities that have occurred in the past operational year. This information must be delineated on a copy of the map(s) and cross sections included in the Approved Reclamation Plan. This report must describe the conformance of the mining activities with the conditions of approval of this conditional use permit and the approved Reclamation Plan. The volume of

any over-excavation must be estimated in this report. The ACR must be consistent with the information provided in the Financial Assurance Cost Estimate and the Financial Assurance Mechanism submitted for the facility. The adequacy of the ACR to meet this condition will be determined by the Planning Director. The report is to be submitted by July 1 of each year.

4. Days and Hours of Operation

Purpose: In order to assure consistency with the project description included in Condition No. 1, it is necessary to limit the days and hours of operation of the approved use.
Requirement: The operation of the expanded mining facility shall be limited as follows:

a. Onsite mining operations shall be allowed to occur 24 hours per day from Monday through Saturday.
b. Material hauling shall be allowed to occur from 6:00 am until dusk from Monday through Saturday. *(For purposes of this limitation, the term "dusk" refers to 30 minutes after the time for "sunset" as published in a local newspaper of general circulation.).*
c. The Permittee shall post the hours of operation in an obvious location that can be seen by all customers, employees, vendors, and haul truck drivers. The signage must be made of weatherproof and permanent material, and conform with the standards set forth in Article 10 of the *Ventura County Non-Coastal Zoning Ordinance.*

Documentation: The Permittee shall provide the Planning Division with photographic documentation that the hours of operation have been posted as required pursuant to this condition.

Timing: The Permittee shall post the hours of operation prior to the issuance of Zoning Clearance for use inauguration and the Permittee shall maintain the posted hours of operation for the life of the permit.

Monitoring and Reporting: The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance by the Permittee with this condition consistent with the requirements of §8114-3 of the *Ventura County Non-Coastal Zoning Ordinance.*

5. Site Maintenance

Purpose: To ensure that the CUP area is maintained in a neat and orderly manner so as not to create any hazardous conditions or unsightly conditions which are visible from outside the CUP area.

Requirement: The Permittee shall maintain the project site in compliance with the described uses outlined in Condition No. 1 (Permitted Land Uses). Only

equipment and/or materials used in the operations described in Condition No. 1 or which the Planning Director determines to be otherwise substantially in conformance with Condition No. 1 (Permitted Land Uses), or which are authorized by any subsequent amendments to this CUP, shall be stored on the property during the life of this CUP.

Documentation: The allowed uses shall be comprised of those items listed in Condition No. 1 (Permitted Land Uses) of this CUP and any amendments thereto.

Timing: The site shall be maintained in a neat and orderly manner during the effective period of this permit.

Monitoring and Reporting: The County Building Inspector, Public Works Grading Inspector, Fire Marshall, and/or Planning Division staff has the authority to conduct periodic site inspections to ensure the Permittee's ongoing compliance with this condition consistent with the requirements of §8114-3 of the *Ventura County Non-Coastal Zoning Ordinance*.

6. CUP Modification

Prior to undertaking any operational or construction-related activity which is not expressly described in these conditions or Project Description, the Permittee shall first contact the Planning Director to determine if the proposed activity requires a modification of this CUP. The Planning Director may, at the Planning Director's sole discretion, require the Permittee to file a written and/or mapped description of the proposed activity in order to determine if a CUP modification is required. If a CUP modification is required, the modification shall be subject to:

a. The modification approval standards of the Ventura County Ordinance Code in effect at the time the modification application is acted on by the Planning Director; and,
b. Environmental review, as required pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, §21000-21178) and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, §15000-15387), as *amended from time to time.*

7. Acceptance of Conditions and Schedule of Enforcement Responses

The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall constitute the Permittee's formal agreement to comply with all conditions of this CUP. Failure to abide by and comply with any condition for the granting of this CUP shall constitute grounds for enforcement action provided in the *Ventura County Non-Coastal Zoning Ordinance* (2010, Article 14) which shall include, but is not limited to, the following:

a. Public reporting of violations to the Planning Commission and/or Board of Supervisors;
b. Suspension of the permitted land uses (Condition No. 1);
c. Modification of the CUP conditions listed herein;
d. Recordation of a "Notice of Noncompliance" on title to the subject property;
e. The imposition of civil administrative penalties; and/or
f. Revocation of this CUP.

The Permittee is responsible for being aware of, and complying with, the CUP conditions and all applicable federal, state and local laws and regulations.

8. Time Limits

a. Use inauguration:
   1. The approval decision for this CUP becomes effective upon the expiration of the 10-day appeal period following the approval decision, or when any appeals of the decision are finally resolved. Once the approval decision becomes effective, the Permittee must obtain a Zoning Clearance for use inauguration in order to initiate the land uses provided in Condition No. 1 (Project Description). Prior to the initiation of mining excavation in each subsequent project phase (i.e. Phases 2 and 3) as delineated in the Reclamation Plan, the Permittee shall obtain a Zoning Clearance. In order to obtain the Zoning Clearance, the Permittee must demonstrate that the mining facility is in compliance with all applicable permit and Reclamation Plan provisions, including the initiation of reclamation of the area included in the previous mining phase.
   2. This CUP shall expire and become null and void if the Permittee fails to obtain a Zoning Clearance for use inauguration within one year from the granting or approval of this CUP. The Planning Director may grant a one year extension of time to the Permittee in order to obtain the Zoning Clearance for use inauguration if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to inaugurate the permitted land use, and the Permittee has requested the time extension in writing at least 30 days prior to the one year expiration date.
   3. Prior to the issuance of the Zoning Clearance for use inauguration, all fees and charges billed to that date by any County agency, as well as any fines, penalties, and sureties, must be paid in full. After issuance of the Zoning Clearance for use inauguration, any final billed processing fees must be paid within 30 days of the billing date or the County may revoke this CUP.

b. Permit Life or Operations Period:

This CUP will expire on December 31, 2040. The lack of additional notification of the expiration date provided by the County to the Permittee shall not constitute grounds to continue the uses that are authorized by this CUP after the CUP expiration date. The uses authorized by this CUP may continue after the CUP expiration date if:

1. The Permittee has filed a permit modification application pursuant to Section 8111-6 of the Ventura County Non-Coastal Zoning Ordinance prior to [expiration date]; and
2. The County decision-maker grants the requested modification.

The uses authorized by this CUP may continue during processing of a timely-filed modification application in accordance with Section 8111-2.10 of the Ventura County Non-Coastal Zoning Ordinance.

(Note: Reclamation activities in accordance with the Amended Reclamation Plan would continue for up to 5 years after the cessation of mineral extraction.)

9. Consolidation of All Approved Exhibits and Permits

Purpose: To ensure compliance with and notification of requirements of other federal, state or local government regulatory agencies and the completion of the Mitigation and Monitoring Reporting Program.

Requirement: Upon the request of the Planning Director, the Permittee shall provide the Planning Division with documentation to verify that the Permittee has obtained or satisfied all applicable federal, state and local entitlements and conditions.

Documentation: The Permittee shall provide this documentation to the County Planning Division in the form that is acceptable to the agency issuing the entitlement or clearance for the project file.

Timing: The documentation shall be submitted to the Planning Division prior to the issuance of the Zoning Clearance for use inauguration or as dictated by the respective agency.

Monitoring and Reporting: The Planning Division maintains the documentation provided by the Permittee in the respective project file. In the event that the permit is modified or changes are made by any other respective agency, the Permittee shall submit any revised documentation within 30 days of the modification.

10. Notice of CUP Requirements and Retention of CUP Conditions On-Site

Purpose: To ensure full and proper notice of permit requirements and conditions affecting the use of the subject property.

Requirement: Unless otherwise required by the Planning Director, the Permittee shall notify, in writing, the Property Owner(s) of record, contractors, and all other parties and vendors regularly dealing with the daily operation of the proposed activities, of the pertinent conditions of this CUP.

Documentation: The Permittee shall maintain a current set of CUP conditions and exhibits at the project site.

Timing: A copy of the CUP conditions of approval shall be available on the project site prior to issuance of a Zoning Clearance for use inauguration and shall be maintained on the site during the effective term of this permit.

Monitoring and Reporting: The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance with this condition consistent with the requirements of §8114-3 of the *Ventura County Non-Coastal Zoning Ordinance.*

11. Recorded Notice of Land Use Entitlement

Purpose: In order to comply with §8111-8.3 of the *Ventura County Non-Coastal Zoning Ordinance* a notice shall be recorded on the deed of the subject property that describes the responsibilities of the Property Owner and Permittee for compliance with applicable permit conditions and regulations.

Requirement: The Permittee and Property Owner of record shall sign, have notarized, and record with the Office of the County Recorder, a Notice of Land Use Entitlement form furnished by the Planning Division, for the tax assessor's parcels that are subject to this CUP.

Documentation: The Permittee shall provide a copy for the recorded Notice of Land Use Entitlement to the County Planning Division.

Timing: The recorded Notice of Land Use Entitlement shall be submitted to the County Planning Division prior to the issuance of a Zoning Clearance for use inauguration.

Monitoring and Reporting: The County Planning Division shall receive the recorded Notice and incorporate it into the CUP file for the project.

12. Condition Compliance, Enforcement, and Other Responsibilities

a. Cost Responsibilities: The Permittee shall bear the full costs of all staff time, material costs, or consultant costs associated with the approval of studies, generation of studies or reports, on-going permit compliance, and monitoring programs as described below in Condition No. 10.b. Specifically, the Permittee shall bear the full costs of the following:
   1. condition compliance costs which include, but are not limited to, staff time, material costs, or consultant costs associated with the approval of studies, generation of studies or reports, ongoing permit condition compliance review, and CEQA Mitigation Monitoring/other monitoring programs; and,
   2. monitoring and enforcement costs required by the *Ventura County Non-Coastal Zoning Ordinance (§8114-3)*. The Permittee, or the Permittee's successors-in-interest, shall bear the full costs incurred by the County or its contractors for inspection and monitoring, and for enforcement activities related to the resolution of confirmed violations. Enforcement activities shall be in response to confirmed violations and may include such measures as inspections, public reports, penalty hearings, forfeiture of securities, and suspension of this CUP. Costs will be billed at the contract rates in effect at the time enforcement actions are required. The Permittee shall be billed for said costs and penalties pursuant to the *Ventura County Non-Coastal Zoning Ordinance (§8114-3.4)*.

b. Establishment of Revolving Compliance Accounts: Within 10 calendar days of the effective date of the decision on this CUP, the Permittee, or the Permittee's successors-in-interest, shall submit the following deposit and reimbursement agreement to the Planning Director:
   1. a payment of $500.00 for deposit into a revolving condition compliance and enforcement account to be used by the Planning Division to cover costs incurred for Condition Compliance review (Condition No. 10.a, above), monitoring and enforcement (Condition No. 10.c, below). The $500.00 deposit may be modified to a higher amount by mutual agreement between the Permittee and the Planning Director; and,
   2. a signed and fully executed County RMA reimbursement agreement, which is subject to the Permittee's right to challenge any charges obligating the Permittee to pay all Condition Compliance review, monitoring, and enforcement costs.

c. Monitoring and Enforcement Costs: The $500.00 deposit and reimbursement agreement (Condition No. 10.b, above) are required to ensure that funds are available for legitimate and anticipated costs

incurred for Condition Compliance. All permits issued by the Planning Division may be reviewed and the sites inspected no less than once every three years, unless the terms of the permit require more frequent inspections. These funds shall cover costs for any regular compliance inspections or the resolution of confirmed violations of the conditions of this CUP and/or the *Ventura County Non-Coastal Zoning Ordinance* that may occur.

d. Billing Process: The Permittee shall pay any written invoices from the Planning Division within 30 days of receipt of the request. Failure to pay the invoice shall be grounds for suspension, modification, or revocation of this CUP. The Permittee shall have the right to challenge any charge prior to payment.

13. Defense and Indemnity

As a condition of CUP issuance and use including adjustment, modification, or renewal thereof, the Permittee agrees to:

a. Defend, at the Permittee's sole expense, any action brought against the County by a third party challenging either the County's decision to issue this CUP, or the manner in which the County is interpreting or enforcing the conditions of this CUP; and

b. Indemnify the County against any settlements, awards, or judgments, including attorney's fees, arising out of, or resulting from, any such legal action. Upon written demand from the County, the Permittee shall reimburse the County for any and all court costs and/or attorney's fees which the County may be required by a court to pay as a result of any such legal action the Permittee defended or controlled the defense thereof pursuant to Condition No. 11(a) above. The County may, at its sole discretion, participate in the defense of any such legal action, but such participation shall not relieve the Permittee of the Permittee's obligations under this condition.

   Neither the issuance of this CUP, nor compliance with the conditions thereof, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of this CUP serve to impose any liability upon the County of Ventura, its officers, or employees for injury or damage to persons or property.

   Except to the extent of the County's sole negligence or intentional misconduct, the Permittee shall indemnify, defend, and hold harmless the County, its officers, agents, and employees from any and all claims, demands, costs, and expenses, including attorney's fees, judgments, or liabilities arising out of the construction, maintenance, or operations

described in Condition No. 1 (Permitted Land Uses), as it may be subsequently modified pursuant to the conditions of this CUP.

14. Invalidation of Condition(s)

If any of the conditions or limitations of this CUP are held to be invalid, that holding shall not invalidate any of the remaining CUP conditions or limitations. In the event the Planning Director determines that any condition contained herein is in conflict with any other condition contained herein, then where principles of law do not provide to the contrary, the conditions most protective of public health and safety and natural environmental resources shall prevail to the extent feasible.

In the event that any condition imposing a fee, exaction, dedication, or other mitigation measure is challenged by the Permittee in an action filed in a court of law, or threatened to be filed therein, which action is brought in the time period provided for by the *Code of Civil Procedures (§1094.6)*, or other applicable law, this CUP shall be allowed to continue in full force and effect until the expiration of the limitation period applicable to such action, or until final resolution of such action, provided the Permittee has, in the interim, fully complied with the fee, exaction, dedication, or other mitigation measure being challenged.

If a court of law invalidates any condition, and the invalidation would change the findings and/or the mitigation measures associated with the approval of this CUP, at the discretion of the Planning Director, the Planning Commission may review the project and impose substitute feasible conditions/mitigation measures to adequately address the subject matter of the invalidated condition. The Planning Commission shall make the determination of adequacy. If the Planning Commission cannot identify substitute feasible conditions/mitigation measures to replace the invalidated condition, and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then this CUP may be revoked.

15. Consultant Review of Information and Consultant Work

The County and all other County permitting agencies for this land use have the option of referring any and all special studies that these conditions require to an independent and qualified consultant for review and evaluation of issues beyond the expertise or manpower of County staff.

Prior to the County engaging any independent consultants or contractors pursuant to the conditions of this CUP, the County shall confer in writing with the Permittee regarding the necessary work to be contracted, as well as the costs of such work. Whenever feasible, the County will use the lowest bidder. Any decisions made by County staff in reliance on consultant or contractor work may be appealed pursuant to the appeal procedures contained in the Ventura County Zoning Ordinance Code then in effect.

The Permittee may hire private consultants to conduct work required by the County, but only if the consultant and the consultant's proposed scope-of-work are first reviewed and approved by the County. The County retains the right to hire its own consultants to evaluate any work that the Permittee or a contractor of the Permittee undertakes. In accordance with Condition No. 10 above, if the County hires a consultant to review any work undertaken by the Permittee, or hires a consultant to review the work undertaken by a contractor of the Permittee, the hiring of the consultant will be at the Permittee's expense.

16. Relationship of CUP Conditions, Laws and Other Permits

The Permittee shall design, maintain, and operate the CUP area and any facilities thereon in compliance with all applicable requirements and enactments of Federal, State, and County authorities. In the event of conflict between various requirements, the more restrictive requirements shall apply. In the event the Planning Director determines that any CUP condition contained herein is in conflict with any other CUP condition contained herein, when principles of law do not provide to the contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible.

No condition of this CUP for uses allowed by the Ventura County Ordinance Code shall be interpreted as permitting or requiring any violation of law, lawful rules or regulations, or orders of an authorized governmental agency. Neither the issuance of this CUP, nor compliance with the conditions of this CUP, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

A business tax certificate shall be obtained for operation of the proposed mining facility.

17. Contact Person

Purpose: To designate a person responsible for responding to complaints.

Requirement: The Permittee shall designate a contact person(s) to respond to complaints from citizens and the County which are related to the permitted uses authorized by this CUP. The designated contact person shall be available by telephone during the authorized hours of operation.

Documentation: The Permittee shall provide the Planning Director with the contact information (e.g., name and/or position title, address, business and cell phone numbers, and email addresses) of the Permittee's field agent who receives all orders, notices, and communications regarding matters of condition and code compliance at the CUP site.

Timing: Prior to the issuance of a Zoning Clearance for use inauguration, the Permittee shall provide the Planning Division the contact information of the Permittee's field agent(s) for the project file. If the address or phone number of the Permittee's field agent(s) should change, or the responsibility is assigned to another person, the Permittee shall provide the Planning Division with the new information in writing within five (5) business days of the change in the Permittee's field agent.

Monitoring and Reporting: The Planning Division maintains the contact information provided by the Permittee in the project file. The Planning Division has the authority to periodically confirm the contact information consistent with the requirements of *§8114-3 of the Ventura County Non-Coastal Zoning Ordinance*.

18. Resolution of Complaints

The following process shall be used to resolve complaints related to the project:

a. The Permittee shall post the telephone number for the designated Contact Person as identified pursuant to Condition No. 15 in a visible location on the site. The Contact Person shall be available via telephone during all operating hours of the facility. Persons with concerns about an activity as it is occurring may directly contact the Contact Person;
b. If a written complaint about this project is received by the County, Planning staff will contact the Permittee's Contact Person or the Permittee to request information regarding the alleged violation; and,
c. If, following a complaint investigation by County staff, a violation of Ventura County Code or a condition of this permit is confirmed, County enforcement actions pursuant to *§8114-3 of the Non-Coastal Zoning Ordinance* may be initiated.

19. Reporting of Major Incidents

Purpose: To ensure that the Planning Director is notified of major incidents within the CUP area.

Requirement: The Permittee shall immediately notify the Planning Director by telephone, email, FAX, and/or voicemail upon obtaining knowledge of any incidents related to the mining operation (e.g., fires, explosions, spills, landslides, or slope failures) that could pose a hazard to life or property inside or outside the CUP area.

Documentation: Upon request of any County agency, the Permittee shall provide a written report of any incident that shall include, but is not limited to: a description of the facts of the incident; the corrective measures used, if any; and, the steps taken to prevent a recurrence of the incident.

Timing: The Permittee shall provide the written report to the requesting County agency and Planning Division within seven days of the request.
Monitoring and Reporting: The Planning Division maintains any documentation provided by the Permittee related to major incidents in the CUP file.

20. Change of Owner and/or Permittee

Purpose: To ensure that the Planning Division is properly and promptly notified of any change of ownership or change of Permittee affecting the CUP site.

Requirement: The Permittee shall file, as an initial notice with the Planning Director, the new name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). The Permittee shall provide the Planning Director with a final notice once the transfer of ownership and/or operational control has occurred.

Documentation: The initial notice must be submitted with the new Property Owner's and/or Permittee's contact information. The final notice of transfer must include the effective date and time of the transfer and a letter signed by the new Property Owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP.

Timing: The Permittee shall provide written notice to the Planning Director 10 calendar days prior to the change of ownership or change of Permittee. The Permittee shall provide the final notice to the Planning Director within 15 calendar days of the effective date of the transfer.

Monitoring and Reporting: The Planning Division maintains notices submitted by the Permittee in the project file and has the authority to periodically confirm the information consistent with the requirements of *§8114-3 of the Ventura County Non-Coastal Zoning Ordinance*.

21. Sign Plan

Purpose: To ensure signage on the property complies with *Chapter 1, Article 10 of the Ventura County Non-Coastal Ordinance.*

Requirement: The Permittee shall prepare a sign plan for the proposed entrances to the facility that describes the proposed size, colors, materials, and lighting details. Each sign must provide information on the hours of operation and telephone numbers for the contact person(s) as described in Condition No. 15 above. The Permittee shall bear the total cost of such review and approval.

Documentation: The Permittee shall submit two copies of a sign plan for the proposed facility entrances to the Planning Division for review and approval.

Timing: The Permittee shall obtain approval of the sign plan and install the subject signs prior to the issuance of a Zoning Clearance for use inauguration.

Monitoring and Reporting: The Planning Division maintains a stamped copy of the approved sign plan in the project file. The Permittee shall be responsible for obtaining a Zoning Clearance for any new or replacement sign to assure that the signage for the project continues to conform with the approved sign plan and *Chapter 1, Article 10 of the Ventura County Non-Coastal Ordinance.* The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance with this condition consistent with the requirements of *§8114-3 of the Ventura County Non-Coastal Zoning Ordinance.*

22. Limit on peak-hour truck trips (T 1-1)

Intent: In order to avoid increased peak-hour traffic congestion on State Route 23, heavy truck traffic shall be limited.

Requirement: The number of material hauling truck trips generated by the mining facility shall be limited in accordance with Condition No. 1. Heavy truck traffic associated with project operations shall be limited to 300 trips (PHTs), including no more than 64 trips (PHTs) in the southbound direction, during the morning peak traffic congestion period (6:00 to 8:00am) and the afternoon peak traffic congestion period (3:00 to 6:00 pm). The Permittee shall maintain a record of truck arrivals and departures.

The Permittee shall maintain a record of truck arrivals and departures.

Documentation: The Permittee shall make the record of truck arrivals and departures available to the County of Ventura and other government agencies upon request. The record shall be maintained in paper and electronic form. Along with the record of truck trips, the trip generation shall be summarized monthly in an Excel table format consisting of AM and PM Peak-Hour Trips and Total Average Daily Trips.

Timing: The requirement to maintain a record of truck arrivals and departures is an ongoing operational requirement of this CUP and is in effect upon issuance of a Zoning Clearance for Use Inauguration of the expanded mining operation.

Monitoring: County staff may periodically check of the truck arrival and departure record to determine Permittee's compliance with traffic and congestion limits.

23. Internal Access Road (T 1-1A)

Intent: In order to avoid congestion impacts on the Grimes Grade section of SR 23, an existing paved road shall be used as an alternate access to the mining site.

Requirement: No project-related heavy trucks shall use SR-23 between SR-23 Mile Post 18.50 and 21.00. Trucks shall avoid travelling between these Mile Posts by using an existing paved road for internal hauling and access to SR 23. The general alignment of this existing paved road is shown in **Appendix B.** This internal access road shall have the following characteristics:

a. The southern intersection with SR-23 shall be improved by the applicant to Caltrans standards as directed by the Ventura County PWA. Ventura County PWA shall also approve the improvement schedule.

b. All of the access road, as well as 10 feet on either side of the road shall be included within the CUP boundaries and shall be subject to all CUP conditions of approval.

Documentation: The Permittee shall provide engineered plans for the connection with State Route 23 to CALTRANS for review and approval.

Timing: The required plans for the connection with State Route 23 shall be approved CALTRANS, and the road constructed in accordance with such approved plans, prior to the issuance of the Zoning Clearance for Use Inauguration under the requested modified CUP and Amended Reclamation Plan.

Monitoring: CALTRANS staff shall review the plans for the connection to SR 23. . In addition to the mandated annual inspection of the site under the Surface Mining and Reclamation Act, the County retains the authority to conduct special inspections to ensure that the internal access road is used and maintained.

24. Overnight parking of heavy trucks (T 1-1B)

Intent: In order to protect surface and groundwater quality, overnight onsite parking of heavy trucks shall be limited.

Requirement: A maximum of 20 heavy trucks and trailers may be parked overnight on the project site at any one time. This parking is allowed provided that:

a. The trucks are parked for one night only and depart the site by 8:00 AM the following workday morning. The personal vehicles of truck drivers may be parked on the project site during the day.
b. It is limited to commercial aggregate hauling trucks.
c. No maintenance, repair, or fueling of the trucks or the personal vehicles of the truck drivers occurs on the project site.
d. All operations and activities related to overnight parking conforms to the "hours of operation" listed in Condition No. 1 (Project Description).

Documentation: The Permittee shall provide a Parking Plan to the County Planning Division. This Plan shall describe the location and configuration, surfacing, drainage facilities, and operational characteristics of the proposed parking facilities.

Timing: Prior to the initiation of overnight parking on the project site under this CUP, the Parking Plan shall be approved by the Planning Director in consultation with the Watershed Protection District.

Monitoring: The Planning Director, in consultation with the Watershed Protection District, shall review the submitted Parking Plan for adequacy to avoid water quality impacts. If the Parking Plan is approved by the Planning Director, the Permittee's implementation of the approved Plan shall be subject to periodic site inspections conducted by County staff.

25. Limit on peak-hour truck trips at the SR118/SR34 intersection (T 1-4)

Intent: In order to avoid increased peak-hour traffic congestion at the SR118/SR34 intersection, heavy truck traffic shall be limited.

Requirement: Heavy truck traffic associated with project operations shall be limited to 64 PHTs during any single day within the morning peak traffic congestion period (6:00 to 8:00am) and the afternoon peak traffic congestion period (3:00 to 6:00 pm) at the SR118/SR34 intersection. The Permittee shall maintain a record of truck arrivals and departures. The Permittee shall inform truck drivers in writing that southbound deliveries should be transported to the extent feasible on the SR23 freeway south of Moorpark.

Documentation: The Permittee shall make the record of truck arrivals and departures available to the County of Ventura and other government agencies upon request. The record shall be maintained in paper and electronic form. Along with the record of truck trips, the trip generation shall be summarized monthly in an Excel table format consisting of AM and PM Peak-Hour Trips and Total Average Daily Trips. The Permittee shall provide a copy of the notification letter to the County and maintain the letter posted in the facility office.

Timing: The requirement to maintain a record of truck arrivals and departures is an ongoing operational requirement of this CUP and is in effect upon issuance of

a Zoning Clearance for Use Inauguration. A copy of the notification letter shall be provided to the County prior to the issuance of the Zoning Clearance for Use Inauguration under the modified CUP and amended Reclamation Plan.

Monitoring: County staff shall review the notification letter for adequacy and may periodically check the arrival and departure record for the Permittee's compliance with these limits.

26. Facility entrance improvements (T 2-1)

Intent: In order to reduce safety hazards and traffic congestion, the entrances to the mining facility shall be improved.

Requirement: The Permittee shall fund and construct the following improvements at the entrances to the facility:

a. A dedicated left turn lane that includes a minimum of 150 feet of vehicle storage.
b. A right turn deceleration lane that provides a minimum of 150 feet for deceleration and a 90-foot transition.
c. A right-turn acceleration lane that provides a minimum of 150 feet for acceleration and a 90-foot transition.

The final design of the improvements shall be in conformance with the standards of the California Department of Transportation (Caltrans).

Documentation: The Permittee shall submit a complete permit application to Caltrans for the construction of the required improvements.

Timing: The permit application shall be submitted to Caltrans prior to the issuance of the Zoning Clearance for Use Inauguration under this permit. The improvements shall be constructed within one year of the grant of a permit by Caltrans.

Monitoring: Caltrans staff, in coordination with Ventura County Public Works Agency, shall review and approve the submitted permit application. County staff shall conduct periodic site inspections to monitor the Permittee's implementation of the required construction.

Note: The provisions of Requirement a. above shall not be in effect for the northern entrance to the mining facility if (1) the development of the proposed southern facility entrance is approved and accomplished in accordance with Condition No. 21 or (2) it is demonstrated to the satisfaction of the County Planning Director and CALTRANS that such improvement is not feasible or needed.

27. Traffic Impact Mitigation Fees (T 3-1)

Intent: In order to offset the project's contribution to cumulative increases in traffic volume, the Permittee shall pay traffic mitigation fees.

Requirement: The Permittee shall pay the following required Traffic Impact Mitigation Fees (TIMF) pursuant to the terms and conditions of the Traffic Impact Mitigation Fees for Maintenance and Improvement of Regional Road Network and City Streets, County Ordinance No. 4071 (1994) for each average daily vehicle trip (ADT) above the previously permitted level that is authorized by this modified CUP:

	Jurisdiction	Current Fee(s) per New ADT
a.	County of Ventura	$11.23
b.	City of Fillmore	$63.83
c.	City of Moorpark	$15.49

These fees apply only to an approved increase in heavy truck ADTs above the previously permitted volume and an increase in on-site employees over the number of existing number of employees (22 employees). ADTs for employees are calculated as 1.5 ADT per new employee. The actual fees to be paid shall be based on the TIMF fees, service areas, and procedures for each jurisdiction in effect at the time increased ADTs are authorized. The TIMF fee may be adjusted for inflation at the time of deposit in accordance with the latest version of the Engineering News Record Construction Cost Index.

Documentation: The Permittee shall provide the County Planning Division with letters from the County Public Works Agency, the City of Fillmore and the City of Moorpark that document that the required TIMF has been paid.

Timing: Prior to the issuance of the Zoning Clearance to allow increased average daily trips by material hauling heavy trucks, the required fees shall be paid.

Monitoring: County Planning Division staff shall review the documentation submitted by the Permittee to determine if Permittee has made full payment of the respective TIMFs.

28. Limitations on Haul Route

Intent: In order to minimize truck traffic on Walnut Canyon Road and SR 23 through the City of Moorpark, the use of Grimes Canyon Road for south-directed trucks shall be encouraged.

Requirement: The mine operator shall inform the driver of each southbound material hauling truck that Grimes Canyon Road South is the preferred route for

all trucks heading to State Highway 118. Walnut Canyon Road and SR 23 through the City of Moorpark should not be used unless making a delivery to a local purchaser such as the permitted concrete and asphalt manufacturing facilities located within the City of Moorpark. The mine operator shall provide to each driver of a southbound truck a "Notice of Southern Haul Route" that provides the above information.

Documentation: The mine operator shall submit a draft Notice of Southern Haul Route to the County Planning Division for review and approval.

Timing: The operator shall obtain approval of the Notice prior to issuance of the Zoning Clearance for Use Inauguration.

Monitoring: County staff shall review and approve the submitted Notice. County staff shall ensure implementation of this condition as part of the required periodic inspections of the site.

29. Enhanced dust control plan (AQ 1-1)

Intent: In order to minimize dust generation from onsite excavation and material transport activities, the Permittee shall implement additional dust control measures.

Requirement: The Permittee shall prepare an Enhanced Dust Control Plan (EDCP) for the project site. This plan shall include, but not be limited to, the following measures:

a. Stabilization of previously disturbed areas that are currently inactive or have reached the final reclaimed topography specified in the approved Reclamation Plan through periodic application of environmentally-safe dust control agents or hydroseeding. This action is required until permanent vegetation is established in accordance with the approved Reclamation Plan. Inactive areas are those mined lands that have not been disturbed for more than 180 days.
b. Periodic application of water or environmentally-safe dust control agents to 1) onsite unpaved roadways, staging areas, and vehicle parking areas to minimize fugitive dust generated by vehicle travel, and 2) material stockpiles to minimize wind-generated dust.
c. Enforcement of a 15 MPH vehicle speed limit on unpaved surfaces.
d. Application of water to areas under active excavation operations, including the mine working face.
e. Use of misting equipment on conveyor belts.

Documentation: The Permittee shall submit the EDCP to the County Planning Division for review and approval.

Timing: The EDCP shall be submitted and approved prior to the issuance of the Zoning Clearance to authorize an increase in Average Daily Trips (ADTs) for material hauling trucks.

Monitoring: County Planning Division staff, in consultation with the Ventura County Air Pollution Control District (VCAPCD), shall review, and if found adequate, approve the submitted EDCP. Permittee's use of any chemical dust stabilizer must have prior approval of the LA Regional Water Quality Control Board and the VCAPCD. County staff and/or VCAPCD staff may periodically review Permittee's implementation of the EDCP through site inspections to assure compliance with the CUP and approved Reclamation Plan. The VCAPCD has primary responsibility to investigate, respond, and resolve any citizen complaints regarding dust from the project site.

30. Air Pollution Control District rules and regulations (AQ 1-2)

All facilities shall be constructed and operated in accordance with the Rules and Regulations of the VCAPCD. These rules include, but are not limited to, the following:

- Rule 10 (Permits Required)
- Rule 50 (Opacity)
- Rule 51 (Nuisance)
- Rule 55 (Fugitive Dust) modified as follows: The project shall not allow visible track-out (dirt, mud or product debris) to extend 25 feet or more in length from the access road onto *SR-23*. If track-out occurs, it shall be removed as soon as possible, but no later than one hour after it is deposited.
- Rule 55.1 (Paved Roads and Public Unpaved Roads)

Where a VCAPCD rule conflicts with a CUP condition, the more restrictive requirement shall apply.

31. Hauling of aggregate to minimize spillage (AQ 1-3)

Intent: In order to minimize the spillage or inadvertent escape of dust, debris, and aggregate material from aggregate material hauling trucks, all loads must be hauled in trucks which conform to applicable State law and regulation.

Requirement: All aggregate material hauling trucks loaded with aggregate materials must comply with all applicable requirements of California Vehicle Code Section 23114, especially regarding the transport of aggregate materials. The Permittee shall prominently install signage on the subject property to inform all aggregate material hauling truck drivers of the legal requirements set forth in Vehicle Code section 23114 at the scales, entrance and exit of the facility.

Documentation: The Permittee shall provide to the County Planning Division with photographs demonstrating that the required signs have been properly installed.

Timing: The required signage shall be installed prior to the issuance of the Zoning Clearance for Use Inauguration.

Monitoring: County Planning Division staff shall review the submitted photographs to assure proper installation of required signage. The maintenance of the required signage shall be monitored by County staff during site inspections and through response to complaints. *(Note: The Permittee is not responsible for violations of the Vehicle Code committed by independent aggregate material hauling truck drivers.)*

32. Ozone Precursor/Carbon Dioxide Reduction (AQ 2-1)

Intent: In order to offset the generation of ozone precursor air pollutants over the extended life of the mining operation, the Permittee shall participate in an air pollution reduction program.

Requirement: The Permittee, the Planning Division, and VCAPCD shall execute a legally enforceable agreement, whereby the Permittee shall implement one of the following two actions to reduce ozone precursor emissions related to the subject project:

a. Make on-site or other expenditures as approved by the Planning Division and the VCAPCD to reduce ozone precursor emissions from permitted and proposed mining operations to below the applicable VCAPCD air quality significance thresholds pursuant to CEQA. Expenditures made by the Permittee subsequent to November 13, 2003 (i.e. the date of publication of the Notice of Preparation for the project EIR) that are determined by the VCAPCD to meet eligibility criteria under the Carl Moyer program and all other applicable provisions of this condition shall be counted toward compliance with this condition of approval.

b. Pay an in-lieu fee in an amount not to exceed $210,455 to the VCAPCD for the purpose of funding air pollutant emission reduction programs in Ventura County. Terms and conditions of such payment shall be determined by the VCAPCD in consultation with the Permittee. This fee shall be based the cost-effectiveness of projects funded by the VCAPCD's Carl Moyer Memorial Air Quality Standards Attainment Program (Health & Safety Code § 44275 et seq.). The funds shall be used by the VCAPCD to fund air pollutant emission reduction projects in Ventura County. Based on VCAPCD formulas, the total cost to be paid by the Permittee to reduce

the project-related air quality impacts shall be $1,315 per average daily trip (ADT) authorized under this permit or a total payment of $210,455.

Documentation: The Permittee, the County Planning Division, and the VCAPCD shall sign and execute a legally binding agreement to implement the above requirements, whichever of the two options is selected by Permittee.

The agreement shall, at a minimum, include the following features:

a. The payment of fees, calculated based on the amount of project operational emissions from mobile sources in excess of standards (i.e., after mitigation the net project-related emissions are not to exceed 25 pounds per day for either NOx or ROC), into a fund administered by the VCAPCD. Said fees must be determined based on the cost-effectiveness of projects funded by the VCAPCD's Carl Moyer Memorial Air Quality Standards Attainment Program.

b. Payment of the assessed fees over a time period mutually agreeable to all parties.

c. The Planning Division and VCAPCD shall be entitled to recover all costs of developing the agreement and, in the case of VCAPCD, the cost of administrating the expenditure of the funds so collected. This cost is in addition to the off-set fees listed in Item b., above.

d. The VCAPCD shall use the fees to fund emission reduction projects in Ventura County. The projects the VCAPCD could fund include, but are not limited to, project types eligible for funding under the VCAPCD's emission reduction incentive programs, such as the:

(1) Carl Moyer Memorial Air Quality Standards Attainment Program;
(2) Clean Air Fund; and,
(3) Lower Emissions School Bus Program.

Timing: Prior to the issuance of the Zoning Clearance for Use Inauguration under this CUP, the Permittee shall file a copy of the signed, executed agreement with the Planning Division and VCAPCD. The Permittee shall make payments of any in-lieu fees or air pollution reduction expenditures in accordance with the payment schedule of the agreement. VCAPCD staff shall provide the Planning Division with annual reports, as discussed in Monitoring, below.

Monitoring: Planning Division and VCAPCD staff shall review the agreement to ensure that it complies with the requirements of this condition (above). The VCAPCD shall ensure that the Permittee makes all payments in accordance with the payment schedule of the agreement. The VCAPCD shall provide the Planning Division with annual reports to inform the Planning Division of

compliance with the agreement. The Planning Division shall review the annual reports consistent with the requirements of §8114-3 of the *Ventura County Non-Coastal Zoning Ordinance*.

33. Groundwater Recharge (WR 1-1)

Any fine-grained material remaining on the site at the time of final reclamation shall be used in revegetation activities or otherwise disposed of in a manner determined to not substantially affect groundwater recharge as determined by the Planning Director in consultation with the Watershed Protection District-Groundwater Section.

34. Groundwater Supply (WR 2-1)

Irrigation of reclaimed areas shall be limited only to establishing vegetation consistent with the approved reclamation plan and any biological resource mitigation measures adopted as conditions of approval. Irrigation shall cease once the vegetation is established to the satisfaction of the Planning Director.

35. Design of maintenance areas (WR 4-1)

Intent: In order to protect groundwater quality, all maintenance areas shall be designed to avoid seepage of pollutants into the ground.

Requirement: All fuel storage, refueling, washout and equipment maintenance areas shall be placed on bermed concrete surfaces, which are underlain by 80 mil high-density polyethylene (HDPE). The HDPE seams shall be sealed and the edges turned up. If the bermed concrete surfaces drain to a sump, the sump shall be cleaned and the waste fluids disposed of in compliance with all applicable laws and regulations. If the bermed concrete surfaces do not drain to a sump, routine cleaning shall be conducted to prevent the surface from becoming slippery. The cleaning solutions and wash water shall be handled in the same manner as the sump fluids. Areas designated for washing functions shall be at least 100 feet from any riparian storm drain, water body or sensitive biological resources.

Documentation: The Permittee shall submit a Maintenance Area Plan to the County Planning Division that describes the location and design of all onsite maintenance areas.

Timing: Prior to the issuance of the Zoning Clearance for Use Inauguration under this CUP.

Monitoring: Compliance with this condition of approval will be verified by County staff as part of required periodic site inspections.

36. General industrial stormwater permit (WR 4-2)

Intent: In order to prevent water pollution, the Permittee shall comply with stormwater regulations.

Requirement: The Permittee shall maintain the mining facility in compliance with all water quality provisions set forth in NPDES General Permit No. CAS000001 and State Water Resources Control Board Water Quality Order No. 97-03-DWQ, *Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Industrial Activities*, including the preparation of a Stormwater Pollution Prevention Plan (SWPPP).

The SWPPP shall address all issues required by regulation including the following:

- Storage and containment of fuels, solvents, and any other fluids that may contaminate soils;
- Fueling operations and maintenance and repair of vehicles and equipment;
- Procedures and employee training to respond to accidental spills
- Prevention of downstream sedimentation due to mining operations

Documentation: The Permittee shall provide to the *Public Works Agency – Watershed Protection District* proof of coverage (compliance) in the form of a current Notice of Intent (NOI) and a copy of the required annual report that includes all water quality monitoring data.

Timing: The required documentation shall be provided by July 1st of each year.

Monitoring: Watershed Protection District staff shall review the submitted reports to determine if the Permittee is in compliance with regulations. County Planning Division staff may review required reports as part of ongoing checks of compliance with this CUP.

37. Restrictions on future animal keeping (WR 4-3)

Intent: In order to minimize the potential for future degradation of groundwater quality, the keeping of animals shall be restricted.

Requirement: All animals used for food, fiber or recreation shall be banned in perpetuity on the disturbed or reclaimed surface outcrop of the Fox Canyon aquifers as determined by Ventura County. Said ban shall also extend for 200 feet around such areas. This Mitigation Measure is designed: (1) to ensure that recharge on the aquifer outcrop does not become mechanically reduced by compaction from the weight of the animals or entrapment of feces; and, (2) to remove nitrogen loading of water percolating into the aquifer from animal feces

and/or urine. A shorter setback distance or the removal of the animal prohibition may be approved if demonstrated to the County's satisfaction by adequate analysis and report that there is no potential for substantial water quality degradation due to a proposed animal operation.

Documentation: The Permittee shall record a Restrictive Covenant using a form prepared and provided by the County on the property to prohibit future animal keeping on the aquifer outcrop.

Timing: Prior to the issuance of the Zoning Clearance for Use Inauguration under the modified CUP and amended Reclamation Plan, the Permittee shall provide a copy of the recorded Restrictive Covenant to the County Planning Division.

Monitoring: County Planning Division staff shall place the recorded Restrictive Covenant in the project file. County Watershed Protection District staff shall review any request for modified setbacks or animal operations.

38. Flood control facilities (WR 5-1)

Intent: In order to assure that onsite drainage is conveyed in a non-erosive manner and does not contribute to offsite flooding, a detention basin shall be constructed in accordance with established standards.

Requirement: The Permittee shall cause a drainage facility design report and associated plans to be prepared by a Civil Engineer licensed to practice in the State of California. The plans must clearly provide design details (length, width, height, depth of water, outlet works, etc.) on a detention basin that are sufficient for construction. The drainage report must conform to the District's hydrology and hydraulics (design) manuals. At a minimum, the Permittee is required to detain all peak flows over the pre-developed Q10 level.

The Permittee shall construct the improvements described in the design report ultimately approved.

Documentation: The Permittee shall submit the required design report and plans to the Watershed Protection District for review and approval. After construction of the drainage improvements, the Permittee shall provide as-built plans to the Watershed Protection District.

Timing: The design report and associated plans shall be submitted to, and approved by, the Watershed Protection District prior to the issuance of the Zoning Clearance for Use Inauguration under the modified CUP and amended Reclamation Plan. The required improvements shall be constructed within six months of plan approval.

Monitoring: Staff of the Watershed Protection District shall review the submitted documentation for compliance with regulatory requirements. County Planning Division staff may review the required reports as part of ongoing checks of compliance with this CUP.

39. Slope design requirements (WR 5-2)

1. Reclamation slopes shall be shown by the project geotechnical engineer and geologist to be grossly stable under both static and pseudo-static conditions. The slopes must also be shown to be surficially stable using results obtained from low normal weight shear tests.

2. For slopes that have a slope ratio equal to or greater than 3:1 (h:v) the minimum setback shall be 20 feet regardless of the height. The lower one-third of the slope shall be concave to blend with the floor of the mine.

3. For slopes that have a slope ratio between 3:1 and 2:1 (h:v) the minimum setback shall be 30 feet up to a height of 100 feet, and an additional 30 feet for each 100 feet of height. The lower one-third of the slope shall be concave to blend with the floor of the mine.

4. For slopes steeper than a 2:1 ratio, the minimum setback shall be 20 feet up to a height of 50 feet, 50 feet up to a height of 100 feet, and an additional 50 feet for each 100 feet in height unless demonstrated that the slope surface is not subject to erosion and the surface can be successfully revegetated (SMARA Section 3704-d). In these cases, the setback shall be provided by the project geotechnical engineer and geologist. The lower one-third of the slope shall be concave to blend with the floor of the mine.

5. Drainage terraces or benches are not required for slope gradients that mimic the adjacent natural slopes. For slopes that exceed the natural slope gradients, drainage benches and terraces shall not be perpendicular to the slope face and shall provide for drainage diagonally across the slope face at gradients to minimize erosion and shall be designed by the project civil engineer.

(Note: Implementation of the proposed Amended Reclamation Plan (RP12-0001) satisfies this mitigation measure as the design measures listed above have been incorporated therein.)

40. Mitigation of impacts on sensitive plant communities (BR 1-1)

Intent: In order to mitigate for the loss of sensitive plant communities and habitat for special-status species due to mining activities, the Permittee shall permanently protect existing unprotected habitats that would not be affected by mining activities.

Requirement: The Permittee shall permanently protect currently unprotected habitats through direct acquisition and dedication (i.e., donation or permanent encumbrance with a conservation easement) of land to a conservation organization or through adequate funding of such land acquisition by a conservation organization to accomplish this objective. The dedication of land shall include an endowment to fund maintenance of the dedicated land. The maintenance endowment fund shall be sufficient to generate $6,000 annually, based on a 3 percent interest rate. *(A lesser annual maintenance fund amount may be accepted if deemed adequate by the Planning Director and the conservation organization that will receive the donation or hold the easement.)* A one-time start-up fee of $3,000 shall also be required. If non-contiguous properties are donated, the endowment fund shall be increased to an amount sufficient to generate:

- an additional $500 annually if the properties are less than ten road miles apart
- an additional $1,000 annually if they are between 10 to 20 road miles apart, and
- an additional $1,500 annually if they are over 20 road miles apart.

The acreage of various habitat types that must be protected to mitigate for project impacts is indicated in the table below. The selected mitigation land must have equivalent or greater overall habitat value than the land being affected by surface mining activities. Priority shall be given to mitigation lands located on or adjacent to the project site, including those located on Oak Ridge. The land selected to meet this requirement must contain a population of wedge-leaf horkelia (*Horkelia cuneata ssp. puberula*), in accordance with Mitigation Measure BR 1-2 below.

Habitat Type	Overall Mitigation Ratio	Credit for Reclamation	Off-Site Mitigation Ratio	Impact Area (Acres)	Off-site Mitigation Area (Acres)
Venturan Coastal Sage Scrub	2:1	1:1	1:1	56.27	56.27
Sparsely Vegetated Steep Slopes (i.e., sparse coastal sage scrub)	0.5:1	None	0.5:1	9.13	4.57
Grassland	1:1	1:1	0	N/A	N/A
Oak Woodland	2:1	None	2:1	2.14	4.28
Walnut	2:1	None	2:1	4.78	9.56

Woodland					
Southern Riparian Scrub	2:1	None	2:1	1.4	2.8
Total =				**73.72**	**77.48**

An alternate method of meeting the above requirements may be proposed by the Permittee. This alternate method of meeting the requirements of this condition of approval, and its corresponding mitigation measure, must be equivalent to or more effective than the measures outlined in this condition of approval in meeting the goal of permanent protection of habitat in order for it to be accepted by the County. "Equivalent to or more effective than" means that the alternate method will avoid or reduce the significant environmental effect addressed by this condition of approval to at least the same degree as, or to a greater degree than, the requirements stated above and will create no more adverse effect of its own than would the above permit condition requirements. The Planning Director, in consultation with the California Department of Fish and Wildlife, shall determine if an alternate method is "equivalent to or more effective than" the above permit condition requirements.

Documentation: The Permittee shall submit to the Planning Division a plan for acquisition and protection of habitats. The plan shall include the following elements:

- The location, acreage, and habitat types for all land proposed to be permanently protected;
- Provisions for long-term maintenance of the protected land;
- The identity of the party responsible for acquisition, protection, and long-term maintenance required by the approved plan;
- The proposed endowment fund amount consistent with the above listed requirements; and
- A schedule for acquisition of the land.

The Permittee shall record a restrictive covenant in favor of the County of Ventura committing the property to natural resource conservation use in perpetuity. The restrictive covenant must:

1. include a map and legal description of the areas that are subject to the restrictive covenant;
2. include a description of restricted uses within the restricted area, equivalent to those listed in the standard Restrictive Covenant template provided by the County Planning Division; and,
3. be recorded with the Ventura County Recorder so that it appears on the subject property's title. The Permittee shall submit a copy of the recorded restrictive covenant to the Planning Division.

Timing: Prior to the issuance of a Zoning Clearance for use inauguration under the modified CUP and amended Reclamation Plan, the Permittee shall:

- Provide the plan for acquisition and protection of habitats to the Planning Division for review and approval.
- Acquire and donate/dedicate land as indicated in the Requirement section above and the approved acquisition plan.
- Establish the required endowment fund.
- Record a restrictive covenant on the dedicated land.
- Provide the Planning Division with a copy of the restrictive covenant.

Monitoring: The Planning Director, in consultation with the California Department of Fish and Wildlife, shall review and, if found to be adequate in light of applicable laws and regulations, approve the submitted plan for acquisition and protection of habitats. The Planning Division shall continue to monitor Permittee's compliance with this measure to determine if the land has been acquired (or encumbered by conservation easement) by the conservation organization as specified in the approved plan for acquisition and protection of habitats, the endowment fund has been established, and that a restrictive covenant has been recorded to permanently protect the land.

NOTE:
For the purposes of this mitigation measure, the "conservation organization" must meet all of the following criteria:
(a) It must be a public conservation agency, or a private non-profit organization chartered under the US Code, Title 26, Part 501(c)3, whose primary purpose is the preservation and protection of land in its natural, scenic, historical, recreational and/or open space condition.
(b) If it is a private non-profit organization, then it must be either a statewide, national or international organization, or a local community-based organization with a membership of at least 500 individuals and/or businesses.
(c) It must have owned and/or managed natural resource/open space property, at least 50 acres in area, for at least one year. In lieu of meeting this requirement, a Conservation Organization may provide a financial surety to ensure the stewardship of the Conservation Parcel for a period of five years.
(d) It must have the institutional and economic ability to maintain the property.
[The above standards are established in Section 8202-3(f)(1)(B) of the Ventura County Subdivision Ordinance.]

41. Protection of Wedge-Leaf Horkelia (BR 1-2)

Intent: In order to mitigate the loss of wedge-leaf horkelia (*Horkelia cuneata ssp. puberula*), a rare native plant, either an existing population of wedge-leaf horkelia shall be permanently protected or a population of wedge-leaf horkelia shall be established off-site and permanently protected.

Requirement: The land selected for permanent protection as required by Mitigation Measure BR 1-1 (mitigation land) shall contain a healthy population of wedge-leaf horkelia by implementing one of the following options.

(1) A survey of the mitigation land shall be conducted by a County-approved botanist to identify the presence of wedge-leaf horkelia and assess the status and extent of any populations found. If wedge-leaf horkelia is

found on the mitigation land, the Permittee shall demonstrate that the wedge-leaf horkelia population is healthy and self-sustaining by submitting a report prepared by the County-approved botanist to the Planning Division.

(2) If no populations of wedge-leaf horkelia are found on land that is available for acquisition, a population of wedge-leaf horkelia shall be established on the mitigation land. To establish a population, the Permittee shall contract a County-approved horticulturalist with demonstrated experience in native plant seed collection and propagation to prepare and implement a Harvesting and Propagation Plan for the wedge-leaf horkelia. The Harvesting and Propagation Plan must describe:

a. the location of the plants from which the seed will be harvested (e.g., plants within the construction footprint, or as a contingency, plants from another population);
b. the time of year for harvesting;
c. the amount of seed to be collected to ensure persistence of existing populations that will not be disturbed by the project;
d. methods of storage and propagation in a nursery;
e. location for rare plant replacement on the mitigation land;
f. methods of establishing plants on the mitigation land;
g. methods for maintenance of the site selected for planting to ensure that the rare plant persists; and
h. the success criteria that will ensure a healthy, self-sustaining population at the end of the monitoring period.

Documentation:

Option 1: The Permittee shall provide to the Planning Division for review and approval a report (Survey Report) prepared by a County-approved botanist that demonstrates that a healthy and self-sustaining population of wedge-leaf horkelia exists on the mitigation land to be permanently protected shall be provided to the Planning Division.

Option 2: The Permittee shall provide to the Planning Division for review and approval a Harvesting and Propagation Plan prepared by a County-approved horticulturalist that meets the requirements of this condition. A performance security shall be submitted concurrently to ensure the implementation of the Plan until the success criteria have been met. The Permittee shall provide annual reports prepared by a County-approved qualified biologist on the progress of the established wedge-leaf horkelia population for 5 years (or more if the success criteria have not been met by Year 5). The annual report shall include the results of qualitative monitoring (i.e. photographs taken at permanent photo-points and observations of the health and condition of plantings) and quantitative monitoring (i.e. total count of the plants on randomly placed transects to estimate density.

Timing:
Option 1: Prior to the issuance of a Zoning Clearance for use inauguration under the modified CUP and amended Reclamation Plan, the Survey Report shall be submitted to the Planning Division.

Option 2: Prior to the issuance of a Zoning Clearance for use inauguration under the modified CUP and amended Reclamation Plan, the Harvesting and Propagation Plan (HPP) and the associated performance security shall be submitted to the Planning Division. Implementation of the HPP shall begin prior to the excavation of the area where the existing population of horkelia has been identified (Padre, 2002). The submittal of annual reports shall be initiated in the year after the existing population of horkelia has been removed. The annual reports shall be provided to the Planning Division by December 31 of each year during the monitoring period.

Monitoring and Reporting:
Option 1: The Planning Division shall review the Survey Report for compliance with the requirements of this condition.

Option 2: The Planning Division shall review the Harvesting and Propagation Plan for compliance with the requirements of this condition. The Planning Division shall review the annual reports for compliance with this condition and satisfaction of the success criteria. The release of the performance security and the termination of monitoring will occur when the success criteria have been met after monitoring Year 5.

42. Permit Boundary and Area of Disturbance (BR 1-3)

Intent: In order to assure that project operations and ground disturbance remains within approved limits, the permit boundary and areas approved for ground disturbance shall be identified in the field.

Requirement:
(a) Boundary posts shall be installed at each CUP boundary corner and at no less than 1,000-foot intervals between boundary corners. The posts shall be constructed of four-inch square tubular steel, extend a minimum of four feet above the ground surface, be set in concrete, be numbered, and labeled with "CUP 4874 Boundary."
(b) Boundary stakes shall be installed at each "Disturbance Area" boundary corner and at no less than 500-foot intervals between boundary corners. The stakes shall be composed of metal, painted orange and extend a minimum of four feet above the ground surface.

Alternate materials and boundary marker design may be utilized upon approval by the Planning Director.

(Note: The term "boundary corner" shall refer to points of change in the trend of the boundary line.)

Documentation: The Permittee shall provide to the County Planning Division a copy of the project site plan that depicts the CUP and disturbance area boundary lines, the property lines, topographic contours, and the surveyed location of each boundary post or stake. In addition, the Permittee shall provide photographs that demonstrate that the required boundary markers have been installed.

Timing: Prior to the issuance of a Zoning Clearance for Use Inauguration, the required boundary markers shall be installed. The required boundary markers shall be maintained for the effective term (i.e. initial term and any extension) of this CUP.

Monitoring: Planning Division staff shall review the submitted documentation to assure that the required markers are installed prior to operations under this permit.

43. Limitation on disturbed area (BR 1-5)

Intent: In order to minimize impacts on wildlife and wildlife habitat and to assure phased reclamation of the mining site, the area of active operations shall be limited.

Requirement: The area of land under active mining operations shall not exceed 60 acres at any one time. For purposes of this condition of approval, "land under active mining operations" refers to land that is not in a pre-mining natural state, not undergoing reclamation or not previously reclaimed in accordance with an approved Reclamation Plan.

Documentation: The Permittee shall provide a written summary of acreage disturbed, undergoing reclamation and reclaimed in conjunction with the annual inspection required by SMARA. In addition, the Permittee shall provide an aerial photograph of the mining facility to the County Planning Division upon request of the Planning Director.

Timing: The Permittee shall provide the required information within 30 days of the annual inspection of the site required by SMARA.

Monitoring: Planning Division staff shall verify and document compliance with this condition as part of the annual inspection required by SMARA.

44. Obtain Permits from Federal and State Resource Agencies (BR 4-1)

Intent: To ensure compliance with all applicable regulations implemented by State and Federal agencies.

Requirement: The Permittee shall notify the following agencies of the impending initiation of surface mining activities pursuant to the modified CUP and Amended Reclamation Plan.

- California Department of Fish and Wildlife (Section 1602 Agreement);
- US Army Corps of Engineers (Section 404 Individual Permit);
- Los Angeles Regional Water Quality Control Board (Section 401 Water Quality Certification); and,
- US Fish and Wildlife Service (Section 7 Consultation, only if the coastal California Gnatcatcher is determined to be present)

Documentation: The Permittee shall provide written proof or documentation to the County that the Permittee has obtained from each agency either: (1) a letter stating that a permit is not required or, (2) an official permit from an affected governmental agency.

Timing: The Permittee shall provide the written documentation to the County Planning Division prior to the initiation of vegetation clearing and excavation or fill activities within the jurisdictional riparian habitats identified in Figure 4.6-2 of the FEIR.

Monitoring: The Planning Division maintains a copy of the documentation provided by the Permittee in the project file. Monitoring of any mitigation measures required by another agency is the responsibility of that agency.

45. Protection of nesting birds (BR 7-1)

Intent: In order to prevent impacts on native bird species protected under the Migratory Bird Treaty Act, land clearing activities shall be regulated.

Requirement: The Permittee shall conduct all demolition, tree removal/trimming, vegetation clearing, and grading activities (collectively, "land clearing activities") in such a way as to avoid nesting native birds. This can be accomplished by implementing one of the following options:

a. Timing of construction: Prohibit land clearing activities during the breeding and nesting season (February 1 – August 31), in which case the following surveys are not required; <u>or</u>
b. Surveys and avoidance of occupied nests: Conduct site-specific surveys prior to land clearing activities during the breeding and nesting season (February 1 – August 31) and avoid occupied bird nests. Surveys shall be conducted to identify any occupied (active) bird nests in the area proposed for disturbance. Occupied nests shall be avoided until juvenile birds have vacated the nest. All surveys shall be conducted by a County-approved biologist.
   An initial breeding and nesting bird survey shall be conducted 30 days prior to the initiation of land clearing activities. The project site must

continue to be surveyed on a weekly basis with the last survey completed no more than 3 days prior to the initiation of land clearing activities. The nesting bird survey must cover the development footprint and 300 feet from the development footprint. If occupied (active) nests are found, land clearing activities within a setback area surrounding the nest shall be postponed or halted. Land clearing activities may commence in the setback area when the nest is vacated (juveniles have fledged) provided that there is no evidence of a second attempt at nesting, as determined by the County-approved biologist. Land clearing activities can also occur outside of the setback areas. The required setback is 300 feet for most birds and 500 feet for raptors, as recommended by CDFW. This setback can be increased or decreased based on the recommendation of the County-approved biologist and approval from the Planning Division.

Documentation: The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist documenting the results of the initial nesting bird survey and a plan for continued surveys and avoidance of nests in accordance with the requirements above. Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with a County-approved biologist responsible for the surveys, monitoring of any occupied nests discovered, and establishment of mandatory setback areas. The Permittee shall submit to the Planning Division a Mitigation Monitoring Report from a County-approved biologist following land clearing activities documenting actions taken to avoid nesting birds and results.

Timing: If land clearing activities will occur between February 1 and August 31, nesting bird surveys shall be conducted 30 days prior to initiation of land clearing activities, and weekly thereafter, and the last survey for nesting birds shall be conducted no more than 3 days prior to initiation of land clearing activities. The Survey Report documenting the results of the first nesting bird survey and the signed contract shall be provided to the Planning Division prior to the initiation of land clearing activities. Land clearing activities shall not occur until the Survey Report and contract are found adequate by the County Planning Division. The Mitigation Monitoring Report shall be submitted within 14 days of completion of the land clearing activities on the subject area of land.

Monitoring: The Planning Division shall review the Survey Report and signed contract for adequacy in meeting the objectives of this mitigation measure. The Planning Division shall maintain copies of the signed contract, Survey Report, and Mitigation Monitoring Report in the project file.

46. Protection of special-status wildlife (BR 7-2A)

Intent: In order to prevent impacts on special status wildlife during construction, land clearing activities shall be regulated.

Requirement: A County-approved biologist with a CDFW Scientific Collecting Permit shall conduct surveys for special-status wildlife, including coast horned lizard, coastal western whiptail, and silvery legless lizard. The first survey shall be conducted 30 days prior to initiation of demolition, tree removal/trimming, vegetation clearing, and grading activities (collectively, "land clearing activities"), and surveys must continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of land clearing activities. Individuals of special-status wildlife species that are found shall be relocated to suitable undisturbed habitat, at least 500 feet beyond the mining limits. If the County-approved biologist determines that silt fencing is necessary to prevent special-status wildlife from returning to the construction area, silt fencing shall be installed at the edge of the grading footprint with the oversight of the County-approved biologist.

Documentation: The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist documenting the results of the initial special-status wildlife survey and a plan for continued surveys and relocation of special-status wildlife in accordance with the requirements above. Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with a County-approved biologist responsible for the surveys and relocation of wildlife. The Permittee shall submit to the Planning Division a Mitigation Monitoring Report from a County-approved biologist following land clearing activities documenting actions taken to prevent loss of special-status wildlife and results.

Timing: Special-status wildlife surveys shall be conducted 30 days prior to initiation of land clearing activities, and weekly thereafter, and the last survey for special-status wildlife shall be conducted no more than 3 days prior to initiation of land clearing activities. The Survey Report documenting the results of the first special-status wildlife survey and the signed contract shall be provided to the Planning Division prior to issuance of a zoning clearance for construction. The Mitigation Monitoring Report shall be submitted within 14 days of completion of the land clearing activities.

Monitoring: The Planning Division shall review the Survey Report and signed contract for adequacy prior to issuance of a Zoning Clearance for construction. The Planning Division maintains copies of the signed contract, Survey Report, and Mitigation Monitoring Report in the project file.

47. Woodrat Nest Avoidance and Relocation (BR 7-2B)

Intent: In order to minimize impacts on woodrats, avoidance measures shall be implemented.

Requirement: Prior to demolition, tree removal/trimming, vegetation clearing, and grading activities (collectively, "land clearing activities"), a County-approved

biologist with a California Department of Fish and Wildlife (CDFW) Scientific Collecting Permit shall survey suitable habitat for woodrats within the proposed limits of disturbance and a 50-foot radius buffer area. If no nests are found, no further action is required. If active woodrat nests are found during the peak nesting season (February 1 through May 31), a 50-foot radius buffer area shall be established around the nests in which land clearing activities will be postponed until the end of peak nesting season to protect the nest.

Outside of the peak nesting season, nests can be relocated according to the following instructions and with a County-approved biological monitor present:

a. Create new habitat on adjacent areas not impacted by the project by providing a vertical structure using local native material such as tree and shrub trimmings stacked horizontally in areas that are under shady canopies and upslope of seasonal drainages. Piling rocks removed from the construction area can also be used to help achieve structure. If multiple nesting material structures are created they should be a minimum of 25 feet apart. It is important that the new nesting material be placed under shady areas or they will not be used. These areas should be in locations that do not presently provide this habitat structure to create new nesting opportunity and to reduce potential competition with existing woodrats.
b. After creating habitat outside of the construction footprint, begin vegetation clearance around the nest structures to reduce woodrat dispersal back into the project area.
c. Nudge the nest with a front end loader type tractor to flush the woodrats from the nest. They will usually abandon the nest and run out into adjacent off site cover.
d. Carefully and slowly pick up the nest material with a front end loader (to allow any additional woodrats to escape) while maintaining a safe distance from the nest to reduce health hazards to the workers (dust masks should be used even when operating equipment).
e. Move the nest material to the creation area and place adjacent to the created nesting structure.

Documentation: The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist that provides the results of the woodrat survey and a plan for avoidance or relocation of the nests in accordance with the requirements above. Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with the County-approved biologist who will monitor avoidance and relocation efforts during land clearing activities. The Permittee shall submit to the Planning Division a Mitigation Monitoring Report from a County-approved biologist subsequent to the completion of land clearing activities that documents the actions taken to avoid or relocate woodrat nests.

Timing: The survey shall be conducted within 30 days of the land clearing activities. The Survey Report and signed contract shall be provided to the Planning Division prior to issuance of a zoning clearance for construction. The

Mitigation Monitoring Report shall be submitted within 14 days of completion of the land clearing activities.

Monitoring: The Planning Division shall review the Survey Report and signed contract for adequacy with the terms and conditions of this mitigation measure prior to issuance of a Zoning Clearance for construction. The Planning Division maintains copies of the signed contract, Survey Report, and Mitigation Monitoring Report in the project file.

48. Avoidance of California Gnatcatcher (BR 10-1)

Intent: In order to prevent impacts on coastal California gnatcatcher if found onsite, land clearing activities shall be regulated.

Requirement: A County-approved biologist with a section 10(a)(1)(A) permit under the Federal Endangered Species Act shall conduct surveys for coastal California gnatcatcher in accordance with the U.S. Fish and Wildlife Service's Presence/Absence Survey Guidelines for the coastal California gnatcatcher. If the surveys confirm absence of coastal California gnatcatcher, land clearing activities can be initiated. If the surveys confirm presence of coastal California gnatcatcher, the Permittee shall consult with the U.S. Fish and Wildlife Service.

Documentation: The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist with a section 10(a)(1)(A) permit under the Endangered Species Act documenting the results of the protocol surveys for coastal California gnatcatcher. If coastal California gnatcatchers are found during the protocol surveys, the Permittee shall submit to the Planning Division a copy of the take permit issued by the U.S. Fish and Wildlife Service and documentation that the mitigation required by the take permit is being implemented.

Timing: Prior to the issuance of a Zoning Clearance for land clearing within areas not previously excavated, the Permittee shall provide to the County Planning Division a copy of the Survey Report.

Monitoring: The Planning Division shall review for adequacy the Survey Report prior to issuance of a Zoning Clearance for land clearing.

49. Protection of special-status wildlife from lighting impacts (BR 11-1)

Intent: In order to minimize glare from project lighting and effects on adjacent habitat areas, project lighting shall be minimized.

Requirement: Project lighting shall be shielded such that light filaments or bulbs will not be visible to drivers on SR-23. In addition, the intensity of light spillover into lands outside the limits of disturbance shall not exceed 0.5 foot-candles.

Documentation: The Permittee shall submit to the County Planning Division a photometric analysis that demonstrates compliance with this condition of approval.

Timing: Prior to the issuance of the Zoning Clearance for Use Inauguration under this CUP, the applicant shall submit the photometric study for review and approval.

Monitoring: County Planning Division staff shall review and, if found to be adequate in terms of the intent and objectives of this mitigation measure, approve the submitted study to assure compliance with this condition. As part of ongoing compliance monitoring pursuant to Condition No. 10 of this permit, the County may require additional studies and modification of the installed lighting.

50. Recovery of paleontological resources (PR 1-1)

Intent: In order to partially offset the loss of paleontological resources found in the formation subject to mineral extraction, the Permittee shall recover representative samples.

Requirement: The Permittee shall retain a Paleontologist deemed qualified by the Planning Director to survey areas proposed for future excavation and newly excavated areas for the presence of fossil remains. The Paleontologist shall collect representative samples of any fossil remains observed in accordance with the Society of Vertebrate Paleontology guidelines. The samples shall be prepared for identification and provided to a qualified facility for curation (e.g., the Los Angeles County Museum of Natural History).

In addition to surveys, the Paleontologist shall be on call to the facility in the event that substantial fossil remains (e.g. a mammoth) are uncovered during mining. In this event, excavation activities within 25 feet of the remains shall be halted until the remains are removed in a manner approved by the paleontologist. The Paleontologist shall provide training to mining facility personnel on the recognition of fossil remains.

Documentation: The Permittee shall submit to the County Planning Division a paleontology mitigation plan for review and approval. This plan shall describe the proposed survey and sampling methods, and the training to be provided to onsite personnel.

A survey report that describes the fossils observed and recovered shall be provided to the County Planning Division.

Timing: The paleontology mitigation plan shall be reviewed and, if adequate, approved prior to the issuance of the Zoning Clearance for Use Inauguration under this CUP. Survey reports shall be provided annually.

The requirement to conduct paleontological surveys and recover remains shall be in effect for a minimum of three years after the issuance of the Zoning Clearance. At the end of the initial three-year period, the Planning Director shall determine whether to continue, modify or end the program based on the volume and significance of the fossil remains recovered.

Monitoring: County Planning Division staff shall review the paleontology mitigation plan and survey reports to assure that this condition is satisfied.

51. Compliance with Approved Amended Reclamation Plan

All surface mining operations shall be conducted in accordance with Amended Reclamation Plan RP12-0001, as approved or amended by the County of Ventura. All mining excavation shall take place above the final reclaimed floor and shall occur within the aerial limits of excavation depicted on Amended Reclamation Plan maps and cross sections. All mining excavation shall occur in conformance with the phasing specified in the Amended Reclamation Plan.

52. Compliance with SMARA and SMGB Regulations

All surface mining activities shall occur in conformance with the California Surface Mining and Reclamation Act (SMARA) and the reclamation regulations adopted by the State Mining and Geology Board.

53. Compliance with the Non-Coastal Zoning Ordinance

All surface mining activities shall occur in conformance with Section 8107-9 of the Ventura County Non-Coastal Zoning Ordinance.

54. Financial Assurance

Prior to the issuance of any Zoning Clearance for use inauguration under this permit, or the conduct of any mining operations authorized by this permit, the Permittee (mine operator) shall post a Financial Assurance based on the approved Amended Reclamation Plan that is consistent with the requirements of SMARA Section 2773.1 and deemed adequate by the County of Ventura and the California Department of Conservation.

55. Exceptions to Permit Conditions

Pursuant to Section 8107-9.6.12 of the Ventura County Non-Coastal Zoning Ordinance, the Planning Director may grant temporary exceptions to the noise

standards, hours of operation, and the conditions of approval provided that the Planning Director finds that it is necessary because of a declared public emergency or the off-hours scheduling of a public works project where a formal contract to conduct the work in question has been issued.

56. Interim Management Plans

As required by Section 2770(h) of SMARA, the operator shall submit an Interim Management Plan to the County of Ventura within 90 days of the mine becoming idle. The term "idle" is defined in Section 2727.1 of SMARA. The time period in which a mine is subject to an Interim Management Plan or considered idle does not alter the expiration date of this permit or the requirements of the applicable Approved Reclamation Plan.

57. Copy of Approved Reclamation Plan

A copy of the Approved Reclamation Plan shall be maintained on the mining site at all times. This copy shall be available for review by Federal, State and County inspectors, other agency staff, and the general public.

58. Proprietary Information

Information considered by the Permittee to be proprietary in nature that is required to be submitted to the County shall be so identified by the Permittee and submitted in separate form. To the extent allowed by law, this information shall be maintained in a confidential file and not released for public review.

59. Truck staging

No heavy trucks shall arrive or depart the site between: (1) 6:00 pm or sunset as defined in the local paper, whichever is later; and, (2) 6:00 am. In addition, at no time shall trucks "stage" (i.e. park and wait for the site to open) in unincorporated areas within a seven mile radius of the project.

60. Restricted Use of Engine Braking

Intent: In order to minimize noise generated by material hauling trucks, the use of engine braking shall be restricted to the extent feasible and within transportation safety rules.

Requirement: The Permittee shall inform all drivers of project-related heavy trucks to avoid use of engine braking on any road between SR-126 and SR-118 with the following exceptions:

a. On SR-23 between the access roads to the Grimes Rock (CUP 4874) and Wayne J (CUP 4571) mining facilities.

b. If the Planning Director approves such braking for specific makes and years of trucks if it is demonstrated to the satisfaction of the Planning Director that such braking does not result in significant noise.

c. During emergency situations.

The Permittee shall install signage at the project site that informs truck drivers of this requirement.

Documentation: The Permittee shall provide to the County Planning Division photographs that demonstrate that the required signage has been installed.

Timing: Prior to the issuance of the Zoning Clearance for Use Inauguration under this permit, the signage shall be installed.

Monitoring: County Planning Division compliance staff shall review the submitted documentation regarding signage for compliance with the terms of this mitigation measure, may review compliance during any site inspection, and shall investigate and respond to citizen complaints about the use of engine braking on heavy trucks traveling from the subject mine.

61. Onsite noise suppression for possible future adjacent residential uses

Intent: Tentative Tract Map No. 5277 was approved by the County of Ventura on January 25, 2005, and is set to expire on January 24, 2015. This map subdivides land adjacent to the existing paved road that will be used for material hauling to the new southern entrance to the mining facility. The map includes twelve (12) large lots ranging in area from 10 to 28 acres. The location of future primary dwellings that may be developed on these tentative lots is unknown at this time. The Tentatively approved TM 5277 subdivision would be accessed by an entrance on Shekell Road approximately 2,000 feet south of the proposed CUP boundary of the mining facility. To date, the final map has not been recorded and no residential development has commenced on the TM 5277 site. Absent an understanding of the location and design of any potential residential construction, it is not possible to determine whether the use of the existing paved road by material hauling trucks could generate noise at a primary residence(s) that would exceed County standards. However, in order to assure compatibility of the project with potential future residential uses that may be developed near the existing paved road to be used by material hauling trucks, noise analysis and suppression measures may be required in the future.

Requirement: In the event that Tentative Tract Map No. 5277 records and single family dwellings (primary residences) are constructed within 730 feet of the existing paved road that connects to the southern mining facility entrance, the Permittee shall have a study prepared that evaluates the noise level at each such

primary residence that is due to the operation of material hauling trucks. The Permittee shall implement noise suppression measures identified in the study to reduce the truck noise experienced at the primary residences developed on the lots of TM No. 5277 to below the levels listed in County General Plan Policy 2.16.2(4), or substitute regulations as may be adopted by the County.

Documentation: The Permittee shall provide to the County Planning Division for review and approval a noise study(s) prepared by a qualified acoustical engineer that describes the level of noise experienced at the primary residence(s) developed on TM No. 5277 that results from the onsite trucking operations that involve the southern entrance to the Grimes Rock facility. The noise study shall include recommended noise suppression measures that would reduce noise levels at the TM 5277 primary residences to below the thresholds level specified in County General Plan Policy 2.16.2(4). The initial noise study prepared shall delineate the area on the TM 5277 property for which noise from the operation of hauling trucks could possibly exceed County noise policy limits. If the potentially affected area delineated in the initial noise study falls less than 730 feet from the existing paved road, the newly delineated area will establish a new distance threshold for when further noise studies are required. Primary residences constructed more that 730 feet from the existing paved road or outside of the limits established in the initial noise study will not require a new noise study or noise suppression measures.

Timing: The Permittee shall submit the required noise study(s) within 60 days of the completion of construction (as evidenced by the issuance of a Certificate of Occupancy) of a permitted primary residence on TM 5277 located within 730 feet (or some lesser distance established by a previous noise study deemed adequate by the County Planning Division). Any required noise suppression facilities shall be installed within 90 days of the approval by the County Planning Division of the required noise study. This time frame may be extended for good cause at the sole discretion of the Planning Director.

Monitoring: As part of the regular required inspections of the Grimes Rock mining facility, County staff will determine whether the operator is in compliance with this condition. Staff will review the submitted reports for adequacy and maintain noise studies in the project file.

[Note: The 730 foot distance from the existing paved road is based on Figure 2.16.7 of the County General Plan Hazards Appendix. The 730 feet is the distance from the centerline of SR 23 to the 50 CNEL noise contour created by the entire current traffic load on the highway. Given the minor proportion (less than 8 percent) of the SR 23 traffic due to the Grimes Rock facility, this distance encompasses more area than could possibly experience noise levels due to hauling trucks that would be inconsistent with County Noise Policy 2.16.2(4).]

ENVIRONMENTAL HEALTH DIVISION

62. Handling of hazardous material (EH 1)

The storage, handling, and disposal of any potentially hazardous material shall be in compliance with applicable state regulations.

63. Prevention of mosquito breeding (EH 2)

All water impoundments and storm water collection systems shall be constructed and maintained in a manner which will prevent the breeding of mosquitoes.

64. Septic sewage disposal systems (EH 3, 4, 5)

Intent: In order to assure that the onsite septic effluent disposal system does not cause an adverse effect on public health, the Permittee shall comply with applicable orders issued by the Los Angeles Regional Water Quality Control Board.

Requirement: The Permittee shall comply with Order No. 01-031 adopted by Los Angeles Regional Water Quality Control Board (LARWQCB) adopted Order No. 01-031. This Order requires general waste discharge requirements to be obtained for septic systems utilized by commercial uses. The permittee shall obtain from the LARWQCB a Waste Discharge Report/determination of exemption for the onsite septic sewage disposal system from the LARWQCB or written authorization that allows the Ventura County Environmental Health Division (VCEHD) to review the subject system and issue necessary permits.

(Note: Only "domestic waste", as defined in the Ventura County Building Code Ordinance, shall be discharged into septic systems.)

Documentation: The Permittee shall provide to the County Environmental Health Division a copy of a written determination of exemption or a copy of a letter of authorization issued by the LARWQCB. Should the VCEHD be authorized to review and permit any septic systems, the Permittee shall file the established application and fees in accordance with current ordinance.

Timing: The Permittee shall submit the required documentation, and obtain any required permits, prior to the issuance of the Zoning Clearance for Use Inauguration under this CUP.

Monitoring: VCEHD staff shall review all submitted documentation and issue necessary permits upon the determination that the subject septic systems will meet established design standards.

65. Portable toilets (EH 7)

If portable toilets are used at the project site, the Permittee shall provide an adequate quantity of such toilets, and associated hand washing facilities, for use by on-site personnel. All toilets shall be maintained in a sanitary condition at all times.

FIRE DEPARTMENT

66. Brush clearance (F 1)

All work areas and parking areas shall be maintained free of flammable vegetation and debris at all times. Brush shall be cleared within 100 feet of any permanent structure. No open fires shall be allowed on the project site.

PUBLIC WORKS AGENCY

67. Grading permits (PW 1)

Intent: In order to assure that all onsite grading meets established standards, the Permittee shall obtain necessary grading permits.

Requirement: The Permittee shall prepare a site plan that generally depicts the proposed topographic contours of any area proposed to be graded that is located outside of the approved mineral extraction sites. If requested by the Public Works Agency, the Permittee shall have grading plans prepared by a licensed Civil Engineer and obtain a Grading Permit.

Documentation: The Permittee shall submit to the Public Works Agency (PWA), for initial review, a site plan that depicts the existing and proposed topographic contours of an area proposed to be graded. If the PWA determines that a grading permit is necessary, a set of grading plans prepared by a Civil Engineer shall be submitted by the Permittee to the PWA as part of a Grading Permit application. This application shall include some or all of the following informational items, if requested by the PWA:

- Geology Report prepared by a California Professional Geologist
- Geotechnical/Soils Engineering Report prepared by a licensed Civil Engineer
- Drainage Analysis report prepared by a licensed Civil Engineer

The design recommendations made in any required report shall be incorporated into the submitted grading plans.

Timing: Prior to the creation of a cut or fill located outside of the mineral extraction area, the Permittee shall submit the required documentation. If a

Grading Permit is required, it shall be obtained by the Permittee prior to the onset of the proposed grading.

Monitoring: County PWA staff shall review the submitted materials and determine whether a Grading Permit is required. PWA staff shall review any grading permit application submitted and issue a permit if the proposed grading meets established ordinance standards.

APPLICANT PROPOSED CONDITION

68. Fair share contribution to proposed cost of constructing proposed SR-23 bypass

Intent: The City of Moorpark has indicated that it believes the Permittee should pay a "fair share" contribution towards the cost of constructing a proposed bypass road intended to alleviate traffic on Walnut Canyon Road/Moorpark Avenue in the downtown section of the City. The final EIR finds that such a fair share contribution requirement does not constitute feasible mitigation under CEQA, as it relies on a future funding mechanism that has not been formulated, funded, or adopted. The conceptual SR-23 bypass road set forth in the City of Moorpark's General Plan Circulation Element is in the preliminary planning and design phase, and the timing of construction remains uncertain. A final road design and engineer's cost estimate have not been prepared or adopted by the City of Moorpark or by CalTrans, and there is not an adopted funding mechanism in place to finance the project. Moreover, all rights-of-way required for the construction of the proposed bypass road have not been obtained. Accordingly, pursuant to CEQA Guidelines §§ 15126.4, 15364 and 15370, the County has found that the proposed SR-23 bypass road does not constitute a required or feasible mitigation measure. [for which potentially significant impact? Cite number in RDEIR].

Notwithstanding the County's conclusion based on the foregoing, Permittee has voluntarily agreed as a condition of approval of the proposed project to pay its fair share contribution towards the costs of constructing such a SR-23 bypass road if and when the fair share funding mechanism meeting the legal requirements outlined above is finally adopted.

Requirements: If the City of Moorpark completes a final bypass road design, secures a licensed engineer's cost estimate for the construction of the bypass road, secures all real property rights and project approvals necessary to construct the proposed SR-23 bypass, and adopts a fair share contribution funding mechanism that, together with other documented and secured sources of financing, is sufficient to fully fund construction of the bypass, then the Permittee, together with future projects contributing to SR-23 traffic impacts, shall pay a fee proportional to such project's fair share of such SR-23 traffic impacts. The Permittee's fair share contribution shall be determined based upon the 48 ADT

increase above the baseline traffic condition, as analyzed in the final EIR, in relation to the overall capacity of the proposed SR-23 improvements. It is recognized that some or all of the proposed SR-23 improvements may not be feasible due to expense, issues with right-of-way acquisition, technical issues, or lack of approval from other agencies (including the City of Moorpark and CalTrans).

Documentation: If the City of Moorpark provides the County with written notice of its satisfaction of the requirements set forth above, the Permittee shall provide the County Planning Division with a letter from the City of Moorpark that documents that the Permittee's required fair share contribution has been paid.

Timing: If the City of Moorpark provides the County with written notice of its satisfaction of the requirements set forth above, and all time periods for challenge of the City of Moorpark's funding mechanism have expired, then Permittee shall pay its required fair share contribution within thirty (30) days of written notice from the City of Moorpark.

Monitoring: County Planning Division staff shall review the documentation submitted by the Permittee to determine if Permittee has made full payment of its fair share contribution in accordance with this condition.

DEPARTMENT OF CONSERVATION

69. Abandoned Oil wells

The abandoned oil and gas wells located on the mining site shall be re-abandoned in accordance with Division of Oil and Gas and Geothermal Resources (DOGGR) standards if affected by mining excavation. The Permittee shall inform the County Planning Division and DOGGR immediately if any of the wells on the property are encountered during surface mining operations.

Exhibit 6

RESOLUTION OF THE VENTURA COUNTY PLANNING COMMISSION TO MAKE THE REQUIRED

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

AND TO

CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT

PREPARED FOR THE GRIMES ROCK MINING EXPANSION PROJECT

[MAJOR MODIFICATION OF CONDITIONAL USE PERMIT NO. 4874-1 (CASE No. CUP 4874-2); AND AMENDED RECLAMATION PLAN (Case No. RP12-0001) File: PL12-0159]

WHEREAS, the Grimes Rock Mining Expansion Project, including an Amended Reclamation Plan [Case Nos. CUP 4874-2 and RP12-0001], constitute a "project" under the California Environmental Quality Act ["CEQA"; Public Resources Code (PRC), §21000 et seq.] and CEQA Guidelines (Title 14, California Code Regulations, §15000 et seq.); and

WHEREAS, the County of Ventura ("County"), as the CEQA Lead Agency for the Project, prepared an initial study pursuant to CEQA to determine if the Project might have the potential to cause a significant effect on the environment; and

WHEREAS, the County, on the basis of the initial study, determined that the Project has the potential to cause a significant effect on the environment and that an environmental impact report ("EIR") is required for the Project; and

WHEREAS, the County, as the CEQA Lead Agency for the Project, prepared a Notice of Preparation ("NOP") for an EIR for the Project on November 12, 2003 and distributed the NOP to the State Clearinghouse, Office of Planning and Research, responsible agencies, and other interested parties, in compliance with CEQA and the CEQA Guidelines; and

WHEREAS, upon receipt of the NOP on November 12, 2003, the State Clearinghouse issued SCH Number 2003111064 for the EIR; and

WHEREAS, the NOP was circulated for a public review period that began November 13, 2003 and ended January 5, 2004; and

WHEREAS, the County provided public notice and conducted a scoping meeting on December 10, 2003, pursuant to CEQA Guidelines §15082(c), and public testimony was taken concerning the potential environmental impacts of the proposed project in order to help determine the scope and content of the EIR; and

WHEREAS, the County, as the CEQA Lead Agency, reviewed and considered the written and oral comments received in response to the NOP and during the public scoping meeting, and subsequently published a Notice of Availability ("NOA") for a Draft EIR ("DEIR") for the Project on June 5, 2006; and

WHEREAS, the County made the DEIR available for public review and comment from June 5, 2006 through August 7, 2006; and

WHEREAS, the County prepared a Final EIR (the "2009 FEIR") for the Project and made the 2009 FEIR available for public review [on the County Website] on July 4, 2009, which includes responses to all comments received during the review period for the DEIR; and

WHEREAS, the County's former Environmental Report Review Committee ("ERRC") held public hearings on July 15, 2009; August 12, 2009; and March 3, 2010 on the 2009 FEIR, and received public comment and testimony on the 2009 FEIR; and

WHEREAS, ERRC voted to find the 2009 FEIR "technically adequate" on March 3, 2010; and

WHEREAS, the 2009 FEIR was not forwarded to the Planning Commission for its consideration because a 2010 appellate court decision (*Nelson v. County of Kern*) found that a SMARA-compliant Reclamation Plan is required to be concurrently reviewed with a surface mining CUP modification request; and

WHEREAS, an amended Reclamation Plan with a revised project description was prepared by the project applicant for the proposed mine expansion project pursuant to the decision in *Nelson v. County of Kern*; and

WHEREAS, at about the same time, the County of Ventura independently prepared and adopted revised Initial Study Assessment Guidelines (ISAGs) in June 2010; and

WHEREAS, the County determined that the project applicant's revised project description as reflected in the proposed amended Reclamation Plan constitutes "significant new information" pursuant to PRC § 21092.1 and CEQA Guidelines §15088.5 so as to trigger a recirculation of the 2009 FEIR in order to provide the public with a meaningful opportunity to comment on such changes; and

WHEREAS, the County published a new NOA for a Recirculated Draft EIR ("RDEIR") for the Project on September 10, 2012, and made the RDEIR available for public review and comment from September 10, 2012 through October 26, 2012; and

WHEREAS, the County prepared a revised Final EIR (the "FEIR") for the Project that includes responses to all comments received during the review period for the

RDEIR and made the FEIR available for public review on the County Website[1] on May 29, 2013; and

WHEREAS, the County published a notice in the *Ventura County Star* newspaper on June 13, 2013, advising the general public of the Planning Commission's consideration of the Project and certification of the FEIR for the Project, which included an analysis of environmental effects of the Project; and

WHEREAS, on June 10, 2013, the County mailed a Notice of Public Hearing regarding the Planning Commission hearing to owners of property within 1,000 feet of the property on which the project site is located and placed a legal ad in the Ventura County Star. In addition, the owners of all properties located within 300 feet of the material hauling routes (SR 23, Broadway, and Grimes Canyon Road) between the City of Fillmore and the City of Moorpark were provided notice. Finally, each city in Ventura County, the State Office of Mine Reclamation, State and Federal wildlife agencies, the California Highway Patrol, Caltrans, other organizations, responsible and trustee agencies, and each person who commented on the Re-circulated Draft EIR were noticed. Thus, all affected parties were notified of a June 27, 2013, pubic meeting of the Planning Commission, at which time evidence, both oral and written, including the FEIR, and the staff report, was presented and received and testimony was heard from all interested parties appearing on the matter; and

WHEREAS, on June 27, 2013, the Planning Commission held a duly noticed public hearing on the Project at the Ventura County Government Center, Hall of Administration, Board Hearing Room, 800 South Victoria Avenue, Ventura, California; and

WHEREAS, copies of the notices and affidavits of mailing, posting and publishing are on file in the office of the Ventura County Resource Management Agency, Planning Division; and

WHEREAS, on June 27, 2013, County staff recommended to the Planning Commission that the FEIR was adequate under CEQA and further recommended approval of the proposed Project as discussed in the Planning Division staff report for the Planning Commission and in these CEQA findings.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission independently reviewed and considered the information contained in the FEIR and supporting documents, including all maps, exhibits, testimony and written documents contained in the administrative record for the Project, including its environmental

[1] The County Website at which the FEIR was posted is: http://www.ventura.org/rma/planning/ceqa/eir.html.

analysis for the Project on record in Ventura County, and the oral presentations given at the public hearing, and hereby finds that:

1. The FEIR has been completed in compliance with CEQA and the CEQA Guidelines.

2. The FEIR was presented to the Planning Commission and was independently reviewed and considered prior to approving the Project.

3. The FEIR reflects the Planning Commission's independent judgment and analysis and is adequate under CEQA.

4. The documents comprising the FEIR, as well as all other documents contained within the administrative record of proceedings, shall be held with the Director of the Ventura County Resource Management Agency, Planning Division, as the official custodian of the record, 800 S. Victoria Street, L-1740, Ventura, California 93009.

BE IT FURTHER RESOLVED that the Planning Commission hereby approves and certifies the FEIR as adequate and adopts the following findings pursuant to PRC § 21081 and the CEQA Guidelines (§§ 15043, 15090, 15091, 15092, and 15093) with respect to the environmental impacts of the Project as identified in the FEIR:

SECTION 1: GENERAL CEQA CONSIDERATIONS

A. **FEIR Organization:** The FEIR is one document in three volumes comprising the FEIR text (Volume 1), Appendices to the FEIR (Volume 2), and letters of public comment and responses to that comment (Volume 3). The FEIR text (Volume 1) includes a description of the Project, environmental effects caused by the Project, mitigation measures, and alternatives to the Project. The Appendices to the FEIR (Volume 2) include the NOP, Initial Study, NOP comment letters received during the public review period, technical reports on which the analysis in the FEIR is based, and the proposed amended Reclamation Plan. Volume 3 includes written comments received during the public review period for the Recirculated Draft EIR (RDEIR), and responses to those comments. These documents are included in the administrative record for this project as Exhibit 4. The Mitigation Monitoring and Reporting Program for the Project is incorporated into the conditions of approval for the modified conditional use permit, and are adequate for adoption by the Planning Commission pursuant to CEQA Guidelines §15097.

B. **Reliance on the Administrative Record:** Each and all of the findings and determinations contained herein are based on the competent and substantial evidence, both oral and written, contained in the entire administrative record before the Planning Commission relating to the FEIR and the Project. The

findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

C. **Nature of the Findings:** All of the language included in this document constitutes findings by the Planning Commission, whether or not any particular sentence or clause includes a statement to that effect. The Planning Commission considers these findings as an integrated whole and, whether or not any of these findings fail to cross reference or incorporate by reference any other part of these findings, any finding required or committed to be made by the Planning Commission with respect to any particular subject matter of the FEIR, shall be deemed to be made, if it appears in any portion of these findings.

For each significant environmental effect identified in an EIR prepared for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR. (CEQA Guidelines § 15091(a)(1))

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines § 15091(a)(2))

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR. (CEQA Guidelines § 15091(a)(3))

CEQA Guidelines §15364 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors." [See also *Citizens of Goleta Valley v. Board of Supervisors* (*Goleta II*) (1990) 52 Cal.3d 553, 565.]

The concept of "feasibility" also encompasses the question of whether a particular project alternative or mitigation measure promotes the underlying goals and objectives of a project [*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*)]. "[F]easibility" under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of

the relevant economic, environmental, social, and technological factors." [*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 (*Sequoyah Hills*); and *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (after weighing "'economic, environmental, social, and technological factors' ... 'an agency may conclude that a mitigation measure or alternative is impracticable or undesirable from a policy standpoint and reject it as infeasible on that ground'").]

For a project with significant impacts which are not avoided or substantially lessened, a public agency, after adopting required findings, may still approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects" [PRC §21081(b); and CEQA Guidelines §15093 and §15043(b)]. "The wisdom of approving ...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions." (*Goleta II*, *supra*, 52 Cal.3d at p. 576.).

Because the EIR identified significant effects which may occur as a result of the Project, and in accordance with the provisions of CEQA, the CEQA Guidelines and CEQA case law presented above, the Planning Commission hereby adopts these findings as part of the Planning Commission's approval of the Project.

In approving the proposed project and making these findings, the Planning Commission has considered all of the information in the administrative record of proceedings, including but not limited to the County staff report, all public comments received both written and verbal, and the FEIR. On the basis of all of the foregoing information, the Planning Commission finds:

1. Pursuant to Public Resources Code § 21081(a)(1), that changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effects on the environment as identified in the FEIR; and

2. Pursuant to CEQA Guidelines § 15091(a)(1), that changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the FEIR; and

3. The FEIR has been completed in compliance with CEQA and the CEQA Guidelines and is adequate under CEQA and the CEQA Guidelines for approval of the actions necessary to implement the proposed project; and

4. Project alternatives that substantially reduce or avoid the proposed project's significant environmental impacts are rejected as infeasible, for the reasons set forth below.

5. The technical studies and reports upon which the FEIR is based continue to accurately describe the baseline conditions against which project impacts are measured, as well as the impacts of the proposed project, and are sufficiently credible to be considered as part of the total evidence that supports the Planning Commission's decision.

6. The analysis of traffic impacts set forth in the FEIR is adequate under CEQA for approval of the actions necessary to implement the proposed project. Regardless of the fact that the project's CUP expiration date has been extended from 2025 to 2040, the peak hour trip (PHT) limitations identified as adequate and feasible mitigation in the FEIR remain adequate and feasible to address project traffic congestion impacts for the extended CUP life. Moreover, in light of the fact that the other Grimes Canyon surface mining expansion projects have not progressed to the point of governmental approval, the cumulative traffic impacts described in the FEIR reflect a scenario that is worse than current actual traffic conditions and overstate the potential traffic impacts of the Project.

D. **Limitations**: The Planning Commission's analysis and evaluation of the Project is based on the best information currently available and reasonably feasible. In evaluating any project, absolute and exhaustive knowledge of all possible environmental impacts of the project does not always exist. CEQA does not require lead agencies to engage in speculation. This practical limitation is acknowledged in the CEQA Guidelines §15151, which state that "the sufficiency of an EIR is to be reviewed in light of what is feasible."

E. **Summaries of Impacts, Facts, Mitigation Measures, and Project Alternatives**: All summaries of information in the findings to follow are based on the FEIR, the Project (and every component thereof) or other evidence in the administrative record before the Board. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact or substantial evidence in the record.

F. **Independent Judgment**: The FEIR reflects the County/lead agency's independent judgment and analysis.

This document includes only as much detail as may be necessary to show the basis for the findings set forth. References to the FEIR and other evidence have been made to identify the location of more precise information upon which any summary is based.

SECTION 2: ENVIRONMENTAL EFFECTS FOUND TO HAVE NO IMPACTS OR TO BE LESS-THAN-SIGNIFICANT

During the preparation of the Initial Study for the Project and scoping meeting for the DEIR, and pursuant to the comments received in response to the NOP for the Project, various potential environmental effects of the Project were identified as being potentially significant. These effects were analyzed during preparation of the Initial Study, DEIR, RDEIR, and/or FEIR and found not to involve either project-specific or cumulatively significant impacts. The substantial evidence that supports the following conclusions is provided in the FEIR and the administrative record before the Planning Commission. Therefore, the Planning Commission finds that based upon the information presented in the FEIR that the environmental issues identified in Table 1 (below) either involve no impact or impacts that are less than significant and, therefore, neither mitigation measure(s) nor additional mitigation beyond those features included in the Project are needed:

Table 1 – No or Less-than-Significant Project-Specific and Cumulative Impacts Without Mitigation Beyond the Project Description

Resource, Facility, or Environmental Issue	No Impact or Less-Than-Significant Project-Specific Impact?*	No Impact or Less-Than-Significant Cumulative Impact?
Mineral Resources	Yes	Yes
Agricultural Resources (soils and water)	Yes	Yes
Cultural Resources	Yes	Yes
Energy Resources	Yes	Yes
Coastal Beaches and Sand Dunes	Yes	Yes
Seismic Hazards	Yes	Yes
Geologic Hazards	Yes	Yes
Fire Hazards	Yes	Yes
Noise and Vibration[2]	Yes	Yes
Daytime gGlare	Yes	Yes
Public health	Yes	Yes
Climate change (generation of greenhouse gases)	Yes	Yes
Community character	Yes	Yes
Land use - Housing	Yes	Yes
Land use – Growth inducement	Yes	Yes
Water supply	Yes	Yes
Waste treatment and disposal	Yes	Yes
Utilities	Yes	Yes
Flood control/drainage	Yes	Yes
Law enforcement/emergency services	Yes	Yes
Fire protection services	Yes	Yes
Education (Schools and libraries)	Yes	Yes
Recreation facilities	Yes	Yes

SECTION 3: FINDINGS OF LESS THAN SIGNIFICANT ENVIRONMENTAL IMPACTS AFTER MITIGATION MEASURES HAVE BEEN IMPLEMENTED [CEQA GUIDELINES §15091(a)(1)]

Of the potentially significant impact categories discussed in the FEIR, mitigation measures have been required which avoid or substantially lessen the significant adverse environmental effects as identified in the FEIR in the issue areas of traffic and circulation, air quality, hydrology and water resources, biological resources, and visual

[2] Noise and Vibration for this Project was shown as a Potentially Significant Impact in the Initial Study. However, in accordance with the County's 2010 adopted Initial Study Assessment Guidelines and County General Plan Policy 2.16.2(4), project-related truck traffic along approved haul routes is not considered a noise impact. The County Initial Study Assessment Guidelines (ISAGs) were re-adopted in 2010 and specifically exclude increased traffic noise on State highways, Federal highways, and roads included in the Regional Road network as subject to the Noise Thresholds. All of the local haul routes identified for the Grimes Rock facility fall into one of these roadway categories. Thus, the Proposed Final EIR has been revised to eliminate the identification of on-road noise due to Project-related truck traffic as an environmental impact of the Project.

resources. These mitigation measures are within the County's authority to implement and they reduce these impacts to less than significant levels, as set forth below:

A. Project-Specific and Cumulative Impacts on Traffic and Circulation

Project-Specific Impacts T-1 and T-2 and Cumulative Impacts T-3, T-4 and T-5 (FEIR Section 4.1): The impacts of the Project on traffic patterns are discussed in the FEIR on pages 4.1-1 through 4.1-82 of FEIR Volume 1 and in the comments and responses to comments included in FEIR Volume 3. Without mitigation, the Project could have the following potentially significant impacts on traffic and circulation:

- Project-specific additional peak hour traffic that would degrade the level of service on area roadways.
- Project-specific increase in traffic safety hazards at facility entrances.
- Contribute to cumulative traffic congestion.
- Contribute to congestion and safety hazards at the facility entrances.
- Contribute to cumulative safety hazards on State Route 23.

In summary, the Project would result in potentially significant project-specific and cumulative impacts on traffic and circulation.

Mitigation Measures: The FEIR concluded that the project-specific and cumulative impacts could be feasibly mitigated by implementation of Mitigation Measures T1-1, T1-1A, T1-1B, T1-4, T2-1, and T3-1, which are as follows:

- Mitigation Measure T1-1 requires the Permittee to limit southbound truck trips in the peak-hour to the existing level (64 trips) authorized under the current permit (CUP 4874-1).

- Mitigation Measure T1-1A requires the Permittee to utilize a new southern access road to avoid congestion and safety impacts of trucks travelling on the Grimes Grade section of State Route 23.

- Mitigation Measure T1-1B requires the Permittee to maintain any allowed onsite truck parking area in accordance with Watershed Protection District requirements for groundwater protection.

- Mitigation Measure T2-1 requires the Permittee to install safety improvements at the facility entrances.

- Mitigation Measure T3-1 requires payment of traffic impact mitigation fees to the County of Ventura, City of Moorpark and City of Fillmore.

Finding: The Planning Commission finds that the implementation of Mitigation Measures T1-1, T1-1A, T1-1B, T2-1 and T3-1 will avoid or substantially lessen the significant project-specific impacts, as well as the Project's contribution to cumulative impacts on traffic and circulation as identified in the FEIR. Residual impacts are less than significant.

B. Project-Specific and Cumulative Impacts on Air Quality

Project-Specific impacts AQ-1 and AQ-2, and Cumulative Impacts AQ-5 and AQ-7 (FEIR Section 4.2):The impacts of the Project on air quality are discussed in the FEIR on pages 4.2-1 through 4.2-38 of FEIR Volume 1 and in the comments and responses to comments included in FEIR Volume 3. Without mitigation, the Project could have the following potentially significant impacts on air quality:

- Project-specific generation of fugitive dust and PM_{10} emissions from onsite operations.
- Project-specific emissions of ozone precursors.
- Cumulative generation of fugitive dust and PM_{10} emissions from onsite operations.
- Cumulative emissions of ozone precursors.

In summary, the Project would result in potentially significant project-specific and cumulative impacts on air quality.

Mitigation Measures: The FEIR concluded that these impacts could be feasibly mitigated by implementation of Mitigation Measures AQ1-1, AQ1-2, AQ1-3, and AQ2-1, which are as follows:

- Mitigation Measure AQ1-1 requires the Permittee to prepare and implement an enhanced dust control plan.
- Mitigation Measure AQ1-2 requires the Permittee to remain in compliance with all VCAPCD rules and regulations.
- Mitigation Measure AQ1-3 requires the Permittee to assure that all material loads are covered.
- Mitigation Measure AQ2-1 requires the Permittee to pay an in-lieu fee to contribute to an ozone precursor/carbon dioxide emission reduction program.

Finding: The Planning Commission finds that implementation of Mitigation Measures AQ1-1, AQ1-2, AQ1-3 and AQ2-1 will avoid or substantially lessen the significant environmental air quality impacts as identified in the FEIR. Residual impacts are less than significant.

C. Project-Specific and Cumulative Impacts on Hydrology and Water Resources

Project-Specific Impacts WR4 and WR5 (FEIR Section 4.5): The impacts of the Project on Hydrology and Water Resources are discussed in the FEIR on pages 4.5-1 through 4.5-27 of FEIR Volume 1 and in the comments and responses to comments included in FEIR Volume 3. Without mitigation, the Project could have the following potentially significant impacts on Hydrology and Water Resources:

- Degradation of surface water and groundwater quality.
- Alteration of drainage patterns resulting in increased erosion or flooding.

In summary, the Project would result in potentially significant project-specific impacts on hydrology and water resources.

Mitigation Measures: The FEIR concluded that these impacts could be feasibly mitigated by implementation of Mitigation Measures WR4-1, WR4-2, WR4-3, WR5-1, and WR5-2, which are as follows:

- Mitigation Measure WR4-1 requires the Permittee to design maintenance areas such that contamination of groundwater quality is avoided.
- Mitigation Measure WR4-2 requires the Permittee to obtain and implement the requirements of a General Industrial Stormwater Permit.
- Mitigation Measure WR4-3 requires the Permittee to limit the future use of the site for animal keeping.
- Mitigation Measure WR5-1 requires the Permittee to design flood control facilities that will control site runoff in accordance with Watershed Protection District standards.
- Mitigation Measure WR5-2 requires the Permittee to construct final reclaimed slopes in accordance with specific design and setback standards.

Finding: The Planning Commission finds that implementation of Mitigation Measures WR4-1, WR4-2, WR4-3, WR5-1 and WR5-2 will avoid or substantially lessen the significant environmental impacts on hydrology and water resources as identified in the FEIR. Residual impacts are less than significant.

D. Project-Specific Impacts on Biological Resources

Project-Specific Impacts BR-1, BR-2, BR-3, BR-4, and BR-5 (FEIR Section 4.6): The impacts of the Project on Biological Resources are discussed on pages 4.6-1 through 4.5-56 of FEIR Volume 1 and in the comments and responses to comments included in FEIR Volume 3. Without mitigation, the Project could have the following potentially significant impacts on Biological Resources:

- Project-specific loss of special-status plants.
- Project-specific loss of special-status wildlife.
- Project-specific indirect adverse effects on special status species.
- Project-specific degradation of sensitive plant communities.
- Project-specific degradation of waters and wetlands.

In summary, the Project would result in potentially significant project-specific impacts on biological resources.

Mitigation Measures: The FEIR concluded that these impacts could be feasibly mitigated by implementation of Mitigation Measures BR1-1, BR1-3, BR1-5, BR4-1, BR7-1, BR7-2A, BR7-2B, BR10-1, BR11-1, AQ1-1, AQ1-2, and AQ1-3 which are as follows:

- Mitigation measure BR1-1 requires the Permittee to protect offsite habitat areas in perpetuity.
- Mitigation measure BR1-3 requires the Permittee to stake on the mining site the permit boundary and allowed disturbance area.
- Mitigation measure BR1-5 requires the Permittee to limit the area of ground disturbed at any one time.
- Mitigation measure BR4-1 requires the Permittee to obtain any necessary Federal and State permits necessary to address adverse effects on the California gnatcatcher.
- Mitigation measure BR7-1 requires the Permittee to protect nestimng birds.
- Mitigation measure BR7-2A requires the Permittee to protect special status wildlife.
- Mitigation measure BR7-2B requires the Permittee to avoid or relocate Woodrat nests.
- Mitigation measure BR10-1 requires the Permittee to avoid impacts on California gnatcatcher.
- Mitigation measure BR11-1 requires the Permittee to limit night lighting.
- Mitigation measure AQ1-1 requires the Permittee to implement an enhanced dust control plan.

- Mitigation measure AQ1-2 requires the Permittee to comply with APCD rules and regulations.
- Mitigation measure AQ1-3 requires the Permittee to assure that all material loads in hauling trucks are covered.

Finding: The Planning Commission finds that implementation of Mitigation Measures BR1-1, BR1-3, BR1-5, BR4-1, BR7-1, BR7-2A, BR7-2B, BR10-1, BR11-1, AQ1-1, AQ1-2, and AQ1-3 will avoid or substantially lessen the significant project-specific environmental impacts on biological resources as identified in the FEIR. Residual impacts are less than significant.

E. Project-Specific and Cumulative Impacts on Visual Resources

Project-Specific Impact VR-2, and Cumulative Impact VR-4 (FEIR Section 4.8): The impacts of the Project on paleontological resources are discussed on pages 4.8-1 through 4.8-19 of FEIR Volume 1 and in the comments and responses to comments included in FEIR Volume 3. Without mitigation, the Project could have the following potentially significant impacts on paleontological resources:

- Project-specific generation of light and nighttime glare.
- Cumulative generation of nighttime light and glare.

Mitigation Measures: The FEIR concluded that these impacts could be feasibly mitigated by implementation of Mitigation Measure BR11-1 that requires the Permittee to limit night lighting.

Finding: The Planning Commission finds that implementation of Mitigation Measure BR11-1 will avoid or substantially lessen the significant environmental impacts related to night lighting as identified in the FEIR. Residual impacts are less than significant.

SECTION 4: SIGNIFICANT IMPACTS IDENTIFIED IN EIR, INCLUDING AFTER ADOPTION OF ALL FEASIBLE MITIGATION MEASURES [CEQA GUIDELINES, §15091(a)(3)]

A. Cumulative Air Quality Impacts

Cumulative Impact AQ-6 (FEIR Section 4.2): As discussed on pages 4.2-17 and 4.2-18 of the FEIR, the Project will contribute to the cumulative generation of fugitive dust along material hauling routes. At issue is the lifting of dust present on the roadways due to the passage of material hauling trucks.

Mitigation measures: There is no feasible way to accurately quantify the increased level of dust generation due to the additional 160 material hauling truck trips included in the Project. This volume of new truck traffic would represent a 9 percent increase over the current permitted levels at the four existing Grimes Canyon mining facilities (i.e., Best Rock, Wayne J, CEMEX, and Grimes Rock). No feasible mitigation measures have been identified that address this adverse environmental effect. Therefore, the Project's incremental effect on roadway dust generation is cumulatively considerable pursuant to CEQA Guidelines §15130.

Findings: The Planning Commission finds that no feasible mitigation measures are available to avoid or lessen the above cumulative impacts to a less than significant level. The Planning Commission further finds that none of the project alternatives, except for the No Project alternative, would avoid or lessen this cumulative impact to an insignificant level. The Planning Commission finds that the significant cumulative impact on air quality is made acceptable and is outweighed by the specific overriding economic, legal, social, technological or other benefits, including region-wide or statewide environmental benefits, discussed in the Statement of Overriding Considerations (Exhibit 7).

B. Cumulative Impacts on Biological Resources

Cumulative Impact BR-7 (FEIR Section 4.6): As discussed on pages 4.6-43 and 4.6-44 of the FEIR, the Project would contribute 87 acres to the total disturbance of approximately 271 acres of existing habitat that would result from implementation of the three Grimes Canyon Area mining expansion projects under review by the County (i.e., Best Rock, Wayne J and Grimes Rock). This magnitude of vegetation and wildlife habitat removal would have regional cumulative impacts on sensitive plant communities, wildlife habitat, and special-status plant and animal species.

Mitigation measures: The FEIR concludes that this impact can be partially mitigated through implementation of Mitigation Measures BR1-1, BR1-5, BR7-1, BR7-2A, BR7-2B, BR10-1, and BR11-1. These measures are listed under Section 3.D above of this document and serve to mitigate various project-specific impacts on Biological Resources.

Findings: The Planning Commission finds that no feasible mitigation measures are available to avoid or lessen the above cumulative impact to a less than significant level. The Planning Commission further finds that none of the project alternatives, except for the No Project alternative, would avoid or lessen this cumulative impact to an insignificant level. The Planning Commission finds that the significant cumulative impact on biological resources is made acceptable and is outweighed by the specific overriding economic, legal, social, technological or

other benefits, including region-wide or statewide environmental benefits, discussed in the Statement of Overriding Considerations (Exhibit 7).

C. Project-Specific and Cumulative Impacts on Paleontological Resources

Project-Specific Impact PR-1 and Cumulative Impact PR-2 (FEIR Section 4.7): The impacts of the Project on paleontological resources are discussed on pages 4.7-1 through 4.7-5 of FEIR Volume 1 and in the comments and responses to comments included in FEIR Volume 3. The Project could have the following potentially significant impacts on paleontological resources:

- Project-specific loss of paleontological resources.
- Cumulative loss of paleontological resources.

In summary, the Project would result in potentially significant project-specific and cumulative impacts on paleontological resources.

Mitigation Measures: The FEIR concluded that these impacts could be partially mitigated by implementation of Mitigation Measure PR1-1 that requires the Permittee to recover paleontological resources uncovered during excavation. It is recognized, however, that the recovery of all paleontological resources is not feasible in the case of a mining operation. Residual impacts would be significant and unavoidable.

Findings: The Planning Commission finds that the implementation of Mitigation Measure PR1-1 would lessen impacts to the extent feasible, but not reduce the project-specific and cumulative impacts to a less than significant level. The Planning Commission further finds that none of the project alternatives, except for the No Project alternative, would lessen these impacts to insignificant levels. The Planning Commission finds that the significant impact on paleontological resources is made acceptable and is outweighed by the specific overriding economic, legal, social, technological or other benefits, including region-wide or statewide environmental benefits, discussed in the Statement of Overriding Considerations (Exhibit 7).

D. Project-Specific and Cumulative Impacts on Visual Resources

Project-Specific Impact VR-1 and Cumulative Impact VR-3 (FEIR Section 4.8): The impacts of the Project on visual resources are discussed on pages 4.8-1 through 4.8-19 of FEIR Volume 1 and in the comments and responses to comments provided in FEIR Volume 3. The Project would have project-specific and cumulative impacts on public views from State Highway 23.

Mitigation Measures: The FEIR concluded that these impacts could be partially mitigated by implementation of Mitigation Measure VR1-1 that requires the

Permittee to limit the area disturbed by mining excavation at any one time. It is recognized, however, that the recommended limit on disturbed area would not reduce visual impacts to a less than significant level. Residual project-specific and cumulative impacts would be significant and unavoidable.

Findings: The Planning Commission finds that the implementation of Mitigation Measure VR1-1 would lessen impacts to the extent feasible, but not reduce the project-specific and cumulative impacts to a less than significant level. The Planning Commission further finds that none of the project alternatives, except for the No Project alternative, would lessen these impacts to insignificant levels. The Planning Commission finds that the significant impact on paleontological resources is made acceptable and is outweighed by the specific overriding economic, legal, social, technological or other benefits, including region-wide or statewide environmental benefits, discussed in the Statement of Overriding Considerations (Exhibit 7).

E. Significant Irreversible Project-Specific and Cumulative Impacts (FEIR Section 6.0)

As discussed in the FEIR on page 6-1, the proposed expanded mining facility would involve permanent physical changes to the ground surface over the 135-acre area subject to additional mining excavation. The native vegetation would be removed and artificial slopes would be created over this area. The site would never be restored to a completely natural state. Permanent effects on biological, paleontological and visual resources would occur with project implementation.

In addition to the above-described onsite effects, implementation of the Project would involve ancillary irreversible effects such as the consumption of fossil fuel (motor vehicle fuels), other energy use, and the consumption of groundwater.

The above effects would be anticipated for any new or expanded mining facility. Should the project not be approved, the demand for aggregate satisfied by Grimes Rock would be met by another mining facility in the area or region. In this case, the listed effects would likely occur at another site.

SECTION 5: SUMMARY OF PROJECT ALTERNATIVES [CEQA GUIDELINES §15091(a)(3)]

Although an EIR must evaluate a reasonable range of potentially feasible alternatives, an agency decision-making body may ultimately conclude that a potentially feasible alternative is *actually* infeasible (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 999). Grounds for such a conclusion may be the failure of a project alternative to satisfy a basic fundamental project objective or objectives deemed important by the lead agency decision-makers, or the fact that an alternative project fails to promote important policy objectives of such decision-makers (*Id.* at pp.

992, 1000-1003). Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of a proposed project as mitigated, the decision-makers may reject the project alternative for such reasons, including "desirability." (See Section 1.C. Nature of Findings at page 5 above)

Under CEQA Guidelines §15126.6, the project alternatives to be discussed in detail in an EIR should be able to "feasibly attain most of the basic objectives of the project[.]" For this reason, the Project Objectives identified in the FEIR provided the framework for defining possible alternatives.

As stated in the FEIR (page 5-2), the purpose of the Project (i.e. the "Project Objectives") is to:

- expand the area subject to surface mining excavation from 48 acres to 135 acres;
- increase annual sand and gravel production from 952,520 to 1,800,000 tons per year;
- meet future market demand for aggregate; and
- increase the total permitted reserve of aggregate and its availability in Ventura County.

The alternatives evaluated in the FEIR do not include alternate locations for the proposed project. As acknowledged in CEQA Guidelines Section 15126.6(f)(2)(B), there may be no feasible alternative locations for this project. In that CEQA Guidelines section, mining projects are specifically cited as an example where there are no feasible alternative locations because of the need to be in close proximity to natural resources at a given location.

In the current case, the proposed project involves the expansion and continued operation of an existing mining facility. Thus, the project site has an existing environmental setting that includes mining operations and the associated noise, truck traffic, air quality and other effects. Continuing the mineral extraction use of the current site would have less impact than the installation of a new mining facility elsewhere. Thus, the alternatives evaluated in the RDEIR focus on operational intensity and extent of new ground disturbance as they would affect the significant and unavoidable (Class I) impacts identified in the FEIR.

The following alternatives were selected for analysis in this RDEIR:

Alternative 1: No project alternative.

Alternative 2: Existing annual production level continued until the excavation limits specified in the existing Approved Reclamation Plan are reached.

Alternative 3: Existing annual production level continued until the

excavation limits specified in the proposed amended Reclamation Plan are reached.

Alternative 4: Lower level of annual production than requested with operations continued until the excavation limits specified in the proposed amended Reclamation Plan are reached.

Alternative 5: Lower level of annual production than requested with reduced excavation limits.

Each of these alternatives is described in more detail below.

Alternative 1: No Project

The existing permit (CUP 4874) that authorizes the operation of the Grimes Rock mining facility has an expiration date of May 21, 2013. Although this date has passed, the permit remains in effect while the Permittee diligently seeks approval of a modified CUP and an amended Reclamation Plan. Under the No Project Alternative, the requested expansion of the mining area and production volume and the extension of the effective term of the CUP to 2040 would not occur.

Alternative 2: Continuation of existing operations under current approved Reclamation Plan

Under this alternative, the requested expansion of the mining area and production volume and the extension of the effective term of the CUP to 2040 would not occur. The mining facility would continue to operate under the terms of the current permit until the excavation reached the final reclaimed surface specified in the Approved Reclamation Plan. The effective term of the CUP would not end in 2013 but be extended to the time when the material available for excavation would be exhausted. Depended on material demand, it is estimated that the Grimes Rock facility could operate for as much as 3 more years beyond 2013.

Alternative 3: Continuation of existing operations under the proposed amended Reclamation Plan

Under this alternative, the mining facility would continue to operate within the existing permitted production levels but would be allowed to expand to the limits delineated in the proposed amended Reclamation Plan. Thus, the area of disturbance due to mining excavation would increase from 48 to 135 acres. At the current permitted rate of production, the volume of material above the final reclaimed floor in the proposed amended Reclamation Plan would last approximately 54 years beyond the current 2013 permit expiration date to the year 2067.

Alternative 4: Increase in production level less than requested

Under this alternative, the annual material production at the Grimes Rock facility would be increased by 50 percent of the requested amount with operations continuing under the proposed amended Reclamation Plan. All other requested permit modifications would occur. The area of disturbance would increase from 48 acres to 135 acres as currently proposed. At the lower level of annual production (1,376,000 tons rather than 1,800,000 tons), the average daily truck trips would be decreased from 460 average daily one-way trips to 380 average daily trips. At the lower level of annual production, the volume of material above the final reclaimed floor in the proposed amended Reclamation Plan would last approximately 40 years beyond the current 2013 permit expiration date to the year 2053.

Alternative 5: Increase in production level and expansion of excavation area less than requested

Under this alternative, the annual material production at the Grimes Rock facility would be increased by 50 percent of the requested amount with operations continuing under a reduced version of the proposed amended Reclamation Plan. All other requested permit modifications would occur. The area of disturbance is assumed to increase from 48 acres to 100 acres (rather than the 135 acres currently proposed), and the volume of material to be excavated would be adjusted, in order for mining to cease at approximately 2040. A revised Reclamation Plan that addresses a smaller excavation footprint would be required.

The effect of the alternatives on the identified significant impacts is illustrated in the following table.

Comparison of Alternatives 1-5

Issue Area	**Significant impact to remain (yes/no)**				
	1	**2**	**3**	**4**	**5**
Air Quality (Cumulative)	No	No	No	Yes	Yes
Biology (Cumulative)	No	No	Yes	Yes	Yes
Paleontology (Project-Specific)	No	No	Yes	Yes	Yes
Paleontology (Cumulative)	No	No	Yes	Yes	Yes
Visual (Project-Specific)	No	No	Yes	Yes	Yes
Visual (Cumulative)	No	No	Yes	Yes	Yes
Attain project objectives? (Yes/No)	No	No	No	No	No

As apparent from the above table, the environmentally superior alternative is either the No Project Alternative or Alternative 2 because each would avoid significant impacts related to air quality, biology, paleontological resources and visual resources associated with the proposed expansion of the mining facility and the increase in annual aggregate production.

However, none of the alternatives would attain the project objectives. This is because the area of excavation and the annual production rate are fundamental aspects of a mining facility. The area of excavation is defined by the location of the mineral materials proposed to be produced and sold. The annual production rate relates to the anticipated market demand for the mineral materials.

In this case, the only significant offsite environmental impact would be the contribution of the Project to dust generation along haul routes. If Alternative 4 were selected, it could be argued that dust generation would be proportionally reduced by a reduction in truck trips. However, this potential marginal benefit would not likely be realized because any demand for aggregate not served by Grimes Rock would be satisfied by another local mining facility. If all local mining facilities had reached maximum permitted production levels, any remaining outstanding demand would be served by more remote facilities. Given the basic fact that aggregate demand is virtually always satisfied, a reduced production alternative would provide little or no air quality benefit.

The remaining significant impacts of the Project involve effects on the Grimes Rock project site or on the other two mining sites under review. These effects are localized at the site of excavation and would remain with any expansion of the excavation area.

In conclusion, Alternatives 3, 4 and 5 would not substantially lessen environmental impacts and would not allow for the Project Objectives to be attained. The proposed project would have the positive benefit of providing a local source of aggregate to meet demand within Ventura County. This would minimize the transport of aggregate from remote mining facilities. Given this benefit, the proposed project would be the environmentally superior alternative.

Summary of Findings Regarding Project Alternatives

Based on the information provided above and in Chapter 5 of the FEIR, the Planning Commission finds that the No Project Alternative would have fewer environmental impacts than, and would be environmentally superior to, the Project. The Planning Commission also finds that Alternatives 3, 4 and 5 would not substantially reduce the environmental impacts of, and would not be environmentally superior to, the Project.

Although the No Project Alternative or Alternative 2 would not result in any of the environmental impacts of the proposed Project, they are inferior to the proposed Project in regards to the following Project Objectives:.

- Expanding the area of mining excavation to establish additional permitted reserves of aggregate to meet future demand in Ventura County, and,

- Providing greater availability of local aggregate resources by increasing the allowed annual production from the Grimes Rock facility.

Therefore, the Planning Commission finds that:

- The proposed Project is environmentally superior to all of the Project Alternatives evaluated and achieves the Project Objectives of providing additional permitted reserves of aggregate and increasing aggregate availability in Ventura County consistent with the Mineral Resources Goals and Policies of the Ventura County General Plan.

- The No Project Alternative is environmentally superior to the Project and all other project alternatives evaluated in the FEIR. However, the No Project Alternative does not meet the Project objectives of providing greater availability of local aggregate resources and establishing additional permitted aggregate reserves.

BE IT FURTHER RESOLVED that the Planning Commission approves the above CEQA Findings in support of its action to grant a modified conditional use permit, approve an amended Reclamation Plan, and certify the FEIR.

Upon motion of Commissioner _____, seconded by Commissioner _____, and duly carried, the Planning Commission hereby adopts this resolution on _____ day of _____, 2013.

_____
Michael Wesner, Chair, Planning Commission
County of Ventura

ATTEST:

_____

Kimberly Prillhart,
Planning Commission Secretary
County of Ventura, State of California.

Exhibit 7

VENTURA COUNTY PLANNING COMMISSION RESOLUTION ADOPTING A

STATEMENT OF OVERRIDING CONSIDERATIONS

FOR THE APPROVAL OF A MODIFIED CONDITIONAL USE PERMIT (Case No. 4874-2) AND AMENDED RECLAMATION PLAN (Case No. RP12-0001) FOR THE EXPANSION OF THE GRIMES ROCK MINING FACILITY (File: PL12-0159)

WHEREAS, California Public Resources Code sections 21002, 21002.1(c), and 21081(b) and CEQA Guidelines sections 15093 and 15096 provide a means for the final decision-making body of the lead agency to approve a project that is found to have significant, unavoidable adverse environmental impacts; and

WHEREAS, the Final EIR identifies significant unavoidable impacts that would result from implementation of the proposed project; and

WHEREAS, Section 21081 of the California Public Resources Code and Section 15093(b) of the CEQA Guidelines provide that when a decision of a public agency allows the occurrence of significant impacts that are identified in the Final EIR, but are not at least substantially mitigated to an insignificant level or eliminated, the lead agency must state in writing the reasons to support its action based on the Final EIR and/or other information in the record; and

WHEREAS, the Planning Commission adopts this Statement of Overriding Considerations with respect to the significant unavoidable impacts identified in the Final EIR for the proposed project, which are as follows:

1. Project-specific potential loss of paleontological resources (Impact PR-1);
2. Project-specific alteration of public views from State Route 23 (Impact VR-1);
3. Cumulative offsite dust generation along trucking routes (Impact AQ-6)
4. Cumulative impacts on biological resources (Impact BR-7);
5. Cumulative loss of paleontological resources (Impact PR-2);
6. Cumulative alteration of public views from State Route 23 (Impact VR-3); and

WHEREAS, this Statement of Overriding Considerations is based on the Planning Commission's review of the Final EIR and all other relevant information and substantial evidence contained within the administrative record for this matter; and

WHEREAS, the County's CEQA Findings of Fact set forth in a separate resolution (Exhibit 6) identified all of the potentially significant adverse environmental impacts that could result from the Project, and all feasible mitigation measures required in the Final EIR that will avoid or substantially reduce the identified potentially significant

impacts to less-than-significant levels, or to the lowest feasible levels where significant impacts remain after mitigation; and

WHEREAS, the Planning Commission recognizes that significant unavoidable impacts would result from implementation of the proposed project; and

WHEREAS, the Planning Commission has determined that all feasible mitigation measures have been adopted to substantially reduce or avoid the potentially significant impacts identified in the Final EIR, and that no additional feasible mitigation measures are available to further reduce significant impacts; and

WHEREAS, the Planning Commission has rejected as infeasible alternatives to the proposed project;

WHEREAS, the Planning Commission has determined that the following overriding economic, legal, social, technological or other benefits (including region-wide or statewide environmental benefits) of the proposed project, individually and collectively, outweigh the unavoidable adverse environmental impacts listed above and described fully in the Final EIR:

1. Development of mineral resources of Statewide significance: The project site has been designated as Mineral Resource Zone 2 (MRZ-2) by the State Mining and Geology Board. This designation is placed on lands underlain by known mineral resources that are present in sufficient quantities to be of economic significance to the region or State. Pursuant to Section 2762 of SMARA, lands designated as MRZ-2 must be incorporated into the land use General Plan of the Lead Agency to "emphasize the conservation and development of identified mineral deposits." The proposed mining site is identified in the County General Plan as a Mineral Resource Area and in the County Non-Coastal Zoning Ordinance with a Mineral Resource Protection Zone Overlay. Thus, continued production of aggregate from the project site is consistent with State policy, County policy and the County Non-Coastal Zoning Ordinance.

2. Need for additional permitted aggregate reserves: According to the California Department of Conservation (DOC), Ventura County had permitted 106 million tons of aggregate reserves for extraction in 2006. This amount constitutes only 34 percent of the DOC-estimated 309 million tons of aggregate needed to satisfy the 50-year (2006-2055) aggregate demand in the County, taking into account estimated population growth and associated increases in demand for construction materials. Approval of the proposed Grimes Rock mine expansion project would add approximately 50 million tons to the permitted aggregate reserves of Ventura County. The resulting 156 million tons (based on 2006 data) would represent 50 percent of the estimated 50-year demand for such resources in the County. A local aggregate supply is preferred over a supply from a more remote mining facility. The availability of a local source reduces the adverse economic and

environmental effects of the long-distance transport of aggregate materials. A 50-year supply of permitted aggregate reserves for each production-consumption area of the State is a goal set by the State Mining and Geology Board.

3. Provision of a local aggregate source: Authorization of continued mining at the Grimes Rock site would provide for a long-term local source of aggregate mineral resources. Aggregates are a high volume, low value mineral material. The unit price of this material largely depends on the transport cost from the mining site to the point of delivery. With a local source centrally located in Ventura County, the cost of importing this material from more distant mining facilities, including those located outside of Ventura County can be avoided. Public projects, such as road maintenance, and private construction projects would benefit from reduced material cost. The availability of a local aggregate source would provide this general economic benefit.

4. Reduction in criteria air pollutant and greenhouse gas emissions: Although the FEIR estimates the emissions from the proposed project and identifies required mitigation as required under CEQA, the denial of the proposed permit could have a substantial adverse effect on regional air quality. Because aggregate is an essential component for the manufacture of concrete and paving products, the demand for this material will always be met. The only question is: "Where will this commodity come from?" Absent adequate local sources of aggregate, this material would be imported to County job sites and end users from more remote surface mining facilities, including those located at substantially greater distance in adjoining jurisdictions. The additional vehicle miles travelled (VMTs) would increase the emissions of criteria air pollutants and greenhouse gases per ton of aggregate delivered. Such a result would conflict with current California efforts under the California Global Warming Solutions Act of 2006 (Health & Safety Code section 38500 et seq.) and the Sustainable Communities and Climate Protection Act of 2008 (SB 375) to reduce VMTs and, thus, improve air quality and climate sustainability. Authorization of the proposed project would minimize the VMTs and have a corresponding air pollution reduction and represent a region-wide and statewide environmental benefit.

5. Project does not involve the development of a new mining site: The Grimes Canyon area is the major source of aggregate in the County of Ventura. Mining has occurred in this area for more than 40 years with four mining facilities, including Grimes Rock, currently in operation. Grimes Rock has been in operation for the last 15 years since its current permit was granted in 1998. As with the other three mines, the existing setting for the Grimes Rock facility includes an existing processing plant, a large area of disturbance and ongoing material excavation and trucking operations. The permitting and development of a new mining operation at an alternative location to meet current and future County demand would involve substantially more impacts

on the environment (such as increased disturbance of biological habitat) than the continued utilization and expansion of the existing facility.

6. Improvement in traffic safety and flow on Grimes Grade: The proposed development of a southern entrance to the Grimes Rock mining site will eliminate the travel of Grimes Rock-related material hauling trucks on the steep and winding Grimes Grade section of State Highway 23. The removal of these truck trips from this section of the highway would improve traffic flow and reduce safety hazards.

WHEREAS, for the reasons cited above, and based upon substantial evidence in the record before it, the Planning Commission finds that the Project's benefits outweigh the significant adverse and unavoidable project and cumulative environmental impacts related to paleontological resources, visual resources, air quality and biological resources, and therefore, the unavoidable environmental impacts are acceptable.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission has balanced the benefits of the Project against its significant and unavoidable environmental impacts and has indicated its willingness to accept those impacts.

Upon motion of Commissioner _____, seconded by Commissioner _____, and duly carried, the Planning Commission hereby adopts this resolution on _____ day of _____, 2013.

_____
Michael Wesner, Chair, Planning Commission
County of Ventura

ATTEST:

_____
Kimberly Prillhart
Secretary of the Planning Commission
County of Ventura, State of California

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June 26, 2013

Ventura County Planning Commission
Resource Management Agency/Planning Division
800 South Victoria Avenue, Hall of Administration
Ventura, CA 93009

Re: *Final Environmental Impact Report; SCH 2003111064*
Conditional Use Permit Modification 4874-2 and Amended Reclamation Plan
Grimes Rock, Inc. Mining Facility Expansion

Dear Chair Wesner and Honorable Commissioners:

We have been retained by the City of Moorpark ("Moorpark" or "City") in this matter. The City appreciates the opportunity to comment on the Final Environmental Impact Report ("FEIR") for the expansion of the Grimes Rock Mining Facility pursuant to Conditional Use Permit Modification 4874-2 ("CUP") and a Modified Reclamation Plan (the "Project"). The City has reviewed the Project from the outset, and has submitted comments on the Recirculated Draft Environmental Impact Report released in 2012 ("RDEIR"), as well as on the previous environmental documents prepared for the Project.[1] With each letter, and at meetings with County staff, Moorpark has expressed its concerns with the proposed Project and environmental analysis. The City has undertaken a comprehensive review of the FEIR,[2] and finds it to be legally inadequate under the

[1] See Comment Letter re 2003 Project NOP from Barry K. Hogan, City of Moorpark, to Christopher Stevens, County of Ventura, December 17, 2003; Comment Letter re 2006 DEIR from Barry K. Hogan, City of Moorpark, to Scott Ellison, County of Ventura, August 4, 2006; Comment Letter re 2009 FEIR from David A. Bobardt, City of Moorpark, to Scott Ellison, County of Ventura; Letter re Recommended Conditions of Approval from David A. Bobardt, City of Moorpark, to Scott Ellison, County of Ventura, March 24, 2010, Comment Letter re 2012 RDEIR from David A. Bobardt, City of Moorpark, to Brian Baca, County of Ventura, October 26, 2012, all attached to this letter as Exhibit A.

[2] The City has also reviewed all of the comments provided to the County on the RDEIR and adopts the information, analysis and conclusions contained in the following comment

California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.* "CEQA") and the CEQA Guidelines, (Cal. Code Regs. Tit. 14, § 15000 *et seq.*) as well as the California Water Code §§ 10910-10915.

The massive amount of truck traffic associated with this Project would negatively impact City residents on a daily basis. At least 600 Moorpark residents live immediately adjacent to the proposed truck route, and already regularly experience the deleterious effects of this traffic including noise and air quality impacts. Thousands of other Moorpark residents are faced with the negative impacts of Project trucks as they move through their daily lives; when they attempt to cross the street, travel to work and school, and engage in myriad other life activities. Moorpark opposes any action on the expansion until all of the Project's impacts on the City are truly mitigated, and requests that the Commission delay further consideration of this Project until a legally adequate EIR is prepared that fully complies with CEQA and the Project conforms to current requirements. The FEIR suffers from numerous inadequacies including the following fatal flaws:

- The FEIR incorrectly dismisses construction of the SR 23 bypass as infeasible; leaving City residents subject to noise, air quality and health impacts that severely affect quality of life along the haul routes.
- The FEIR's traffic analysis fails to include a Saturday analysis, even though the amended CUP allows up to 600 truck trips on Saturdays.
- The FEIR completely fails to analyze the significant and unavoidable noise impacts of project-related truck traffic.
- The County failed to perform a SB 610 water supply assessment in violation of CEQA and the Water Code.
- The studies relied upon for the FEIR's analysis of impacts are extremely outdated (many are over 10 years old) and do not adequately represent conditions on the Project site.
- The FEIR is legally inadequate for its failure to provide analysis of criteria pollutant $PM_{2.5}$.

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letters and incorporates them in their entirety by reference into this letter: (1) Comment B from the City of Fillmore, (2) Comments D and G from Nancy K. Schreiner of Nordman Cormany Hair and Compton LLP, (3) Comment Q from Leslie S. MacNair of the California Department of Fish and Wildlife ("CDFW"), and (4) Comment S from Rick Viergutz of the Ventura County Watershed Protection District, Groundwater Section, all attached to this letter as Exhibit B.

- The cumulative impact analyses for numerous resource areas consider only the impacts of mining projects, instead of the impacts of all past, present and reasonably foreseeable future projects as required by CEQA.
- The FEIR's project objectives are impermissibly narrow and constrain the selection of project alternatives in violation of CEQA.
- The FEIR's alternatives analysis fails to present alternatives designed to avoid or substantially reduce all the significant impacts of the Project as required by CEQA.

I. THE FEIR'S ANALYSIS OF TRAFFIC AND CIRCULATION IMPACTS IS LEGALLY INADEQUATE

The FEIR's traffic impact analysis is legally inadequate. To the extent that the FEIR's air quality, noise, and climate change impact analyses rely on the inadequate traffic analyses, they too, are inadequate. The City's traffic-related comments are based on a peer review of the FEIR's traffic analysis conducted by traffic experts Clare Look-Jaeger and Alfred Ying of Linscott, Law & Greenspan, Engineers (LLG). (See LLG traffic memo, attached as Exhibit C, and LLG resumes, attached as Exhibit D.)

A. The FEIR Fails to Analyze the Impacts of 600 Saturday Truck Trips

The FEIR fails to perform an impact analysis for Saturday operations, even though the amended CUP would allow up to 600 truck trips on Saturdays. (LLG at 3.) In LLG's professional judgment, "this is a *glaring omission* in the CEQA-required environmental documentation." (LLG at 3 [emphasis added].) The FEIR also fails to analyze traffic impacts at mid-day, other than at the project driveway. (*Id.*) The failure to perform these analyses means that FEIR may have failed to disclose several significant traffic impacts caused by the Project for consideration by decision-makers and the public, a blatant violation of CEQA.

B. The FEIR Fails to Include the SR 23 Bypass as an Alternative or Mitigation Measure in Violation of CEQA

The City has repeatedly requested that the SR 23 Bypass be analyzed as a Project alternative or mitigation measure. (See, e.g., FEIR Comment Letter A.) The County's failure to do so violates CEQA and results in a legally inadequate FEIR.[3]

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[3] The City entered into a Reciprocal Traffic Mitigation Agreement ("Agreement") with the County in 2006, attached as Exhibit E. The Agreement requires both parties to analyze the regional environmental impacts of development it approves, and to identify

Under CEQA, an alternative or mitigation measure is "feasible" if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. (CEQA Guidelines § 15364.) The SR 23 Bypass is feasible. It is recognized both in the City's Circulation Element and Ventura County Congestion Management program and the Ventura County Transportation Commission ("VCTC") lists the SR 23 Bypass in their 2009 Ventura County Congestion Management Program as an Adopted STIP Priority Project. (LLG at 3.) The City has completed feasibility studies and conceptual alignment studies for the Bypass,[4] described in the City Council staff reports attached to this letter as Exhibit F. The City owns much of the right-of-way required for the Bypass, and has required applicants owning reserved property in the Bypass right of way to grade that property. Furthermore, it is feasible to calculate the Project's fair share percentage contribution to the construction of SR 23, and to enter into an agreement between the City and other relevant entities committing to construct the Bypass. Most importantly, the SR 23 bypass would substantially reduce the proposed Project's noise, air quality and health impacts, in addition to traffic impacts. For this reason, it must be considered in the FEIR.

The County's conclusion that the SR 23 bypass is not feasible is not supported by substantial evidence. (See, e.g., Response to Comment No. A-3a). Final designs, engineering details, right-of-way acquisition, and cost estimates are not necessary to conclude that an alternative or mitigation measure is effective and feasible. (*See, e.g., Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1448.) The FEIR refuses to consider the SR 23 bypass because it claims that other measures are available to mitigate the impacts of the Project. Even if this were true, if several measures are available to mitigate an impact, the FEIR is required to discuss each measure and identify the basis for selecting particular measures. (CEQA Guidelines § 15126.4(a)(1).) The FEIR's failure to do so violates CEQA.

C. The Significance Thresholds Utilized in the Analysis of City Traffic Impacts Are Inconsistent with CEQA's Requirements

The significance thresholds used to analyze the Project traffic impacts within the City of Moorpark do not adequately characterize the Project's impacts. Under the City's threshold of significance, any increase in traffic for roadways already operating below level of service (LOS) C is considered to be significant. (LLG at 4.) The threshold used in the FEIR is less stringent, providing that a project must increase the volume capacity

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and implement feasible mitigation measures. The County's failure to consider the SR 23 Bypass in the FEIR appears to be a breach of the Agreement.

[4] Due to the size of the studies, they will be provided to the County at the Planning Commission hearing on CD under separate cover.

(V/C) by at least 0.02 for roadways already at unacceptable LOS in order to have a significant impact. (FEIR at 4.1-37.) The FEIR's use of this threshold is inconsistent with City policy and also with CEQA case law prohibiting the use of a "ratio theory" to determine impact significance. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.4th 692, 718 (an EIR may not conclude that a cumulative impact is insignificant merely because the project's contribution to an unacceptable existing environmental condition is relatively small).) If the FEIR had used the appropriate City threshold, it is likely that it would have disclosed additional significant traffic impacts. (LLG at 5.)

D. <u>The County's Failure to Enforce the Southern Haul Route Restrictions Leads to an Significant Understatement of Traffic Impacts</u>

The City has repeatedly requested that the CUP retain existing restrictions on the Southern Haul Route, and that the County enforce these restrictions. (LLG at 2, 7-8.) Similar comments on the RDEIR were made by Nancy K. Schreiner, attorney for the property owners. (See Comments No. D-24, D-28, D-31, and D-72). As confirmed by LLG's independent observations on June 21, 2013, the route restrictions are regularly violated by trucks traveling through the area. (LLG at 8.) The County has responded that the existing Southern Haul Route restrictions have not "proved feasible to enforce." (See Response to Comment No. D-24.) The FEIR provides no explanation as to why the Southern Haul Route restrictions are infeasible to enforce, or why better enforcement cannot be achieved through additional conditions in the amended CUP. In fact, the FEIR recommends feasible monitoring and enforcement actions the County could take. (FEIR Appendix B at 19-20.)

The County's proposed abandonment of the Southern Haul Route restrictions leads to a significant understatement in the FEIR of the Project's impacts on Walnut Canyon Road and other roadways affected by Project trucks using the Southern Haul Route. (Comments D-24, D-27, D-28, D-31, and D-72.) While the FEIR recognizes that the existing CUP establishes restrictions on the volume and timing of trucks going south (FEIR at 2-2), and that the CUP amendment would eliminate these restrictions (FEIR at 2-5), it fails to analyze the impacts of additional existing truck trip volumes on Walnut Canyon Road caused by removing the existing Southern Haul Route restrictions. Instead, the FEIR's impact analysis for trucks going south is limited to the impacts of only those incremental truck trips associated with expanded production. (See, e.g., FEIR Table 4.1-11.)

E. <u>The FEIR's Traffic Baseline is Inaccurate</u>

An accurate environmental setting is critical to the assessment of a project's impacts. (CEQA Guidelines § 15125(c).) The FEIR violates CEQA's requirements by

failing to present accurate baseline data for the Grimes Canyon Road/River Street intersection and the Walnut Canyon Road/Broadway Road intersection. (LLG at 3-4.) The baseline data presented is outdated and does not reflect recent physical changes to the intersections. If the FEIR had reanalyzed the Walnut Canyon Road/Broadway Road intersection with accurate data (new intersection configuration and updated traffic counts), the reported delay for the westbound Broadway Road approach could be greater than that reported in the FEIR, resulting in a potentially significant impact. (LLG at 5-6.)

F. The FEIR's Analysis of Cumulative Traffic Impacts is Legally Inadequate

Although the modified CUP would allow mining operations to continue until 2040, the FEIR fails to evaluate year cumulative 2040 impacts, which would likely be greater than year 2025 impacts. (LLG at 6-7.) Instead, FEIR unreasonably assumes that year 2040 impacts would be the same as year 2025 impacts. (See also Comment No. B-22 and Response to Comment No. B-22). This unreasonable assumption fails to recognize that background traffic would likely continue to increase between 2025 and 2040, causing without-project 2040 traffic conditions to be worse than 2025 conditions, and potentially causing additional cumulatively considerable traffic impacts. (*Kings County Farm Bureau* at 718.) FEIR Response to Comment B-22 turns *Kings County Farm Bureau* on its head, in direct violation of CEQA, by arguing that the Project's incremental impact by 2040 would be less because it would represent a smaller proportion of overall area traffic volumes.

The background traffic growth rates that the FEIR uses between the years 2007 and 2025 are unjustified. The FEIR does not present the projected annual growth rates used for the future 2025 baseline, nor are the rates presented by the FEIR supported by substantial evidence. The FEIR presents no evidence that the annual growth rates it employs are based on recent growth projections nor whether the growth rates are high enough to include traffic from buildout of all the related projects. If the annual growth rates are not sufficiently high, then the proposed Project's cumulative traffic impacts are understated in the FEIR, in violation of CEQA.

G. The FEIR's Traffic Mitigation Measures Are Inadequate

As pointed out by the City of Fillmore's comment letter (Comments No. 8 and 9), the FEIR improperly rejects a number of feasible traffic mitigation measures (as well as feasible noise mitigation measures) included in the 2006 and 2009 EIRs. The City agrees with the City of Fillmore that the FEIR should include these feasible mitigation measures. The FEIR's response to Fillmore's comments is inadequate. Contrary to the County's assertion, fair share contributions are an acceptable method for mitigating a cumulative impact that is not the sole responsibility of the applicant (CEQA Guidelines §

15130(a)(3)), and the EIR was required to discuss Fillmore's recommended feasible mitigation measures even if other measures could also mitigate traffic impacts. (CEQA Guidelines § 15126.4(a)(1).)

H. The FEIR Does Not Remedy the Deficiencies of the RDEIR's Traffic Analysis or Adequately Respond to Traffic-Related Comments

As discussed above, several of the FEIR's responses to traffic comments did not represent good faith, reasoned responses. These include responses on: 1) year 2040 impacts (Responses to Comment No. B-22), 2) continued restrictions on use of the Southern Haul Route (Responses to Comments No. D- 24, D-28, D-31, and D-72), 3) feasibility of the SR 23 bypass as an alternative or mitigation measure (Response to Comment No. A-3a), and 4) traffic mitigation measures found to be infeasible (Response to Comments No. B-8 and B-9).

II. THE FEIR'S HYDROLOGY AND WATER RESOURCES ANALYSES ARE LEGALLY INADEQUATE AND FAIL TO MEET THE REQUIREMENTS OF CEQA

A. The FEIR Fails to Include a SB 610 Water Supply Assessment in Violation of the Water Code and CEQA

Senate Bill ("SB") 610 requires that a water supply assessment ("WSA") be prepared and included in an EIR before certain large development projects to be served by a public water system may be approved. (Water Code §§ 10910-10915; CEQA Guidelines § 15155 .) SB 610 is triggered at the beginning of the CEQA process, and applies when a "project" subject to CEQA meets certain criteria, which include a proposed industrial processing plant occupying more than 40 acres of land. (Water Code § 10912(a)(5)(A).)

Under CEQA, an "industrial processing plant" includes the outdoor acreage used by an industrial facility, and if the plant occupies more than 40 acres, a WSA must be prepared regardless of the plant's actual water demand. (*Center for Biological Diversity v. County of San Bernardino* (2010) 184 Cal.App.4th 1342, 1360-1361.) Since the proposed Project expands the permit boundary area by 67 acres and the excavation area by 89 acres, a WSA should have been prepared by the County (since there is no public water system serving the project) and included in the FEIR. (CEQA Guidelines § 15155(e); Water Code § 10911(b).) Failure to comply with this mandatory requirement is a fatal flaw, renders the FEIR legally inadequate under both CEQA and the Water Code, and violates the Water Code.

B. The FEIR Lacks an Adequate and Informative Description of the Environmental Setting for Analysis of Impacts to Hydrology and Water Resources

An EIR's description of the environmental setting should be sufficiently clear to allow informed comparison of pre-project and post-project conditions. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955.) The FEIR's environmental setting discussion is inadequate for two primary reasons. First, the FEIR does not present existing surface water quality data for Grimes Canyon Wash, which receives all surface water runoff from the project site, claiming that such data were "not available." (FEIR at 4.5-4.) Without such data, an informed comparison of pre-project and post-project water quality in this Wash, as required by CEQA, is not possible. Second, the environmental setting presents only two samples of water quality data for surface runoff from the site taken in 2002. (FEIR Table 4.5-2.) Clearly, a sample of this size taken more than 10 years ago does not represent substantial evidence of current surface runoff water quality. A larger number of samples in the year 2012 should have been taken to assure accuracy. The County's failure to do so renders the setting discussion legally inadequate.

C. The Analysis of Impacts to Hydrology and Water Resources Is Inadequate

The FEIR's analysis of impacts to hydrology and water quality is inadequate. The FEIR presents no thresholds of significance for analysis of impacts to water quality, a blatant violation of CEQA. The water quality impact analyses (Impact WR-4 and WR-5) fail to use articulated thresholds to reach significance conclusions. Without thresholds, it is impossible to determine how FEIR's analytical path moves from the evidence presented on water quality impacts, to the ultimate significance conclusions concerning these impacts.

The FEIR's conclusion that groundwater recharge impacts will be less than significant is not supported by substantial evidence. The FEIR states that residual fine-grained sediment (fines) placement could have a significant impact on groundwater recharge if fines were placed over at least nine acres. (FEIR at 4.5-19.) It then concludes, without any evidentiary support, that this level of fines placement is not reasonably foreseeable.

D. The Hydrology and Water Resources Mitigation Measures are Inadequate

Mitigation Measure WR 5-1, calling for design and construction of a detention basin, is impermissibly deferred until after project approval. (CEQA Guidelines §

15126.4(a)(1)(B).) The FEIR presents no information as to why the location (or at least alternative locations), size and preliminary design of a detention basin could not be included in the FEIR. Without this information, it is not possible to determine whether the project's drainage impacts on erosion and offsite flooding would be reduced to less than significant levels, or what the adverse environmental side-effects of detention basin construction could be.

E. The FEIR Does Not Remedy the Deficiencies of the RDEIR or Adequately Respond to Comments Regarding Hydrology and Water Resources

The Ventura County Watershed Protection Division Groundwater Section submitted comments requesting that project infiltration performance be quantified, and that an infiltration performance standard be established and included in the FEIR to ensure that the project would not adversely affect groundwater recharge. (Comments S-1, S-13, and S-14.) These comments, which constitute expert opinions from the agency with jurisdiction by law over the affected groundwater basins, did not result in FEIR revisions. Instead, Response to Comment S-1 dismissed the expert opinions as not supported by substantial evidence without summarizing the major points of disagreement in violation of CEQA. (CEQA Guidelines § 15151.) The County's response demonstrated a lack of good faith by selectively and misleadingly quoting from the Watershed Protection Division's comment letter. The Response to Comment S-1 cites the following excerpt in its comment letter:

> *The Watershed Protection Division did an independent analysis of the groundwater recharge at reclamation and conditionally indicates groundwater recharge at reclamation will be at least equal to recharge prior to mining.*

However, without the infiltration study and performance standard, which was rejected by the County, groundwater recharge may be adversely affected, rendering the above-quoted statement meaningless. The FEIR does not adequately analyze impacts to groundwater recharge.

III. THE FEIR'S ANALYSIS OF NOISE IMPACTS IS LEGALLY INADEQUATE

A. The FEIR Fails to Disclose and Analyze the Significant and Unavoidable Noise Impacts of Project-Related Truck Traffic

The FEIR fails to analyze noise impacts from project-related truck traffic, despite the 600 maximum one way truck trips (double what's currently permitted) that would be permitted under the expansion. The noise chapter makes no attempt to hide this

omission, including the following statement at the outset of the section and again in the impact analysis:

> *The County Initial Study Assessment Guidelines (ISAGs) were re-adopted in 2010 and specifically exclude increased traffic noise on State highways, Federal highways and roads included in the Regional Road network as subject to the Noise Thresholds. All of the local haul routes identified for the Grimes Rock facility fall in one of these roadway categories. Thus, no impact is identified in this FEIR for any noise generated by project related increases in traffic.*

(FEIR at 4.3-1 and 4.3-9.)

Based on this dubious assertion, the County has eliminated all analysis of on-road truck noise from the FEIR, even though the RDEIR concluded, and discussed at some length, that substantial evidence supported a finding that the Project would create a significant unavoidable Class I noise impact. (FEIR at 4.3-19 and 4.3-20 [strikethrough text].) In light of CEQA's clear mandate that agencies inform themselves and the public about the environmental effects of their proposed actions, carefully consider all relevant information before they act, give the public an opportunity to comment on the environmental issues, and avoid or reduce significant environmental impacts when it is feasible to do so, it is frankly shocking that an agency would reach an initial conclusion in a draft EIR that a project impact was significant and unavoidable, and later delete that analysis from the FEIR, with no accompanying change in the evidence. Even more surprising is the fact that the County's re-adoption of the ISAGs in 2010, cited as the reason for deletion of the noise analysis, occurred two years before the release of the RDEIR in September 2012, calling into question whether elimination of the threshold was the precipitating reason for eliminating the analysis. Regardless of the underlying motivation, the County's actions constitute a blatant violation of CEQA, and the FEIR's failure to disclose and analyze the project's significant environmental impacts from on-road truck traffic renders it legally inadequate

CEQA requires an EIR to identify and analyze the "significant environmental effects" of a proposed project. (Pub. Res. Code § 21100(b)(1); CEQA Guidelines §§ 15126(a), 15126.2(a), 15143.) A significant environmental effect is defined as a substantial or potentially substantial adverse change in the environment. (Pub. Res. Code §§ 21068, 21100(d); CEQA Guidelines § 15382.) While the CEQA Guidelines give an agency discretion to formulate standards of significance for use in an EIR's analysis (CEQA Guidelines § 15064(b)); an agency may not avoid analysis of a significant effect by simply neglecting to adopt a particular significance threshold. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.)

CEQA's requirement that an EIR focus on the significant environmental effects of a proposed project is not discretionary, it is mandatory.

B. The FEIR's Analysis of Operational Noise Impacts is Inadequate

The FEIR states that operational noise impacts are evaluated based on the proposed Project's proximity to existing noise-sensitive uses. (FEIR at 4.3-1.) However, the FEIR openly admits its failure to analyze impacts to existing uses constructed after the release of the 2003 NOP, even though the RDEIR was released almost 10 years later. (See FEIR at 4.3-1 and 4.3-4.) Moreover, even sensitive receptors constructed prior to 2003 are not adequately represented in the analysis. The only sensitive receptor explicitly identified is a home approximately 2,400 feet southeast from the excavation boundary. (FEIR at 4.3-9.) The FEIR claims that impacts to this residence will be less than significant, but provides no analysis or evidence in support of this assertion. Otherwise, the FEIR makes only vague references to area sensitive receptors, with no accompanying analysis. (FEIR at 4.3-3.)

The FEIR does not include a noise study, and the noise chapter contains no ambient noise data collected at or around the Project site. The only baseline noise data collected for the Project was for 2004 haul routes, but as discussed above, that data has been deleted from the FEIR. (See FEIR Table 4.3-1 [strikethrough text].) The FEIR's disclosure of the Project's operational noise impacts is limited to a statement that "equipment noise ranges up to a maximum or about 90 dB(A) at 50 feet from the source." (FEIR at 4.3-12.) With this single piece of data, and no accompanying analysis or disclosure of baseline conditions or sensitive receptor locations, the FEIR concludes that the Project's operational noise impacts are less than significant. (FEIR at 4.3-13.) It is difficult to imagine an environmental document with a noise analysis more deficient than that of this FEIR.

C. The Cumulative Noise Analysis Is Deficient

The FEIR's analysis of cumulative noise impacts is equally deficient, as it includes no discussion of the project's on-road truck noise impacts in combination with other projects causing related impacts. (CEQA Guidelines § 15130.) Much like the flawed analysis of project-specific noise impacts, the defective cumulative analysis relies on the County's lack of an adopted threshold as a reason to exclude any consideration of cumulative impacts associated with on-road truck noise. Astoundingly, the FEIR retains the conclusion from the former RDEIR, in strikethrough text for all to see, that the project would make a significant contribution to a significant cumulative impact, all while maintaining the argument that no noise impact is identified in the FEIR. (FEIR at 4.3-17.)

An analysis of the cumulative impacts of operational noise is nominally included, but fares little better. Much like the analysis of project specific noise impacts, the cumulative analysis contains no data or evidence in support of its assertions. (FEIR at 4.3-18-19.)

The FEIR's failure to evaluate the Project's significant noise impacts, both project specific and cumulative, renders it legally inadequate under CEQA.

D. The FEIR Does Not Remedy the Deficiencies of the RDEIR's Noise Analysis or Adequately Respond to Noise-Related Comments

The FEIR makes no attempt to remedy the legal inadequacy of the RDEIR by providing an analysis of Project noise impacts as required by CEQA. Instead, in response to comments, including those of Moorpark, the County reiterates its specious argument that no analysis of noise impacts from Project truck traffic is required, because no County threshold exists with which to analyze it. Adding insult to injury, the FEIR states that Moorpark's concerns about noise are unfounded, because the City has approved projects in the past which require the use of trucks. (FEIR Response to Comment A.4.) Not only is this argument irrelevant to whether this FEIR meets the requirements of CEQA, which it clearly does not, the County's cavalier treatment of the City's comments and legitimate concerns about impacts on its residents and community is unwarranted.

The FEIR similarly fails to remedy the blatant deficiency of its operational noise impact analysis; the RDEIR was not revised in response to numerous comments regarding the inadequacy. Furthermore, Topical Response No. 3 (Noise Impacts) is not responsive to comments from the City of Fillmore (Comment B-40) or other commenters that the noise data used in the FEIR is dated and deficient and in some cases, nonexistent. In response to comments that the FEIR's analysis of impacts to sensitive receptors was inadequate (Comment D-44), the FEIR's response is limited to a discussion of Tract Map No. 5277, despite the commenter's identification of a number of other potential sensitive receptors not identified or addressed in the FEIR.

IV. THE FEIR'S AIR QUALITY ANALYSIS FAILS TO MEET THE REQUIREMENTS OF CEQA

A. The FEIR is Legally Inadequate for its Failure to Provide Analysis of Criteria Pollutant $PM_{2.5}$ Impacts

Diesel trucks are a primary source of the $PM_{2.5}$ pollutant, which as FEIR Table 4.2-2 notes "increases respiratory disease, lung damage, cancer and premature death and reduces visibility and results in surface soiling." Inexplicably, the FEIR Air Quality Chapter contains no analysis of diesel truck $PM_{2.5}$ emissions. CEQA requires that an "EIR shall identify and focus on the significant environmental effects of the proposed

project. (CEQA Guidelines § 15126.2(a).) Since diesel trucks are a significant element of the project, $PM_{2.5}$ emissions should be analyzed. The FEIR's failure to analyze $PM_{2.5}$ emissions creates a serious deficiency in the document.

B. <u>The Air Quality Analysis Utilizes Outdated Air Quality Models and Year 1991 Meteorological Data</u>

CEQA requires environmental documents to use the most up-to-date data and models for analysis of impacts to air quality. (*Berkeley Keep Jets over the Bay Comm. v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344.) Utilizing up-to-date models is critical because they contain the most current information on population, activity, motor vehicle emissions inventory (including heavy duty trucks), fleet mix, and adopted regulations, (including Pavley Clean Car Standard, low carbon fuel standard, truck and bus rules and other truck fleet rules). Utilizing this current information, new models can more accurately predict emissions in the future. The FEIR's analysis of air quality impacts relies on outdated models and data, resulting in a legally deficient document. The Off-Site Truck Exhaust Emissions analysis utilized URBEMIS 2007, Version 9.2.2, which uses emissions data from EMFAC 2007. (FEIR at 4.2-15.) This is an outdated model. In addition to newer versions of URBEMIS being available, URBEMIS is no longer the recommended application to estimate emissions. Even the Ventura County Air Pollution Control District (APCD), which the document states it relies upon for methodology, does not recommend URBEMIS. "District staff recommends use of the latest version of CalEEMod for estimating emissions from proposed land use development projects." (Ventura County APCD, Air Quality Assessment Guidelines, available at: http://www.vcapcd.org/environmental_review.htm)

Other air quality analyses in the FEIR appear to rely on even older models. FEIR Appendix C, Air Quality, shows that Emission Factors for On-Road Trucks utilized EMFAC2002 Computer Model. However, this statement conflicts with the statement that the "EMFAC2007 mobile source computer model was used to determine the appropriate DPM exhaust emission factor for running and idling emissions." (FEIR at 4.2-28.) Ultimately, it does not matter whether EMFAC2002 or EMFAC2007 was used. They are both outdated. EMFAC2011, introduced in September 2011, is the industry accepted standard.

The most outdated data in the chapter, and perhaps in the entire FEIR, is the 1991 meteorological data for Simi Valley. Data from the year 1991 does not represent existing conditions. If out-of-date meteorological data is used, it should be accompanied by an approval memo from the VCAPCD. (See additional discussion below on health analysis.)

C. The FEIR's Health Analysis is Incomplete and Does Not Include All Receptors

The FEIR's analysis of health impacts is legally deficient. While the document states that exposure for residents was reviewed (FEIR at 4.2-16), there is no discussion or analysis of the health impacts for workers. (See California EPA, Office of Environmental Health Hazard Assessment, Air Toxics Hot Spots Program Risk Assessment Guidelines (OEHHA Guidelines), available at: http://oehha.ca.gov/air/hot_spots/pdf/HRAguidefinal.pdf.)

The FEIR provides no substantial evidence to support many of its conclusions. (Pub. Res. Code § 21082.2; CEQA Guidelines § 15064 (f)(5).) For example, the FEIR states that a "more detailed dispersion modeling study was undertaken for all three proposed expansion projects. The more refined dispersion study showed that cancer risks from diesel particulate matter (DMP) associated with increased site operations were individually and cumulatively less than significant." (FEIR at 4.2-16.) The dispersion modeling study itself and any isopleths created are not provided. Therefore, these conclusions are not supported by substantial evidence, cannot be verified and therefore render the analysis inadequate under CEQA.

The FEIR states that health risk was calculated for "diesel particulate matter." (FEIR at 4.2-16.) A detailed methodology is not included, making it impossible to ascertain exactly how the health risk analysis was completed. For example, the section on On-Site Diesel Emissions cites the diesel emission factor for PM_{10}, based on EMFAC2002. (FEIR at 4.2-24.) Health risk assessments should be based on total diesel particulate matter. The FEIR does not provide enough information to determine how the health risk analysis was completed and whether it is legally adequate.

The computer model for health risk "was combined with Simi Valley surface meteorological data." (FEIR at 4.2-25.) As noted above, FEIR Appendix C includes year 1991 metrological data for Simi Valley. These data are obviously outdated and do not represent existing conditions. Per the OEHHA Guidelines, which provide the "industry standard" methodology for health risk analysis, if the data do not represent existing conditions, the document should include verification from the VCAPCD that the data are certified for use. The FEIR is deficient because it does not contain any memos or other information regarding VCAPCD's approval of year 1991 meteorological data.

D. The FEIR's Statements that Emission Reduction Will Occur Based on Future Cleaner Diesel-Powered Equipment are Speculative

The air quality chapter makes numerous assertions that although there are air quality impacts associated with the Project, emissions "will decrease in the future due to

cleaner equipment." (See, e.g., FEIR at 4.2-14, 4.2-19 and 4.2-20.) These statements are speculative. If the air quality emission analyses had utilized EMFAC2011, which includes latest population, activity, emission data, and California Air Resources Board's adopted rules and regulations for cleaner trucks, more accurate emissions estimates for the future years, up to 2040 would have been included in the analysis.

E. The FEIR's Baseline Discussion and Impact Analysis are Contradictory

The stated baseline utilized for air quality and the actual baseline used in the analysis are not one and the same. The baseline section states that "baseline levels of project air pollution are measured by the Ventura County Air Pollution Control District ("APCD") at the Simi Valley air quality monitoring station at 5400 Cochran. (FEIR at 4.2-9.) The reported baseline data, however, are not from the monitoring station. The reported air quality analysis is based on net increase, subtracting proposed project emissions from the permitted emissions. (Table 4.2-4.) One of the basic purposes of CEQA is to "inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities." (CEQA Guidelines § 15002(a)(1).) By providing conflicting and confusing information in the FEIR regarding the baseline utilized for analysis, this basic purpose of CEQA is substantially diminished.

F. The FEIR Does Not Remedy the Deficiencies of the RDEIR or Adequately Respond to Comments Regarding Air Quality

The City of Fillmore's comment letter (Comment B-39) informed Ventura County that the EIR was inadequate because the air quality analysis utilized old models and data. The response to the comment was legally deficient, stating only that the VCAPCD staff reviewed the RDEIR air quality section in November 2009 and updated the air pollution estimates for both on-site equipment and haul trucks. The problem is that these estimates are based on the outdated EMFAC2007 model. In addition, the evidence provided does not match the response to the comment or the data in the FEIR. The model runs provided in FEIR Appendix C indicate they were run on 2/7/06. This is prior to the EMFAC2007 release date, which was November 2007.

V. THE FEIR ANALYSIS OF GREENHOUSE GASES IS LEGALLY INADEQUATE

A. The FEIR's Climate Change Analysis Utilizes Outdated Air Quality Models and 1991 Meteorological Data

As noted in our comments on air quality, CEQA requires the use of the most up-to-date data and models. (*See Berkeley Keep Jets over the Bay, supra.*) Up-to-date models contain current information and more accurately predict emissions in the future. The

FEIR analyses of greenhouse gas CO2 impacts rely on outdated models and data resulting in a legally deficient document. The Climate Change project analysis utilized URBEMIS 2007, Version 9.2.2, which uses emissions data from EMFAC 2007. This is an outdated model. Newer versions of URBEMIS are available. Moreover, URBEMIS is no longer the recommended application to estimate emissions. Even the Ventura County Air Pollution Control District (VCAPCD), which the document states it relies upon for methodology, does not recommend URBEMIS for greenhouse gas analysis. "District staff recommends use of the latest version of CalEEMod for estimating emissions from proposed land use development projects." (VCAPCD, Air Quality Assessment Guidelines, available at: http://www.vcapcd.org/environmental_review.htm) The use of an outdated model and year 1991 meteorological data renders the analysis inadequate.

B. The FEIR Contains No Substantial Evidence in Support of its Climate Change Conclusions

The FEIR provides no substantial evidence to support its analysis of climate change and greenhouse gases. The FEIR contains CO2 emissions for year 2025. (FEIR at 4.9-12.) It does not, however, provide any information on how these numbers were calculated. The FEIR includes no baseline data and no indication of what methodology was used to calculate emissions. In short, the FEIR provides no data or information that would allow the public or decision makers to verify the calculations. The Appendices include no greenhouse gas data or model runs.

VI. THE FEIR'S ANALYSIS OF IMPACTS TO BIOLOGICAL RESOURCES DOES NOT COMPLY WITH CEQA

A. The FEIR Relies on Outdated Studies Which Do Not Accurately Characterize the Project's Impacts on Biological Resources

The FEIR's analysis of impacts to biological resources relies upon outdated studies, which do not reflect the existing environmental setting or provide a basis for an accurate evaluation of project impacts as required by CEQA. Instead of performing new surveys to replace the 10-year-old data presented in the 2006 EIR, the FEIR impermissibly defers the analysis of biological resources impacts by requiring site surveys to be performed as part of project mitigation. By deferring the required impacts analysis to sometime after project approval, the FEIR violates the primary purpose of CEQA: that decision-makers and the public be informed of the environmental impacts of their proposed actions prior to approving a project.

Site-specific surveys for plants and animals listed in the FEIR include a focused springtime floristic survey, an oak tree inventory and a protocol survey for the coastal

California gnatcatcher. All of these studies were conducted between 2001 and 2003. (FEIR at 4.6-1.) The survey data have not been updated and the surveys are not included in the FEIR or its appendices. The FEIR states that "field inspections" of the Project site were conducted in 2012 which confirm the biological resource conditions reported in the 2006 Draft EIR. (FEIR at 4.6-1.) The FEIR provides absolutely no information about the content of these inspections, and there is no indication that they complied with survey protocols and guidelines set forth by the United States Fish and Wildlife Service ("USFWS") and the California Department of Fish and Wildlife ("CDFW"), which represent the best available methodology for determining presence of threatened and special status species. (See http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html.) The FEIR presents not a shred of evidence in support of its conclusion that the inspection confirms the findings of the 2006 EIR, and no written documentation of the inspection's findings is included in the FEIR or its appendices. Instead, analysis of the project's impacts is completely deferred to the mitigation measures. For example, Mitigation Measure BR 7-2A (Protection of special-status wildlife), requires that surveys for special-status wildlife be performed prior to land clearing activities. (FEIR at 4.6-52.) Mitigation Measure BR 10-1 (Avoidance of California Gnatcatcher), requires protocol surveys to be conducted within one year prior to the start of land clearing activities. (FEIR at 4.6-54.)

B. The FEIR Does Not Remedy the Deficiencies of the RDEIR's Analysis of Biological Resources or Adequately Respond to Biological Resources-Related Comments

Several commenters, including CDFW, expressed concern about the FEIR's inadequate analysis of impacts to biological resources. CDFW in particular took issue with the RDEIR's representation that the 2012 site inspections, which included CDFW staff, confirmed the biological resource conditions contained in the 2006 EIR. Its letter stated that the "site visit was not intended to supplement survey data from the RDEIR, thus the RDEIR should not imply the RDEIR contains up-to-date biological survey data." (CDFW Comment Q-1.) The FEIR's conclusions directly contradict CDFW's statement. CDFW also comments that because the 2001-2004 botanical assessments relied upon in the FEIR are not included in the RDEIR, it cannot determine whether the studies were conducted in accordance with CDFW protocols. It further notes that surveys conducted in June and July of 2003, with a subsequent one day visit in May of 2004 (after a 2003 wildfire and drought year), may have missed or underrepresented plant species.

CEQA requires that an EIR provide a reasoned response to comments requesting that further studies be undertaken when those comments contain evidence indicating that a further study is necessary to evaluate a significant impact. If the EIR does not respond by undertaking the requested study, it must explain why the EIR's analysis is sufficient without the additional study, provide a further analysis, or explain why the study

requested is infeasible. (*Berkeley Keep Jets Over the Bay, supra.*) Furthermore, if comments on the draft EIR from experts or other agencies (such as CDFW) indicate that the EIR's analysis of an impact has relied on incorrect data or a flawed methodology, the EIR must provide a good faith, reasoned analysis in response. Conclusory statements unsupported by references to supporting evidence are not sufficient. (CEQA Guidelines § 15088(c).)

The FEIR's responses to comments do not provide a reasoned response or a good faith analysis. Topical Response 1 (Technical Studies) states that data from field inspections has been "incorporated into the RDEIR." However, the FEIR contains absolutely no evidence from the 2012 inspections, save a conclusory statement that they occurred, and that they confirmed the findings presented in the 2006 FEIR. As noted above, no written report was prepared to memorialize the findings of the 2012 inspections, so it is not possible to evaluate their sufficiency. A conclusory statement does not constitute substantial evidence under CEQA, and therefore may not be relied upon to reach a conclusion that impacts to biological resources are less than significant. (Pub. Res. Code § 21082.2(c); CEQA Guidelines § 15064(f)(5).)

In response to comments regarding the age of existing studies and the need for updated information, including those of CDFW, the FEIR simply reiterates the conclusory statements initially made in the RDEIR. It admits that no records of the 2012 inspections are included in the FEIR because no technical reports were prepared based on these inspections. (Response to Comment B.44.) It claims that information in the RDEIR was supplemented with the 2012 field inspections, but as stated above, there is no indication in the RDEIR itself that the information has been updated. In response to CDFW's concern that plant species may be missing or underrepresented due to the age and timing of the botanical assessments, the FEIR presents the same list of surveys set forth in the RDEIR with no additional explanation. (Response to Comments Q.2.) It goes on to state, again without explanation, that the surveys performed between 2000 and 2004 "provide an adequate picture of the flora on the project site." (Response to Comments D.1.) This conclusory statement, in response to concerns raised by CDFW about the quality and reliability of the data presented in the FEIR as well the methodology used to obtain it, fails to comply with CEQA's requirements for a good faith and reasoned analysis in response to comments.

VII. THE FEIR'S ANALYSIS OF CUMULATIVE IMPACTS FAILS TO MEET THE REQUIREMENTS OF CEQA

A. <u>The FEIR's Cumulative Impact Analyses Uses Flawed Methodology</u>

The CEQA Guidelines set forth two methods for analyzing cumulative impacts: the "list of projects" approach and the "summary of projections" approach. (CEQA

Guidelines § 15130(b)(1).) An EIR using the list-of-projects approach must include a list of past, present, and probable future projects producing cumulative impacts, based on the affected resource, the project location, and the project type. EIRs using the summary of projections approach must use "a summary of projections contained in an adopted local, regional, or statewide plan, or related planning document." The FEIR uses both approaches, and neither meets the requirements of CEQA.

FEIR Chapter 3 presents a long list of related residential, commercial and industrial projects, including other mining projects. It states that this list approach, and/or "projected annual growth rates," was used for the EIR cumulative impact analyses, as applicable. (FEIR at 3-1.) The FEIR's list approach is legally inadequate because it only considers the effects of probable future projects, excluding past and present projects as required by CEQA. Operation of the Grimes Rock facility at the existing levels of operation is a closely related present project, but impacts of present operations were not added to impacts of the proposed expansion to determine whether cumulative impacts would be significant. This error is particularly egregious because the County, through its CUP amendment process, has the ability to mitigate the impacts of present as well as expanded operations at Grimes Rock.

The FEIR's projections approach is also legally inadequate. For traffic and traffic-related cumulative impacts a "2025 future baseline" was used. The 2025 future baseline was based on "projected annual growth rates." These projected growth rates were not explicitly based on a summary of projections in an adopted plan or planning document, and were not quantified in the traffic impact analysis. The FEIR fails to present substantial evidence supporting the choice of the projected growth rates. The FEIR claims that the annual growth rates are based on the Ventura County General Plan and County traffic model (FEIR at 4.1-1 and 4.1-23), but presents no substantial evidence in support of this assertion.

An EIR's cumulative impact analysis should also "define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used. (CEQA Guidelines § 15130(b)(1)(B)." Because cumulative impacts often extend over a wider geographic area than the proposed projects' impacts, the geographic scope of cumulative impact analysis is often larger. The FEIR fails to provide an explanation supported by substantial evidence as to why the geographic scope for each cumulative impact analysis was limited to be the same as for project-level impact analysis.

B. The Cumulative Impact Analysis for Individual Resource Areas is Legally Inadequate

1. The Air Quality Cumulative Analysis is Inadequate

The air quality cumulative analysis includes only "the proposed Grimes Rock project in combination with proposed expansion projects at two other local mines (Best Rock and Wayne J)." (FEIR at 4.2-17.) This limited analysis conflicts with the discussion of cumulative impacts in Topical Response No. 2, which states that the RDEIR specifically considered impacts from development projects in the cities of Moorpark and Fillmore. Note that the Related Projects List (FEIR Table 3-1) contains more than the two other mining expansion projects.

Cumulative analyses are not limited by type of project, and when utilizing the list method, should include all past, present and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency. (CEQA Guidelines § 15130(b)(1)(A).) Because the FEIR's air quality cumulative analysis did not consider the effects of other current or probable future projects with related air quality impacts, it is inadequate under CEQA.

2. The Hydrology and Water Resources Cumulative Analysis is Inadequate

The hydrology cumulative impact analysis again considers only the impacts of mining projects, ignoring the fact that any project type resulting in increased stormwater runoff and/or wastewater generation could add to the proposed Project's water quality impacts. (FEIR at 4.5-24.) Even as to the mining projects included, it fails to quantify cumulative water demands compared to supplies, and presents no substantial evidence supporting the conclusion that the proposed Project's water supply impacts are not cumulatively considerable.

3. The Visual Resources Cumulative Analysis is Inadequate

Similarly, the cumulative impact analysis for visual resources considers only the impacts of mining projects. (FEIR at 4.8-17)

4. The Noise Cumulative Analysis is Inadequate

For noise cumulative impacts, the FEIR asserts that only mining projects were considered in the cumulative impact analysis because they did not generate "substantial" noise due to their location or non-industrial nature. (FEIR at 4.3-18-19.) The FEIR presents no evidence supporting this claim. Further, a project's contribution to

significant cumulative impacts cannot be dismissed merely because it is relatively small compared to existing environmental conditions. (*See Kings County Farm Bureau, supra.*)

VIII. THE FEIR'S PROJECT DESCRIPTION DOES NOT MEET CEQA'S REQUIREMENTS

In order for an EIR to adequately evaluate the environmental effects of a project, it must first provide a comprehensive description of the project itself. The FEIR fails to meet this basic requirement.

A. The Project Description is Legally Inadequate Because it Fails to Include Project Objectives as Required by CEQA

An EIR's project description must state the objectives sought by the proposed project, including its underlying purpose. (CEQA Guidelines § 15124(a).) The FEIR's project description does not meet this fundamental requirement: it does not include an appropriate statement of project objectives. Instead, the following statement purported to be the statement of project objectives is included in Chapter 5 (Alternatives) of the FEIR:

> *Consistent with the Project Description included in Section 2.3 of this FEIR, the purpose of the Project is to expand the area subject to surface mining excavation from 48 acres to 135 acres and increase annual sand and gravel production from 952,520 to 1,800,000 tons per year. These physical changes in the mining site and operation are fundamental to the proposal and are intended to meet future market demand for aggregate. The proposal would increase the total permitted reserves of aggregate and its availability in Ventura County.*

(FEIR at 5-2.)

This statement of project objectives does not meet CEQA's requirements. The first sentence essentially states that the purpose of the Project is to build the proposed project as described in the project description; any alternative that does not expand the site to 135 acres and increase gravel production to 1.8 million tons per year would fail to meet this impermissibly narrow objective. The second objective, "to meet future market demand for aggregate," is impermissibly vague. The FEIR does not identify which specific markets are intended to be served, nor does it present evidence demonstrating that the project is actually needed. For example, the FEIR contains no evidence establishing that the vaguely-defined "market demand" could not be met through other competing existing and planned aggregate projects. (See City of Moorpark RDEIR Comment A-1 and August 4, 2006 comment letter on 2006 Draft EIR, Comment No. 4.) The third sentence of the so-called objectives is stated as an observation only: to increase the total permitted reserves of aggregate and its availability in Ventura County.

B. The Project Description is Legally Inadequate Because it Fails to Include All Components of the Project

An EIR's project description must include all components of the project, in order to ensure that all environmental impacts of the project are considered. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450.) The FEIR's project description fails to meet this requirement because it omits a description of areas that will be graded outside the approved mineral extraction area ("additional grading areas"). Instead, the submittal of this information is deferred until after project approval by proposed Condition of Approval 67, which requires the applicant to submit a site plan showing the locations of additional grading areas. (County Staff Report at 100.) The FEIR's project description does not describe the additional grading areas, nor explain why this information could not have been included, even in general terms. Omission of this information from the project description results in underestimation of all environmental impacts caused by the project's grading operations, in violation of CEQA.

C. The FEIR Does Not Remedy the Deficiencies of the RDEIR's Project Description or Adequately Respond to Comments

The RDEIR did not include a statement of project objectives in the project description and the FEIR does not remedy that deficiency, despite the City of Fillmore's comment letter (Comment B-47) which informed Ventura County that the RDEIR contained no statement of project objectives. In response to Fillmore's comment, the FEIR merely states that the Project's objectives have been restated in the Final EIR in order to give context to the evaluation of the various alternatives, and refers the commenter to Topical Response No. 4. (Response to Comment B.47.) However, the FEIR, in a continuing violation of CEQA's requirements for a project description, adds project objectives to Chapter 5 only. Topical Response 4 (Project Alternatives Analysis), which purports to remedy this deficiency, references a fourth project objective, which is not included in the project description or anywhere else in the body of the FEIR.

IX. THE FEIR'S ANALYSIS OF PROJECT ALTERNATIVES DOES NOT MEET THE REQUIREMENTS OF CEQA

A. The FEIR Fails to Present a Reasonable Range of Alternatives

An EIR must present a reasonable range of alternatives that could feasibly attain most of the project's objectives but avoid or substantially lessen the proposed project's significant effects. (CEQA Guidelines § 15126.6(a).) The FEIR is legally inadequate because: 1) it evaluates no alternatives that could feasibly attain most of the basic project objectives, 2) it fails to evaluate alternatives that could avoid or substantially lessen significant project impacts capable of mitigation, in particular, significant traffic impacts,

3) it improperly rejects off-site alternatives, and (4) it fails to present reclamation plan alternatives.

1. The FEIR Fails to Evaluate Alternatives That Meet Most of the Basic Project Objectives

The FEIR concludes that none of five alternatives evaluated would meet the Project objectives because they fail to meet a single project objective, meeting the precise area of excavation and annual production rate specified by the proposed Project. (FEIR at 5-9 and 10.) Using this rationale, any alternative that does not expand the site to 135 acres and increase gravel production to 1.8 million tons per year would fail to meet this impermissibly narrow objective.

The FEIR's alternative analysis does not consider whether the alternatives presented could meet most of the basic project objectives, but rather focuses on this one impermissibly narrow objective. An EIR cannot provide a meaningful comparison between a proposed project and various alternatives unless the project's objectives are defined broadly enough to make such alternatives at least potentially feasible. (*Kings County Farm Bureau* at 736.) An EIR's alternatives must be able to implement most project objectives, but they need not be able to implement all of them. (*Watsonville Pilot Association v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.) Chapter 5 of the FEIR omits any discussion of the extent to which the alternatives could meet the other project objectives, namely meeting future market demand for aggregate, and increasing the total permitted reserves of aggregate and its availability in Ventura County.

More specifically, the FEIR improperly rejects Alternative 4 as failing to meet the project objectives, whereas the RDEIR concluded this alternative could meet the project objectives. (FEIR at 5-11.) Remarkably, the sole basis for this conclusion is the applicant's comment letter on the RDEIR (see Topical Response 4 and Comment Letter C). However, since "CEQA charges the [lead] agency, not the applicant, with the task of determining whether alternatives are feasible, the circumstances that led the applicant in the planning stage to select the project for which approval is sought and to reject alternatives cannot be determinative of their feasibility. The lead agency must independently participate, review, analyze and discuss the alternatives in good faith." (*Kings County Farm Bureau* at 736.)

2. The FEIR Ignores Alternatives that Could Reduce or Avoid the Significant Effects of the Project

When considering the ability of the alternatives to avoid or substantially lessen the project's significant impacts, Chapter 5 of the FEIR improperly ignores alternatives that could reduce significant impacts that it claims are capable of mitigation, in particular

traffic impacts. However, an EIR must discuss alternatives that avoid or substantially lessen a significant impact even if that impact can be avoided or reduced by mitigation measures. (*See Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 47 Cal.3d 376, 403.) The FEIR made a fundamental error by failing to present alternatives that were designed to avoid or substantially reduce the following significant impacts deemed capable of mitigation: traffic, air quality impacts other than dust generation, noise, biology impacts other than cumulative impacts, and visual impacts other than alteration of views. (I think this belongs as one of our top 10 comments at beginning of letter)

Commenters do not have the burden to show that feasible alternatives exist to avoid or substantially lessen these significant impacts. (*Laurel Heights* at 405.) However, the administrative record is replete with potentially feasible alternatives suggested by the public that could avoid or substantially reduce one or more of these effects. (See, e.g., City of Fillmore Comment No. 46 regarding reduction of significant traffic impacts.)

3. The FEIR Improperly Rejects Off-Site Alternatives

The FEIR improperly rejects off-site alternatives. Potentially feasible off-site alternatives are available that meet the project objectives (other than the impermissibly narrow objective of increasing on-site mining by specific amounts) and that could avoid or substantially lessen the project's significant impacts. (See City of Moorpark August 4, 2006 comment letter on 2006 Draft EIR, Comment No. 9.) The FEIR's claims that off-site alternatives would have greater environmental impacts than the proposed project are not supported by substantial evidence. (FEIR at 5-2). However, as pointed out in the City's 2006 comment letter, if the markets to be served by the proposed Project were identified more specifically, it would be possible to identify new or expanded aggregate mining sites closer to these markets, that could avoid some of the significant impacts of the proposed Project.

4. The FEIR Fails to Include a Mine Reclamation Plan Alternative

The alternatives presented in the FEIR are limited to mining operation alternatives. The amended mine Reclamation Plan is a major component of the proposed project that would cause significant environmental impacts, yet no mine reclamation alternatives are proposed. In fact, a RDEIR was prepared precisely because the original EIR for the project omitted a description and analysis of the amended Reclamation Plan. The FEIR discloses that the amended Reclamation Plan would contribute to significant water resources, biological, and visual impacts, among others, yet it describes no alternatives to the proposed Reclamation Plan that would avoid or substantially lessen these impacts.

Specific objectives for mine reclamation should have been added to the Project description. Mine reclamation alternatives should then have been developed – with different timing, final slopes, revegetation, and end land uses – that could feasibly attain these objectives but avoid or substantially lessen the proposed Project's significant environmental impacts.

B. The FEIR Does Not Remedy the Deficiencies of the RDEIR or Adequately Respond to Comments

The City of Fillmore's Comment No. 46 requests that the FEIR evaluate a number of potentially feasible alternatives with greater limitations on peak hour trips and operational limitations on haul truck operations. In response, Topical Response No. 4 speculates, with no supporting substantial evidence, that such alternatives would reduce production levels. It further speculates that any reduction in production levels would cause the applicant to "lose its ability to be economically competitive, and future revenues would be insufficient to amortize costs incurred to date in processing the pending CUP application." The FEIR estimates these costs to be $1.5 million over a nine year period.

This does not represent good faith and reasoned response, as required by CEQA. The response presents no substantial evidence that alternatives with greater limitations on peak hour trips and operational limitations would materially reduce production levels. The response presents no substantial evidence that the claimed reduction in production levels would affect the applicant's economic competitiveness to such an extent that the proposed Project would be economically infeasible. A conclusion that an alternative is not economically feasible must be supported by substantial evidence and analysis showing that it cannot reasonably be implemented based on economic constraints. (*Kings County Farm Bureau* at 737.) Finally, the costs and time period for processing the Project through the County's process are immaterial to determining the economic feasibility of alternatives under CEQA.

X. THE FEIR CONTAINS OTHER FLAWS THAT RENDER IT LEGALLY INADEQUATE

A. The Initial Study Fails to Meet the Requirements of CEQA

The purpose of an initial study is to determine whether a project will have a significant effect on the environment. (CEQA Guidelines § 15063(c).) An initial study may also be used to help focus an EIR on a project's significant effects. In such cases, the study is used to identify environmental impacts that are not significant and thus need no further review. The conclusions reached in an initial study must be based on substantial evidence.

The initial study for the proposed Project was prepared in November 2003. (FEIR Appendix A.) Since that time, the Project Description, environmental conditions, and County thresholds have changed. The initial study is no longer an accurate gauge of the potentially significant impacts of the Project.

B. The FEIR's Analysis of the Modified Reclamation Plan is Legally Inadequate

The modified Reclamation Plan (FEIR Appendix G) is a major component of the Project, yet the FEIR fails to provide adequate analysis of its environmental impacts. The air quality impact analysis (FEIR Section 4.2.3) focuses on mining, and does not explicitly reference activities associated with the Reclamation Plan, including salvaging and stockpiling of topsoil and removal of processing plant facilities, and therefore it is not possible to determine whether it was analyzed. Similarly, the noise analysis (FEIR Section 4.3), references only mining-related noise sources.

The FEIR's analysis of biological resources (Section 4.6) suffers from a similar flaw. The four thresholds used for analysis of impacts to biological resources reference the Grimes Rock mining project only, and apparently have not been revised to reflect the addition of the Reclamation Plan to the Project. (FEIR at 4.6-33-34.) The introduction to the discussion of Project impacts (Section 4.6.3), describes the sand and gravel mining activities only, and contains no mention of the activities associated with reclamation. Although the Reclamation Plan includes revegetation of the entire site, the FEIR fails to discuss or analyze the Plan's impacts on plants in sufficient detail. (FEIR at 4.6-41.)

There is no indication that the water demand calculations in the Hydrology and Water Resources chapter include water required for implementation of the Reclamation Plan, which will require water for, among other things, dust control associated with material stockpiles. (FEIR Table 4.5-5, Impact WR-2, Mitigation Measure AQ 1-1.)

C. The Textual and Analytical Changes Made to the 2012 RDEIR are Impossible to Distinguish and Review

The underlined text presented in the FEIR identifies changes to three different documents: the 2006 EIR, the 2009 FEIR and the 2012 RDEIR without differentiation. For this reason, it is impossible to tell whether the County made changes to the text or analysis of the RDEIR in response to comments, and if it did, what text and analysis was changed or added. The tables presented in the FEIR Table of Contents provide little assistance. Tables A-1 and A-2 present textual and analysis changes as well as changes to mitigation measures, but again, conflate changes to the 2006 DEIR, 2009 FEIR and 2012 RDEIR. This error requires recirculation of the document, because it renders it "so

fundamentally and basically inadequate...that meaningful public review and comment were precluded." (CEQA Guidelines § 15088.5(a)(4).)

XI. THE COUNTY HAS NOT PREPARED A MITIGATION MONITORING AND REPORTING PROGRAM AS REQUIRED BY CEQA

CEQA requires a lead agency to adopt mitigation measures that are fully enforceable, and to adopt a mitigation monitoring and reporting program ("MMRP") to ensure that the measures are implemented. (Pub. Res. Code § 21081.6; CEQA Guidelines § 15091(d).) The Planning Commission Staff Report states that a MMRP will not be adopted; instead, the MMRP "is incorporated into each mitigation measure identified in the FEIR," and all of the measures have been incorporated into the recommended conditions of approval for the CUP. (Staff Report at 16.)

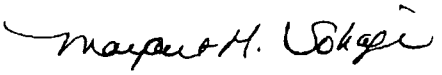
While CEQA does not specify detailed requirements for the specific content of MMRPs, as noted above, both CEQA and the CEQA Guidelines require that mitigation measures be fully enforceable. The following mitigation measures set forth in Exhibit 5 of the Commission Staff Report conditions of approval lack a monitoring requirement in violation of CEQA:

- Condition 30: AQ 1-2 (APCD Rules and Regulations)
- Condition 33: WR 1-1 (Groundwater Recharge)
- Condition 34: WR 2-1 (Groundwater Supply)

XII. CONCLUSION

For the reasons set forth above, we respectfully request that the County refrain from acting on the Project until it has prepared and recirculated an EIR that fully complies with CEQA. Please note that this letter was prepared with assistance from LLG Engineers (resumes attached as Exhibit C).

Very truly yours,



Margaret M. Sohagi
for THE SOHAGI LAW GROUP, PLC

CC: Ventura County Board of Supervisors
Ventura County Executive Officer
Ventura County Counsel
Ventura County Resource Management Agency Director
Ventura County Planning Director
City of Moorpark City Council
City of Moorpark Planning Commission
City of Moorpark City Manager
City of Fillmore Acting City Manager

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EXHIBIT A

EXHIBIT A
to Moorpark's June 26, 2013 Comment Letter on the Grimes Rock FEIR

CITY OF MOORPARK

COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING – BUILDING AND SAFETY – CODE ENFORCEMENT
799 Moorpark Avenue, Moorpark, California 93021 (805) 517-6200 fax (805) 529-8270
www.ci.moorpark.ca.us

December 17, 2003

Christopher Stephens, Director
County of Ventura, Resource Management Agency
Planning Division
800 South Victoria Avenue, L#1740
Ventura, CA 93009

Attention: Scott Ellison, Senior Planner

RE: Notice of Preparation for an Environmental Impact Report
Modification No. 2 to Conditional Use Permit No. 4874
Grimes Rock, Inc.
3500 Grimes Canyon Road, Fillmore

Thank you for sending the City a copy of the Notice of Preparation for the proposed expansion of Grimes Rock's mining operation. As noted in past correspondence, the City of Moorpark is vehemently opposed to any permits or alterations to permits that would permit additional truck traffic through the City along Walnut Canyon Road and Moorpark Avenue. As the residents and businesses within Moorpark are already severely impacted by this incompatible land use, the City would like this EIR to address the following concerns:

1. **Existing Haul Route Restriction** – Although it is our understanding that a condition on Grimes Rock's permit does not allow the use of Walnut Canyon Road as a haul route, trucks to and from this mine are routinely using Walnut Canyon Road, as it provides the most direct path to the SR-118 and SR-23 freeways. This condition as written does not provide a mechanism for easy enforcement given that the truck drivers are not employed by the mine operators, and therefore not under their control when they are not on the mine property. Mitigation measures developed as part of this EIR must be enforceable and must have a mechanism for ongoing monitoring included for the life of the project, as well as, a means of penalty and revocation if mitigation measures do not continue to be met. In the meantime, the City of Moorpark requests that the existing ongoing violation be referred to the County's Code Enforcement staff; and that if the violation is not immediately and positively dealt with, that the County cease all processing of any expansion of the use.
2. **Areas of Impact** – Impacts to existing and planned land uses in Moorpark from this project that should be addressed in the EIR, both individually and cumulatively, include traffic and traffic safety, noise, vibration, destruction of the road surface, air quality including toxic emissions from diesel engines, and land use compatibility.

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PATRICK HUNTER	JANICE PARVIN	CLINT HARPER	ROSEANN MIKOS	KEITH F. MILLHOUSE
Mayor	Mayor Pro Tem	Councilmember	Councilmember	Councilmember

The City would like to see the EIR evaluate noise and traffic impacts within Moorpark using local thresholds. For traffic, staff does not believe the use of a planning level analysis with generalized standards for lane capacity would adequately assess the impacts on traffic in the City, given the nature of the project. The City believes that a detailed operational analysis of capacity, passenger car equivalency for heavy trucks, and traffic impacts at the intersections of Walnut Canyon Road and Casey Road, Moorpark Avenue and High Street, Moorpark Avenue and Poindexter Avenue/First Street, Moorpark Avenue and Los Angeles Avenue, and Los Angeles Avenue/New Los Angeles Avenue and Spring Road is the only way the full impact of the proposed project could be fully understood. This operational analysis should take into account vertical and horizontal geometry, signalization/signal timing, railroad operations/proximity to railroad tracks, proximity to other signalized and unsignalized cross streets, driveways, corner turn radii, heavy truck volumes, pedestrian and bicycle traffic, and overall condition of the roadway. In the past, the City has suggested that a Passenger Car Equivalency factor of 3.0 should be used to assess heavy truck impacts instead of 2.0 as suggested by ATE in its early scope of work for a traffic study prepared for this project. The City would like to see in the EIR a detailed analysis of local conditions to determine an appropriate Passenger Car Equivalency factor for the trucks given the complex network of streets, railroad tracks, and driveways in close proximity to one another in the City's downtown core.

3. **Alternative Route** – The proposed removal of the condition that currently prohibits the use of Walnut Canyon Road as a haul route is not acceptable given the existing incompatibility of the truck traffic with the residential neighborhood and the downtown commercial district. The EIR should consider an alternative to the removal of this restriction that does not impact the residential and commercial land uses along this route. The only alternative that would not become an enforcement issue later on is the completion of the SR-23 Bypass from the SR-23/SR-118 freeways to Broadway. Such a route would allow trucks to haul sand and gravel on a direct route from the mines to the freeways. Truck drivers would by choice no longer use Walnut Canyon Road as it would be less direct. This bypass route is planned in the City's General Plan Circulation Element to carry through traffic. City staff is currently studying alignment and freeway connection alternatives for this bypass route and is available to discuss these alternatives with County staff and the EIR consultant. The City would like to see the EIR compare such an alternative with the proposed project for impacts and accomplishing the project objectives. It should also be noted that the construction of this bypass has been designated by the Ventura County Transportation Commission as a priority project for STIP funding, although the timing of the availability of funds for this project is uncertain at this time given the State's financial crisis.

4. **Saturday Operations** – The City opposes any expansion of operations that would allow Saturday hauling as this would create greater incompatibility with the City's efforts to redevelop its downtown core into a vibrant commercial destination consistent with the General Plan and Downtown Specific Plan. This land use impact

should be fully addressed in the EIR. The City would also oppose any expansion in hours beyond 7:00 P.M., due to nighttime noise impacts, should consideration be given to nighttime hauling to mitigate peak-hour traffic impacts.

5. **Public Outreach** – Up to this point, the only significant involvement on this EIR has been staff from the County and various agencies, including Caltrans, VCTC, CHP, and the Cities of Fillmore and Moorpark. Due to the significance of this project to the quality of life in Moorpark, the City would like to see the County and EIR consultant to hold at least one public meeting on the Draft EIR in the City of Moorpark to inform the residents of the proposal and accept oral testimony. Moorpark residents within 300 feet of the exiting haul routes should be notified of the Draft EIR and 1/8 page ads should be placed in the local newspapers (Ventura County Star, Moorpark Acorn and Simi-Valley Moorpark Examiner).

The contact person for the City of Moorpark is David A. Bobardt at (805) 517-6281. We look forward to discussing these issues with you and reviewing the Draft Environmental Impact Report.

Sincerely,

Barry K. Hogan
Community Development Director

C: Honorable City Council
Honorable Planning Commission
Steven Kueny, City Manager
Supervisor Judy Mikels
Chron
File

EXHIBIT A
to Moorpark's June 26, 2013 Comment Letter on the Grimes Rock FEIR

City of Moorpark

COMMUNITY DEVELOPMENT DEPARTMENT: PLANNING – BUILDING AND SAFETY – CODE COMPLIANCE
799 Moorpark Avenue, Moorpark, California 93021 (805) 517-6200 fax (805) 532-2540

August 4, 2006

County of Ventura, Resource Management Agency
Planning Division
800 South Victoria Avenue, L#1740
Ventura, CA 93009

Attention: Scott Ellison, Senior Planner

RE: Draft Environmental Impact Report (EIR)
Modification No. 2 to Conditional Use Permit No. 4874
Grimes Rock, Inc.
3500 Grimes Canyon Road, Fillmore

Dear Mr. Ellison,

Thank you for sending the City a copy of the Draft EIR for the proposed expansion of the Grimes Rock mining operation. The City of Moorpark recognizes the importance of the proper management of the County's aggregate resources to provide for present and future County needs. However, as has been clearly stated in past correspondence, expansion of any of the mining operations along State Route 23 north of Moorpark, that either increases the number of sand and gravel trucks in our downtown area or increases the hours in which the trucking occurs, is strongly opposed by the City. These trucks already significantly impact downtown area land uses, and any expansion would be in opposition to the City's efforts to improve the livability of this area and redevelop its downtown core into a vibrant commercial destination, consistent with the General Plan and Downtown Specific Plan. The Draft EIR prepared for the expansion of Grimes Rock's mining operation does not adequately address the full extent of the project impacts. Based on the comments below related to the significance of impacts and the feasibility of mitigation measures, this document should be revised and recirculated for public comment prior to its use as a decision-making tool on this expansion proposal.

1. **Project History and Existing Operations (Section 2.2)** – One item in the document that can be clarified is the discussion of mining activity in different terms (i.e. tons per year, tons per day, trucks per day, cubic yards) that are not easily comparable. A table that shows the conversion of this information into comparable terms would be useful and provide more clarity. The EIR also refers to truck trip limits in terms of one-way trips per day. Clarification should be provided on whether each truckload is considered one or two trips, and whether the trucks importing gravel to the site are counted as part of the permitted truck trips. This section should also provide more detail on the market for the material. Proper analysis and understanding of the permit request depends on knowing in approximate terms how **46-1**

much material is provided to the Simi Production Consumption Region, how much is provided to the Western (Ventura County) Production Consumption Region, and how much is provided to western Los Angeles County. If the four existing sand and gravel mines are now meeting the aggregate demand for Ventura County, where will the additional material go if the expansion is permitted? Also, this section does not state whether or not the Grimes Rock site is importing gravel to produce aggregate, as is occurring at the Wayne J. Sand and Gravel operation according to that EIR, or if sufficient gravel existing at this location to preclude the future need to import gravel if the expansion is approved. If gravel is currently being imported or will need to be imported if the project is approved, the EIR should document the source of that gravel and assess the impacts of the importation. This information is important in the understanding of the impacts and comparison of the alternatives. Finally, this section states the existing CUP currently limits the mine to deliver "nearly all" its product to the State Ready Mix batch plant in Saticoy. This term, while perhaps quoting a project condition, is vague. "Nearly all" needs to be more clearly defined to understand the baseline and the consequences of the applicant's requested modification to allow hauling via any route to any customer location, and eliminate any volume or timing restrictions on trucks going south. **46-1**

2. **Relationship of Existing and Proposed Permits to CEQA Analysis (Section 2.3.1)** – The Draft EIR cites a previous court case (*Fairview Neighbors v. County of Ventura – 70 Cal.App.4th 238*) and establishes a baseline for analysis as that which is permitted under the current Conditional Use Permit. If all the permitted activities are part of the baseline, whether or not these activities are currently taking place, then the current restrictions on the activities should also be part of the baseline. It should be noted that the current Conditional Use Permit expires in the year 2013. Therefore, the baseline for impact analysis after 2013 should be with no mining activities taking place on the project site. For cumulative analysis, the baseline should also take into account that the Best Rock Conditional Use Permit expired in 2000 and the Wayne J. Conditional Use Permit will expire in 2012. **46-2**

   It should be further noted that the current permit prohibits truck traffic from Best Rock and Grimes Rock from using Walnut Canyon Road. However the cumulative analysis in the EIR is based only on the additional trucks under the expansion of these mining operations, and does not count the impact of the existing trucks that would be legally permitted to use Walnut Canyon Road if these CUP modifications are approved. This results in an understating of transportation, air quality, noise, and land use impacts in Moorpark.

3. **Project Objectives (Section 2.9)** – The Draft EIR has seven bullet-pointed project objectives (Pages 1-8 and 2-16). These stated objectives are inadequate since none call for compliance with the County's General Plan or Zoning Ordinance, fundamental requirements for issuance of a Conditional Use Permit (CUP) or, in this case, modification to an existing CUP. Without General Plan and Zoning Ordinance **46-3**

compliance as a project objective, there is no assurance that any of the alternatives (including the proposed project) are feasible.
The County's General Plan discusses the importance of extraction areas being close to areas of use and demand. Among the stated goals of the County's General Plan are to identify and manage mineral resources in order to:

- Safeguard future access to the resource.
- Facilitate a long-term supply of mineral resources within the County.
- Minimize incompatibility between the extraction and production of the resource and neighboring land uses and the environment.

As stated in the Draft EIR, the project is located in the Open Space -160 Acre Minimum with a Mineral Resources Protection Overlay (O-S-160/MRP) Zone. Among the stated purposes of the MRP Overlay Zone are:

- to safeguard future access to an important resource.
- to facilitate a long term supply of mineral resources within the County.
- to minimize land use conflicts.

46-3

The feasibility analysis of the alternatives in the Draft EIR is based partly on the ability to achieve the identified project objectives. The project objectives would also be used in Findings and a Statement of Overriding Considerations if the project is approved with unmitigated impacts (as is proposed). The importance of including General Plan and Zoning Ordinance compliance as project objectives for consideration of a Conditional Use Permit Modification application cannot be understated. Neither the project, nor any of the alternatives should be approved if they cannot meet such basic project objectives. Further comments on project and alternative analysis related to this issue are provided under the respective chapter or section comments.

Of minor note, the correct spelling is "public" in the first project objective.

4. **Mining Needs and Local Context (Section 2.9.1)** – Currently, at least three of the four sand and gravel mines along State Route 23 north of Moorpark are providing aggregate material to western Los Angeles County, as well as both the Simi Production Consumption Region and the Western Production Consumption Region in Ventura County. The Draft EIR does not, but should identify the current and future aggregate demand in each of the two production consumption regions of Ventura County, as well as the demand from Los Angeles County, and how much of this demand is being met by each of the four Grimes Canyon quarries. Without this information, the Draft EIR does not properly analyze whether or not the expansion of any of the existing mining permits is needed to comply with the goals of both the General Plan and Zoning Ordinance to facilitate a long term supply of mineral resources within the County. In addition, identification of the demand is crucial in

46-4

understanding the project impacts in the comparison of alternatives and in the mitigation of truck impacts through trip limits. 46-4

5. **Related Projects (Chapter 3.0)** – With respect to the related projects list, Moorpark: Residential Project No. 3 has about 200 units already completed and occupied. Residential Project No. 4 is 284 units, not 247 as stated; Residential Project Nos. 5, 10, 12 and 13 have all been complete for well over a year and should be deleted; Residential and Commercial Project No. 16 (10 on Commercial List) was denied in February, 2006 and should be deleted; Residential Project No. 19 is 200 apartment units, not 110 as stated; Commercial Project No. 45 is on the north side of Campus Park Drive; Commercial Project Nos. 46 and 47 are complete and should be deleted; two shopping centers on the south side of Los Angeles Avenue between Moorpark Avenue and Park Lane, totaling about 100,000 square feet, should be listed; a 25,522 square-foot office building, south of Los Angeles Avenue and west of Leta Yancy Road should be listed; a 15,505 square-foot office building on Park Lane should replace the description for site 48; a 76,000 square-foot medical office building on the north side of Los Angeles Avenue between Leta Yancy Road and Shasta Avenue should be added; Industrial Project No. 69 is complete and should be deleted; Industrial Project No. 70 is south of the railroad tracks. 46-5

6. **Traffic/Circulation (Section 4.1 and Appendix B)** – The City retained Austin Foust Associates, inc. to review the *Traffic Study for the Grimes Canyon Quarries in the County of Ventura*, Appendix B of the Draft EIR, prepared by Katz, Okitsu, & Associates to analyze the individual and cumulative traffic impacts of the three sand and gravel mine expansion proposals being reviewed concurrently. Their comments are incorporated as City comments on the Draft EIR as follows and apply to Section 4.1 as well as Appendix B:

   - The existing and short-range (2006) conditions are based on peak hour count data that is at least two years old and may be as old as four years or more (i.e., some data was obtained from the previous report prepared by Associated Transportation Engineers (ATE) in October 2002). In addition to being out of date, there is a discrepancy between existing peak hour intersection levels of service (LOS) in recent City reports (e.g., "Essex Apartments Traffic Analysis' dated April 2005, "Traffic Impact Study for 110-Unit Residential Development Casey Road" dated June 2006, etc.) and the existing LOS reported in the Grimes Canyon Quarries traffic study (e.g., High Street at Moorpark Avenue is operating at LOS "C" in recent City reports and LOS "A" in the Grimes Canyon Quarries study and Spring Street at Los Angeles Avenue is operating at LOS "D" in recent City reports and LOS "B" in the Grimes Canyon Quarries study). These differences may be due to different count years or different lane assumptions, but the result is that the Grimes Canyon Quarries traffic study does not adequately identify the impacts from the proposed expansion on these intersections since they would be operating at 46-6

unacceptable levels of service with the proposed project. The intersection volume counts in the City of Moorpark need to be updated for a realistic depiction of current conditions and for projected short-range conditions. **46-6**

- The Grimes Canyon Quarries traffic study concludes that the proposed project has a significant impact at the intersection of Walnut Canyon Road and Casey Road and identifies planned signal modifications as mitigation for this impact; however, the City last summer completed the addition of a protected left-turn phase from northbound Walnut Canyon Road to westbound Casey Road at this location. A simultaneous right-turn arrow from eastbound Casey Road to southbound Walnut Canyon Road has not been installed. The project should determine project impacts under current conditions and identify additional mitigation measures if needed at this or any other locations in the City of Moorpark at which updated peak hour counts reveal additional significant impacts. **46-7**
- The Grimes Canyon Quarries traffic study recognizes the City of Moorpark's opposition to the use of Walnut Canyon Road/Moorpark Avenue as a haul route for trucks, and offers the use of Grimes Canyon Road south of Broadway as an alternative route to mitigate the inconsistency with the City of Moorpark General Plan. All quarry truck traffic, including existing trucks, would be prohibited from using Walnut Canyon Road/Moorpark Avenue. The removal of truck traffic from Walnut Canyon Road/Moorpark Avenue is seen as a positive impact; however, the increase of project trucks on South Grimes Canyon Road is considered an unacceptable impact to the City's residents along Grimes Canyon Road south of Broadway and on Los Angeles Avenue (SR-118) west of Moorpark Avenue. **46-8**
- Projected buildout volumes were obtained from the County's traffic model. These volumes differ from buildout volumes produced by the Moorpark Traffic Analysis Model (MTAM). In this case, the county model produces a worse level of service at study intersections than the MTAM volumes. These discrepancies may be attributable to two major circulation improvements assumed in the MTAM that are not assumed in the County's model (i.e., construction of North Hills Parkway and extension of Spring Road to Walnut Canyon Road, the latter now under construction). Although the buildout volume projections differ, the proposed project is not expected to produce any long-term negative impacts that would not be addressed under short-range conditions. **46-9**

The preceding comments summarize our concerns regarding the overall methodology and conclusions of the traffic study. The following comments refer to specific items throughout the report.

- Page 13: The traffic study discusses the use of the City of Moorpark's peak hour operating standard for determining significant impacts (i.e., project causes .02 or more increase in the intersection capacity utilization (ICU) value at intersections which reach LOS "D"); however, the ICU analysis does not use the City of Moorpark's saturation flow rate assumptions (1,600 vehicles per hour (vph) per through lane and 1,500 vph per left- or right-turn lane). In addition, the traffic analysis does not apply a passenger car equivalent (PCE) adjustment to the background volumes for non-project-related existing heavy truck traffic on the roadways. Given the higher than average amount of existing heavy truck traffic on Walnut Canyon Road/Moorpark Avenue and on Los Angeles Avenue (SR-118), the use of 1,800 vph per lane in the traffic analysis for all movements is too high. The ICU values at locations within the City of Moorpark should be calculated assuming the City's saturation flow rates. **46-10**
- Figure 2: To what does "TDS Counts 10/15" in the legend of Figure 2, Figures16-22, Figures 28-31, and Figures 35-36 refer? **46-11**
- Page 21, Table 6: The existing ICU values in Table 6 do not match the ICU values in the calculation worksheets in Appendix B. In addition, the calculation worksheets for the intersection of Walnut Canyon Road at Casey Road are missing from Appendix B. **46-12**
- Page 34, Table 10: The Scenario 2 (year 2008 with existing permit levels of project traffic) AM peak hour ICU value for the intersection of Moorpark Avenue at Los Angeles Avenue (SR-118) in Table 10 (.526 LOS "A") does not match the ICU value in the calculation worksheet in Appendix C (1.376 LOS "F"). **46-13**
- Page 45, Table 14: The Scenario 5 (year 2025 with existing permit levels of project traffic) AM peak hour ICU values in Table 14 do not match the ICU values in the calculation worksheets in Appendix E for the intersections of Moorpark Avenue at Poindexter Avenue (.519 LOS "A" in Table 14 and .514 LOS "A" in Appendix E) and Moorpark Avenue at Los Angeles Avenue (SR-118) (.679 LOS "B" in Table 14 and .989 LOS "E" in Appendix E). **46-14**
- Page 49: The traffic analysis states that the counts of existing truck traffic were approximately 50 percent lower than expected based upon the existing volume of material and the expected number of trucks for each site. How was the expected number of trucks determined? What is amount of material per truck assumed for the analysis? Also, please provide additional details about how the truck traffic activity was normalized. **46-15**
- Page 50, Table 16: The Rate per Million Tons for both Cars and Trucks are incorrect for Grimes Rock and Best Rock (e.g., 4 cars/.952 million tons **46-16**

= 4.20 cars/million tons not 4.00 cars/million tons). As a result of these errors, the Average Car Rate and Average Truck Rate are incorrect. Are the Average Car Rate and Average Truck Rate used to determine the requested amount of project traffic? **46-16**

- Page 50, Table 16: There is no footnote to explain the presence of an asterisk next to the Average Car Rate and Average Truck Rate. **46-17**
- Page 51: The text in the first paragraph refers to "requested" daily average trips but the discussion in this section is about the existing permitted trips. **46-18**
- Page 51, Table 17: It would be helpful if the order of project sites in Tables 16, 18, 19, 21, 22, 22A, 22B, and 22C matched the order of sites in Tables 17, 20, and 20A to ease comparisons. **46-19**
- Page 51, Table 17: Please provide more details on how the permitted peak hour trips in Table 17 were arrived at. The Best Rock trips are supposed to be based on the existing counts because there is no CUP trip restriction, but the volumes in the table do no correspond with the existing truck counts contained in Appendix A. **46-20**
- Page 52: The last paragraph again refers to "requested" levels of traffic. although this section is about the existing permitted traffic. **46-21**
- Page 53, Table 18: The car trip volumes have no relation to the existing counts or the calculated average rate per million tons from Table 16. How was the permitted amount of car trips determined? **46-22**
- Page 53, Table 18: Do the permitted traffic generation truck volumes in Table 18 include trucks delivering imported materials to the Wayne J site? The Notice of Preparation states that the Wayne J site currently averages 50 to 100 tons of imported materials per day. **46-23**
- Page 55, Table 20: How was the Requested Traffic Generation for each site determined? The requested truck trips do not appear to be factored up from existing counts or permitted trips, or calculated based on the average truck rate per million tons presented in Table 16. **46-24**
- Page 55, Table 20A and Appendix A: The existing counts of truck traffic at the project entrances (Appendix A) indicate that the current distribution of gravel trucks is 50 percent north of the site and 50 percent south of the site for Best Rock during the AM peak hour, 61 percent north of the site and 39 percent south of the site for Grimes Rock during the AM peak hour, and 44 percent north of the site and 56 percent south of the site for Wayne J during the AM peak hour. These distribution patterns are occurring now while the route restrictions along Walnut Canyon Road/Moorpark Avenue are supposedly in place. The project sites are requesting the removal of the route restrictions along Walnut Canyon **46-25**

Road/Moorpark Avenue as part of the proposed expansion, and yet the traffic analysis assumes that the distribution of truck traffic from Best Rock and Grimes Rock to the north will increase to 70 percent. Why is the percentage of truck traffic to the north from Best Rock and Grimes Rock expected to increase during the AM peak hour? If the route restrictions are removed as requested, won't the amount of truck traffic to the south increase? **46-25**

- Page 60: Discussion of the trip distribution in paragraph 6 refers to distribution for the two northern projects shown in Figure 16a and two southern projects shown in Figure 16b, for a total of four project sites. Discussions on pages 76, 81, 84, and 87 also refer to four project sites. Are there three or four sites as part of the proposed project? **46-26**
- Figure 16a: The legend or title should indicate which project sites are considered "Northern Projects" since there is no other reference to the northern projects in the report. **46-27**
- Figure 16b: The legend or title should indicate which project sites are considered "Southern Projects" since there is no other reference to the southern projects in the report. **46-28**
- Figure 20: The volumes in and out of the Grimes Rock site do not add up to the AM peak hour trip generation in Table 22. The through volumes at the Grimes Rock entrance and the Wayne's Way intersection do not add up to the volumes at the adjacent intersections. **46-29**
- Figure 22: The through volumes at the Wayne's Way intersection do not add up to the volumes at the adjacent intersections. **46-30**
- Page 71, Table 23: The ICU values for Moorpark Avenue at Los Angeles Avenue (SR-118) in Table 23 (.582 LOS "A" AM, .679 LOS "B" PM) do not match the ICU values in the calculation sheets in Appendix C (1.412 LOS "F" AM, .989 LOS "E" PM). **46-31**
- Page 77, Table 25: The AM peak hour ICU value for Moorpark Avenue at Los Angeles Avenue (SR-118) in Table 25 (.679 LOS "B") does not match the ICU value in the calculation worksheet in Appendix E (.989 LOS "E"). **46-32**
- Page 83, Table 28: The existing 2004 ICU values do not match the ICU values in the calculation worksheets in Appendix B. The Scenario 3 (year 2006 with proposed permits) ICU values for Moorpark Avenue at Los Angeles Avenue (SR-118) in Table 28 (.582 LOS "A" AM, .680 LOS "B" PM) do not match the ICU values from the worksheets in Appendix C (1.412 LOS "F" AM, .989 LOS "E" PM). The project has a significant impact at the intersection of Moorpark Avenue and Los Angeles Avenue (SR-118) based on the ICU values in Appendix C. **46-33**

- Page 85: The text should include a discussion of the projects' significant impact on the intersection of Moorpark Avenue and Los Angeles Avenue (SR-118) based on the ICU values in Appendix C. **46-34**
- Page 89, Table 31: The AM peak hour ICU value for Moorpark Avenue at Los Angeles Avenue (SR-118) in Table 31 (.679 LOS "B") does not match the ICU value in the worksheet in Appendix E (.989 LOS "E"); however, the project has no significant impact on this intersection under buildout conditions. **46-35**
- Page 91: The City of Moorpark has completed the signal modification referred to in the discussion of Walnut Canyon Road and Casey Road mitigation. Project impacts with the current signal operation should be identified. There is no discussion of the significant project impact at Moorpark Avenue and Los Angeles Avenue (SR-118) identified in Table 31. **46-36**
- Page 92: There is no discussion as to why only the Wayne J site has an impact at Moorpark Avenue and Los Angeles Avenue (SR-118) under 2025 conditions. **46-37**
- Page 94: The intersection of Moorpark Avenue and Los Angeles Avenue (SR-118) needs to be included in the list of year 2006 impacted locations based on the ICU values in Appendix C. **46-38**
- Page 96: Discussion of project impacts on the intersection of Moorpark Avenue and Los Angeles Avenue (SR-118) under buildout conditions based on ICU values in Appendix E and subsequent mitigation measures need to be included in the text. **46-39**
- Page 97, Table 34: Table 34 should include the intersection of Moorpark Avenue and Los Angeles Avenue (SR-118) in the evaluation of mitigation for year 2006 conditions based on the ICU values in Appendix C. **46-40**
- Page 97, Table 34: The ICU values in Table 34 are not included in the ICU calculations worksheets in the Appendix. **46-41**
- Page 98: Walnut Canyon Road/Moorpark Avenue is not a truck route on the City of Moorpark General Plan. As stated in the text, the City of Moorpark objects to the use of Walnut Canyon Road/Moorpark Avenue by heavy trucks. However, the offer to redistribute the project trucks to Grimes Canyon Road south of Broadway will simply transfer the impacts of increased truck traffic to the residents along South Grimes Canyon Road and along Los Angeles Avenue (SR-118) west of Moorpark Avenue. **46-42**
- Page 98: If the gravel trucks are to use Grimes Canyon Road south of Broadway as a mitigation measure, then the project impacts at Moorpark Avenue and Los Angeles Avenue (SR-118) as a result of the redistribution of truck traffic still needs to be addressed. **46-43**

- Page 109: The discussion of Buildout Year (2025) mitigation needs to show that the City's signal modification improvements at Walnut Canyon Road and Casey Road result in an acceptable LOS, and that the project has no significant impact at this location. **46-44**
- Figure 35 and Figure 36: The peak hour figures do not show the correct number of project trips traveling on Los Angeles Avenue (SR-118) east of Grimes Canyon Road. **46-45**
- Page 117: The enforcement of route restrictions must be actively pursued and meaningful penalties must be imposed. **46-46**
- Page 127: The mitigation costs will need to be recalculated after updated traffic counts are obtained and corrected lane assumptions and signal operations are taken into consideration, which may result in additional project impacts. **46-47**
- Page 133: The project impacts identified in the report are based on trips requested by the project applicants. What assurances does the City have that these levels of peak hour traffic will not be exceeded? **46-48**

Other comments are as follows:

Page 4.1-53: Impacts on Pavement. Moorpark Avenue has been severely damaged by the extensive volume of heavy trucks, the vast majority of which are sand and gravel trucks. A doubling of the truck volumes, as proposed collectively by Wayne J, Grimes Rock, and Best Rock, is more that a slight variation in truck usage, as noted in the Draft EIR. Deep depressions in the asphalt can now be seen on Moorpark Avenue where the sand and gravel trucks travel on a daily basis. These depressions were not caused by passenger vehicles. What can Moorpark expect with an even greater number of trucks? Mitigation is needed to repair this damage that is a direct result of the quarry operations. **46-49**

Page 4.1-62: Mitigation Measure T 1-2. A protected left-turn phase has been provided from northbound Walnut Canyon Road to westbound Casey Road in the summer of 2005, however, a simultaneous right-turn arrow from eastbound Casey Road to southbound Walnut Canyon Road has not been installed. **46-50**

Page 4.1-64: Mitigation Measure T-1-5. As evidenced from previous attempts to prevent Best Rock and Grimes Rock sand and gravel trucks from using Walnut Canyon Road/Moorpark Avenue, measures that attempt to prohibit trucks on roads where trucks are normally permitted are unenforceable without full-time code enforcement efforts. **46-51**

Page 4.1-67: Mitigation Measure T 3-4. The City of Moorpark has a reciprocal Traffic Impact Mitigation Fee agreement with the County, therefore this mitigation is not infeasible as stated. **46-52**

Page 4.1-69: Mitigation Measure T 6-1. Repair to the Moorpark Avenue roadway damage caused by heavy trucks should be included in the mitigation, since sand and gravel trucks account for the vast majority of trucks, and weighing ten times or more the weight of passenger cars, account for the majority of the pavement damage. **46-53**

7. **Noise (Section 4.3)** – The noise impact is understated for residential areas already experiencing severe traffic noise. The threshold of significance used in the noise analysis for Moorpark is a 3 dB CNEL or greater increase for sensitive noise environments experiencing noise greater than 65 dB CNEL. Though a similar threshold is often used in environmental assessments, this is not an appropriate threshold in areas experiencing substantial noise such as the residences along Walnut Canyon Road/Moorpark Avenue and Los Angeles Avenue. Because decibels are measured on a logarithmic scale, a 3 decibel increase in noise at 75 dB CNEL (approximate exterior noise levels measure on Walnut Canyon Road/Moorpark Avenue and Los Angeles Avenue) represents a substantially greater amount of sound energy that a 3 decibel increase at 60 dB CNEL. Therefore, under the proposed threshold, the louder (and more incompatible for sensitive uses) the existing noise environment, the more additional noise is allowed before considered significant. Such a threshold becomes illogical in extremely loud environments such as those experienced on Walnut Canyon Road/ Moorpark Avenue and Los Angeles Avenue. **46-54**

Other comments are as follows:

Page 4.3-13: Table 4.3-6. Under Los Angeles Avenue, "W of Walnut Cyn" and "E of Walnut Cyn" should be changed to "W of Moorpark Ave" and "E of Moorpark Ave" as Walnut Canyon Road changes names to Moorpark Avenue at Everett Street. **46-55**

Page 4.3-17: Mitigation Measure N 3-3. This mitigation measure places the burden on the City to adopt a noise mitigation program for impacts caused directly by quarry activities. Contrary to what is stated in the Draft EIR, there is no need for the City to have a noise mitigation program for this mitigation to be feasible. Such a program should be run by the County as a permitting agency for the quarry operations and should be in place prior to allow additional mining activities to take place. **46-56**

8. **Land Use and Planning (Section 4.4)** – The City concurs with the conclusion of the analysis in the Draft EIR that this project would have a significant and immitigable community character impact in Moorpark.

Other comments are as follows: **46-57**

Page 4.4-3: Figure 4.4-1. Industrial uses should have a different color than mining uses on this exhibit; residential land use has filled in the west side of Walnut Canyon Road to just north of Championship Drive; the area north of Los Angeles Avenue and east of Science Drive is industrial, not commercial; the west half of the area

north of Los Angeles Avenue between Spring Road and the Arroyo Simi is commercial, not residential.

Page 4.4-4: Project Site General Plan Land Use Designation and Zoning. For clarity, the goals and policies of the General Plan related to mineral resources and the purpose of the MRP Zone should be listed verbatim here. This is particularly important since one of the thresholds of significance in the land use analysis is the consistency of the project with the General Plan goals and policies. The paraphrasing in this document has left out words that may be critical to understanding the proposed project. For example, the description of the MRP land use designation (more accurately "overlay zone") in the second paragraph alludes to the purpose of the zone as to, "ensure access to and supply of mineral resources." The Zoning Ordinance text includes as a stated purpose, "to facilitate a long-term supply of mineral resources within the County." The General Plan includes as a goal to, "minimize incompatibility between the extraction and production of the resource and neighboring land uses and the environment," yet this goal is not even stated in this section. **46-57**

9. **Alternatives (Chapter 5.0)** – The Draft EIR examines and rejects a number of alternatives. Nonetheless, the analysis does not provide for a reasonable range of alternatives as required by §15126.6 of the CEQA Guidelines. Many of the immitigable impacts of this project are site specific, and at least two of the project objectives could be achieved at different locations. One alternative in particular missing from the analysis is an alternative site for the extraction of aggregate resources, described in the paragraph below. This alternative would contribute substantially to the ability to make an informed decision on the project proposal and identifying ways that environmental damage can be avoided or significantly reduced, two basic purposes of CEQA.

   Alternative Site(s) for the Extraction of Aggregate Resources – As noted in the Draft EIR, the four sand and gravel mines along Grimes Canyon Road are currently providing for the aggregate demand for all of Ventura County, due to the end of extraction activities in the Santa Clara River (Page 2-17). Grimes Rock, in particular, provides "nearly all" its material to a batch plant in the Western (Ventura County) Production Consumption Region. In addition, though not stated in the Draft EIR, aggregate resources are also currently being exported to Los Angeles County from these sand and gravel mines. The Draft EIR does not evaluate alternative sites to provide aggregate to the Western (Ventura County) Production Consumption Region or western Los Angeles County. Appropriate sites closer to their markets could better meet the stated project objectives, "to continue to make available to the public and construction industry adequate supplies of aggregate, concrete and asphalt products at a reasonable price," and "to provide a local source of aggregate products, which would reduce regional air quality impacts of truck traffic caused by the long-distance importation." Alternative sites could also better achieve General **46-58**

Plan and Zoning objectives, which should have been included as project objectives (see comment no. 3). 46-58

Other comments are as follows:

Grimes Canyon Road South: The improvement of Grimes Canyon Road South to accommodate sand and gravel trucks would only shift the trucking impacts from residents and businesses along Walnut Canyon Road/Moorpark Avenue to residents and businesses along Grimes Canyon Road South and Los Angeles Avenue. Therefore, since this alternative doesn't reduce impacts, it is not acceptable. 46-59

SR-23 Bypass: The Draft EIR fails to discuss how this alternative might be implemented, thereby precluding any meaningful evaluation of this alternative. 46-60

The City looks forward for a response to these comments and would appreciate notification of any upcoming public hearings or meetings on this project. Please let me know if you have any questions.

Sincerely,

Barry K. Hogan
Community Development Director

C: Honorable City Council
Honorable City of Moorpark Planning Commission
Honorable Ventura County Board of Supervisors
Honorable Ventura County Planning Commission
Supervisorial Candidate Jim Dantona
Supervisorial Candidate Peter Foy
Steven Kueny, City Manager
Joseph M. Montes, City Attorney
Chron
File

Response to Commenter No. 46: Barry Hogan, City of Moorpark, August 4, 2006

46-1 The EIR discusses the existing and proposed mining activity using a few descriptors that are the basis for different permit limits and/or environmental impacts. For example, the Conditional Use Permit (CUP) limits plant throughput based on tons per year yet some air quality impact thresholds are based on daily emissions and therefore tons per day becomes a relevant descriptor for this analysis. The number of trucks traveling to and from the site is another important aspect of the requested CUP modifications. This truck limit is expressed in terms on one-way trips per day. This limit is not based on conversion of the annual throughput to truckloads. The applicant did not indicate a correlation between the two.

Each truckload generates two one-way trips (one inbound and one outbound). Whether trucks are delivering materials to the project site or exporting materials from the project site, they are counted toward the permitted truck trip limits, which are based on one-way trips. A clarification to this effect was made to Section 2.2 in the FEIR.

In looking at the Grimes Canyon region, the region tends to contain a high ratio of sand relative to gravel, which means there is the potential that gravel would be imported from more gravel-rich mines in Los Angeles County locations, such as Solidad Canyon, and sand would be exported from the site to the mines or plants in Los Angeles County so that proper mixes can be made with the required combinations of sand and gravel for each locale. In that sense, the proposed project could be helping to serve the Los Angeles County area and vice versa. More detail on this issue is provided in FEIR Chapter 5.0 Alternatives.

While State Ready Mix in Saticoy is the primary customer of CUP 4784, the percentage of product going to that site changes day to day. The County has no specific definition of what the term "nearly all" means in CUP Condition 1 in relationship to the products of the project being sent to the State Ready Mix. Therefore the EIR cannot be more specific.

See Response 46-4 regarding issues related to projections of market demands within various production-consumption regions.

46-2 Under CEQA the "existing environment" for the project is a combination of: (1) the physical activities associated with the project; and, (2) any permit limits that existed at the time of the Notice of Preparation (NOP). Where there is conflict between what the project is actually doing and the permit conditions (i.e. the project is violating the terms of the permit) CEQA requires that the larger project be considered the "existing environment". Therefore even if the physical activities violate the permit conditions, under CEQA they are still part of the "existing environment".

Once an EIR establishes an "existing environment" as it existed at the time of the NOP, this "existing environment" is assumed not to change. The "existing environment" is considered to continue into the future, even beyond the expiration date of the existing permit. Under CEQA, for purposes of analysis, the mine is assumed to continue operating up to the 2025 time horizon of the EIR, even though the permit actually expires earlier.

Per CUP 4874 Condition 87, this comment is correct that Grimes Rock is prohibited from using Walnut Canyon Road. However, at the time of the NOP the project was routinely violating that prohibition, therefore under CEQA that the project traffic is part of the "existing environment". A formal Notice of Violation (NOV) was later issued because of this violation. However enforcement of the NOV was suspended in that the only alternative route, Grimes Canyon Road south of Broadway, was closed to heavy trucks for a few years due to ongoing flood repairs. However, the route was reopened to trucks in late 2008.

46-3 As per CEQA Guidelines Section 15124(b), the objectives stated in the project description are those sought by the proposed project; in this case the applicants for the proposed projects are the mining operators. Typically project objectives do not include consistency with Zoning and General Plan requirements. These are two of a large number of local, State and Federal laws, rules and regulations that any project is potentially subject to. There is no basis to single out these two legal requirements and not list other equally important regulations. A project objective may or may not be met, but Zoning and General Plan consistency are mandatory. Including Zoning and General plan consistency as project objectives would tend to blur the difference between mandatory legal requirements and desirable end states (i.e. the objectives as currently listed).

In regard to consistency with the Mineral Resources Protection Overlay Zone (MRP) additional text has been added to the FEIR to discuss this Zone in more detail.

46-4 A detailed discussion of aggregate supply and demand has been added to the FEIR in Chapter 5 Alternatives. Aggregate supply and demand issues have also been taken into consideration in the policy consistency analysis provided in Section 4.4 Land Use and Planning in the FEIR.

46-5 The related projects list and map in the FEIR has been updated according to this comment (see Chapter 3.0). New counts have been done and the necessary updates have been made in the FEIR Traffic Study for counts originally taken prior to the Notice of Preparation.

46-6 The Traffic Study was revised as requested.

46-7 The Traffic Study was revised as requested.

46-8 The FEIR analysis is generally consistent with this comment. Section 4.4.3 Impact LU-6 concludes that use of Walnut Canyon Road by project related traffic would result in a significant impact on the community character along that road. Section 5.6.4 makes the same finding if traffic is diverted to Grimes Canyon Road south of Broadway. Also, in both cases, these impacts are considered significant and unavoidable (Class I) impacts if they are allowed to occur. The term "unacceptable" is not used in CEQA. However the determination of what is "unacceptable" will be made by Ventura County when the decision-makers evaluate whether these and other Class I impacts are "unacceptable" or "acceptable" given the benefits derived from the project.

46-9 The County model is the only one that covered this area in adequate detail. The use of a different model is not expected to reveal any traffic impacts that would not be identified by the model used for analysis.

46-10 The necessary changes have been made to reflect City of Moorpark saturation flow rates within City boundaries; however it should be noted that the values stipulated by the City are lower than typical measurements of saturation flow rate and generally will produce level of service results that are lower than observed conditions,. Typically background truck traffic is presumed and built into intersection capacity assumptions for lane capacities. This is especially true in Moorpark, where saturation rates stipulated for use are extremely low compared to measured values.

46-11 TDS is a traffic count company from Santa Ana that provided the counts. October 15, 2006 was the date of the counts.

46-12 The FEIR Traffic Study was revised to reflect proper values, as updated by replacement traffic counts. The missing page was also added to the Study.

46-13 The FEIR Traffic Study was revised to reflect proper values, as updated by replacement traffic counts.

46-14 The report revised to reflect proper values, as updated by replacement traffic counts.

46-15 Differences between observed levels during data collection and permit allowed levels were fully explained in the Trip Generation Section of the Traffic Study. Observed levels were much lower than permit levels would expect. The traffic generation is based upon permitted or requested levels, not existing activity levels.

46-16 The Traffic Study was revised as noted. However, trip generation is based upon permitted or requested rates, not observed activity levels.

46-17 The asterisk means that the average was taken from all three sites; this has been included in the FEIR Traffic Study.

46-18 Requested daily traffic trips are discussed because it was used to obtain the additional volume of site traffic needed to account for the existing permit levels, because the measured activity was much lower than the permitted activity.

46-19 The Traffic Study was revised as requested.

46-20 The permitted trips are based on what the mines are currently allowed under the existing CUPs. The mines are not all currently at the maximum allowed under their existing CUPs, so the permitted trips are not the same as the existing trips (described on pgs 50-51 of the Traffic Study). Appendix B and the EIR are based on data supplied by the applicant regarding average traffic volumes. The actual traffic counts are a single snapshot in time complied over a few days. The average volumes are not likely to match a very short term snapshot. The more accurate average provided by the applicant was considered most appropriate to use.

46-21 Requested daily traffic trips are discussed because it was used to obtain the additional volume of site traffic needed to account for the existing permit levels, because the measured activity was much lower than the permitted activity.

46-22 The volume attributed to cars is based upon the existing automobile trip generation rates that were measured for the sites and the amount of the permit request.

46-23 Yes, the permitted traffic generation includes truck deliveries.

46-24 The traffic generation was determined using the same methodology that was used for the existing permitted trip generation shown on DEIR Traffic Study pg 50 last paragraph.

46-25 The project distributions were derived in conjunction with the mines and County staff and are expected to accurately reflect project conditions. The overall distribution is believed to be correct. The northern legs are only shown at 70 percent to the north for two of the four projects in question, with 30 percent to the north for the other two mines. The distributions assume that trucks will avoid the steep grades of Grimes Canyon Road if this does not result in misdirected travel.

46-26 There are 3 project sites -- Grimes Rock, Best Rock, and Wayne J; CEMEX is not currently proposing to amend their CUP, and is not a subject of this study but its contribution to truck traffic is considered in a cumulative context.

46-27 The Traffic Study figure has been revised as requested.

46-28 The Traffic Study figure has been revised as requested.

46-29 Table 20 only includes the traffic generation for truck trips and does not include PCE's. Table 22 includes the cars, trucks and PCE's, which reflects Table 20 and 21 combined including the PCE numbers.

46-30 This has been corrected in the FEIR Traffic Study.

46-31 This has been corrected in the FEIR Traffic Study.

46-32 This has been corrected in the FEIR Traffic Study.

46-33 This has been corrected in the FEIR Traffic Study.

46-34 The requested text discussion has been added to the FEIR Traffic Study.

46-35 This has been corrected in the FEIR Traffic Study.

46-36 The Traffic Study has been revised as requested.

46-37 The requested text discussion has been added to the FEIR Traffic Study.

46-38 The Traffic Study has been revised as requested.

46-39 The requested text discussion has been added to the FEIR Traffic Study.

46-40 The Traffic Study has been revised as requested.

46-41 New counts have been taken and the necessary updates have been made as well as the Moorpark saturation rate.

46-42 The Traffic Study and EIR fully disclose the impacts of the proposed project and the alternative route. The County will consider these in deciding whether or not to approve the project or an alternative.

46-43 Impacts at this location and mitigation measures are discussed.

46-44 The Traffic Study has been revised as requested.

46-45 This comment is correct, and the impacts of this diversion to Grimes Canyon south of Broadway is discussed in the FEIR.

46-46 As discussed starting on FEIR Appendix B page 118, the County staff may propose an aggressive permit condition monitoring and penalty program, with a major focus on enforcing traffic conditions. While such a program would require a major policy decision by the Ventura County decision-makers, it would be the type of program requested by this comment.

46-47 The Traffic Study has been revised as requested.

46-48 See response to Comment 46-46.

46-49 The EIR discusses a mitigation measure for pavement impacts, however notes that it may not be feasible to implement. For clarification, the measure has been modified to indicate that it applies to SR-23 between SR-126 and SR-118.

46-50 The Traffic Study was revised as requested to reflect current conditions.

46-51 See response to Comment 46-46.

46-52 The FEIR has been amended to reflect the County/Moorpark reciprocal traffic agreement.

46-53 See Response 46– 49.

46-54 The threshold of significance for Moorpark residents includes both a condition of a change from an acceptable to an excessive exterior noise exposure, as well as an incremental increase that is substantial (+ 3 dB). The commenter correctly notes that the change in acoustic energy is much higher for a 3 dB increase from a 75 dB baseline than from a 60 dB baseline. However, CEQA requires consideration of the change from the baseline. If the change is below the human perception threshold because the baseline is already markedly elevated, it is very noisy now and will be very noisy in the future. However, a listener will not be able to perceive a clear-cut difference. The combination of a clearly perceptible change (+ 3 dB) and the possible increase of the noise impact envelope to encompass sensitive uses not previously impacted represents standard significance thresholds that are in common use in most CEQA analyses.

46-55 Table 4.3-6 has been revised accordingly.

46-56 As shown in Section 4.3 Table 4.3-6, the total increase in traffic from all three mines does not exceed the 3.0 dBA significance threshold at 50 feet from centerline for project-specific noise impacts. As such, no individual project

exceeds the threshold. The same result occurs for cumulative non-mining traffic which also does not exceed the 3.0 dBA threshold.

As shown on Table 4.3-8, in 2006 the three mines result in an additional 34 homes in Moorpark being exposed to the 65 CNEL noise contour which is also a significance threshold (Moorpark rows, 2006 With Project minus 2006 Baseline). In 2025 the mines result in an additional 10 homes being exposed to 65 CNEL (Moorpark rows, 2025 With Projects minus 2025 Baseline). These impacts are identified as significant in the EIR.

However, between 2006 and 2025, the cumulative non-mining traffic results in an additional 74 homes exceeding the 65 CNEL baseline (Moorpark rows, 2025 Baseline minus 2006 Baseline). Since the non-mining traffic impacts occur later than the 2006 mining impacts, and non-mining traffic impacts a larger number of houses, the 74 additional homes impacted by the non-mining traffic in 2025 will include the 34 homes impacted by the mining traffic in 2006. That means that the 34 homes impacted by the mines in 2006 will be impacted in the future with or without the mines – the mines just cause the impacts to occur earlier than they would occur otherwise. However, the 10 additional houses impacted by the mines in 2025 would not be impacted by non-mining traffic within the time horizon considered by the EIR (i.e. to 2025), therefore the noise impacts to these houses can be assigned to the mines.

In summary, cumulative non-mining traffic along the mining access routes is going to subject an additional approximately 74 homes in Moorpark to noise levels which exceed the 65 CNEL city noise threshold. The mines will subject 34 of those homes to noise levels above 65 CNEL earlier than would occur without the mines, but sometime between now and 2025 the homes will be exposed to levels above 65 CNEL with or without the mines. In addition, in 2025 the mines will expose 10 homes to noise levels in excess of 65 dBA that would otherwise not be exposed to those levels.

This comment says it is feasible to mitigate these impacts by the Ventura County developing a noise mitigation program within the City of Moorpark. The great majority of the projected impacts come from non-mining traffic. Mining traffic accelerates exceeding the 65 CNEL noise levels for 34 homes, and is responsible for exceeding the threshold for 10 houses sometime before 2025. Non-mining traffic has a significant impact on 74 homes.

The majority of the noise impacts are from non-mining traffic, and Ventura County does not have land use or building authority within the City of Moorpark. It is not politically or legally feasible for Ventura County to step in and create a noise mitigation program within the corporate limits of the City of Moorpark which could only address a relatively small part of the problem. It is more appropriate

for Moorpark to set up the program and for the County to require appropriate projects in the unincorporated area to contribute to it.

Ventura County has long recognized that traffic noise impacts from many sources are occurring along the mining haul routes in Moorpark. Consequently, mining projects in Grimes Canyon have been conditioned for several years to contribute their "fair share" to an appropriate noise mitigation program which Moorpark may establish. Even the County Los Angeles recognizes the appropriateness of this approach, in that Los Angeles conditioned every project in the 20,000 unit Newhall Ranch project just east of the County line to also contribute to a noise mitigation program if and when Moorpark develops one. The City of Moorpark, Ventura County, and Los Angeles County recognize that impacts are occurring, but the only politically and legally feasible mitigation measure to address this issue is for Moorpark to develop such a program.

46-57 Figure 4.4-1 has been revised accordingly. The verbatim purposes of the MRP overlay zone have been added to Section 4.4.3. See also Response 51-45.

46-58 Alternative local sites were not explicitly considered in the EIR because such sites are limited, and would apparently create similar or greater impacts than those in Grimes Canyon. Additional analysis in FEIR Section 5.1.1 has been added to clarify this issue.

46-59 The restriction of southbound trips to Grimes Canyon South is a physically feasible alternative that was identified through the Charrette process (see FEIR Section 5.1.3) as an option to consider in the EIR, primarily for the purpose of avoiding impacts within downtown Moorpark. The EIR alternatives analysis recognizes that this alternative would shift the project's trucking impacts, primarily noise impacts, from one location to another and concludes that as with the proposed project, this alternative would result in significant unavoidable noise impacts. However, as explained in EIR Sections 5.6.3 and 5.6.4, this alternative would reduce the severity of this impact because it would affect fewer residents. Therefore, this alternative would reduce impacts and is an acceptable and appropriate alternative for consideration in the EIR.

46-60 Section 5.0 of the EIR identifies the SR-23 Bypass as a future route envisioned in the City of Moorpark General Plan to decrease traffic through the downtown Moorpark Avenue. The EIR describes the measures the City has been taking with respect to development along the alignment of this route to allow for and facilitate implementation of this future roadway, as well as exiting obstacles to its completion. The EIR recognizes that this is a long-term plan that will not be implemented at the initiation of the proposed permit expansions. Therefore this is one sub-alternative to the southbound route alternative. The Grimes Canyon

South Alternative is also included as this alternative could feasibly be implemented in the short term until the SR-23 Bypass is completed.

City of Moorpark

COMMUNITY DEVELOPMENT DEPARTMENT: PLANNING – BUILDING AND SAFETY – CODE COMPLIANCE
799 Moorpark Avenue, Moorpark, California 93021 (805) 517-6200 fax (805) 532-2540

August 19, 2009

County of Ventura, Resource Management Agency
Planning Division
800 South Victoria Avenue
Ventura, CA 93009

Attention: Scott Ellison, Senior Planner

RE: Reply to Response to Comments on Final Environmental Impact Reports (EIRs) for

1. **Modification No. 3 to CUP No. 4171, Best Rock Products Corp, [SCH 20060402], Located at 2500 Grimes Canyon Road, Fillmore**
2. **Modification No. 2 to CUP No. 4874, Grimes Rock, Inc., [SCH 20060403], Located at 3500 Grimes Canyon Road, Fillmore**
3. **Modification No. 6 to CUP No. 4571, Wayne J Sand and Gravel, [SCH 20060404], Located at 9455 Buena Vista Street, Moorpark**

Dear Mr. Ellison,

Thank you for sending the City a copy of the response to our comment letters for consideration of the Final EIRs for the proposed expansion of Best Rock's, Grimes Rock's and Wayne J's mining operations. The City of Moorpark recognizes the importance of the proper management of the County's aggregate resources to provide for present and future County needs. However, as has been clearly stated in past correspondence, expansion of any of the mining operations along State Route 23 north of Moorpark, that either increases the number of sand and gravel trucks in our downtown area or increases the hours in which the trucking occurs, is strongly opposed by the City. These trucks already significantly impact downtown area land uses, and any expansion would be in opposition to the City's efforts to improve the livability of this area and redevelop its downtown core into a vibrant commercial destination, consistent with the General Plan and Downtown Specific Plan.

The Final EIRs prepared for the expansion of Best Rock's, Grimes Rock's and Wayne J's mining operations do not adequately address the full extent of the project impacts. Although there may be numerous points of disagreement on the conclusions of the Final EIR, this letter focuses on the dismissing of the SR-23 bypass as a viable alternative, and the dismissing of establishing a fund to build the bypass as mitigation. The following points are offered for consideration by the Environmental Report Review Committee:

1. After review of the responses to our comment letters, and the contents of the proposed Final EIR, the City remains concerned that the Final EIR, without substantial analysis, dismisses the SR-23 bypass as a future project beyond the timeframe of the expansion of the proposed mining operations. The City of Moorpark has had this bypass identified in the General Plan Circulation Element since 1992, has had an alignment study was prepared for this bypass in 2007, and is currently reviewing a proposal to prepare a preliminary engineering design for it. Although, as noted in the Final EIR, the bypass will be an expensive project, the Final EIR provides no evidence that the expense makes

JANICE S. PARVIN, Mayor | MARK VAN DAM, Mayor Pro Tem | ROSEANN MIKOS, Councilmember | KEITH F. MILLHOUSE, Councilmember | DAVID POLLOCK, Councilmember

this alternative infeasible. The bypass involves only three properties. One of these properties, currently under development with the Moorpark Highlands Specific Plan, will have the grading for the SR-23 bypass completed as part of its project improvements, with the land irrevocably offered for dedication. One of the properties is already Caltrans right-of-way, and the third property is currently just north of the City boundary in the unincorporated County. The Final EIRs do not even include this alternative in the discussion of environmentally superior alternatives.

2. Furthermore, the Final EIRs dismiss funding of the SR-23 bypass as required mitigation because a funding mechanism for this improvement does not currently exist. The Final EIRs have not provided any evidence to demonstrate that a funding mechanism is infeasible. Rather, a funding mechanism should be fairly easy to establish by the County as mitigation (i.e. fee per truckload). The proposed expansion of the mining operations should only be considered if the establishment of a funding mechanism is required as mitigation, and no increase in operations above what is currently permitted should take place unless the funding mechanism has been created.

The SR-23 bypass has a reasonable potential to mitigate impacts created by the sand and gravel trucks driving through the City's downtown. However, the Final EIR dismissed this alternative without substantial analysis. Therefore, the proposed Final EIRs are not sufficiently complete to warrant certification at this time. We request the Environmental Report Review Committee to direct that this analysis be completed and that this analysis of the SR-23 bypass be recirculated for public review prior to recommending certification.

As always, we would appreciate notification of any upcoming public hearings or meetings on this project. You may contact me directly or Joseph R. Vacca, Principal Planner at (805) 517-6236 or via email at jvacca@ci.moorpark.ca.us if you have any questions.

Sincerely,

David A. Bobardt
Planning Director

C: Honorable City Council
Honorable City of Moorpark Planning Commission
Honorable Ventura County Board of Supervisors
Honorable Ventura County Planning Commission
Steven Kueny, City Manager
Joseph M. Montes, City Attorney
Joseph R. Vacca
Chron
File

City of Moorpark

COMMUNITY DEVELOPMENT DEPARTMENT: PLANNING – BUILDING AND SAFETY – CODE COMPLIANCE
799 Moorpark Avenue, Moorpark, California 93021 (805) 517-6200 fax (805) 532-2540

March 24, 2010

Scott Ellison, Senior Planner
County of Ventura, Resource Management Agency
Planning Division
800 South Victoria Avenue
Ventura, CA 93009

RE: Response to County Staff Request for Recommended Conditions of Approval for:

1. **Modification No. 3 to CUP No. 4171, Best Rock Products Corp, [SCH 20060402], Located at 2500 Grimes Canyon Road, Fillmore**
2. **Modification No. 2 to CUP No. 4874, Grimes Rock, Inc., [SCH 20060403], Located at 3500 Grimes Canyon Road, Fillmore**
3. **Modification No. 6 to CUP No. 4571, Wayne J Sand and Gravel, [SCH 20060404], Located at 9455 Buena Vista Street, Moorpark**

Dear Mr. Ellison,

Thank you for contacting the City to obtain our recommended conditions of approval for the proposed expansion of Best Rock's, Grimes Rock's and Wayne J's mining operations. The City of Moorpark recognizes the importance of the proper management of the County's aggregate resources to provide for present and future County needs. However, as has been clearly stated in past correspondence, expansion of any of the mining operations along State Route 23 north of Moorpark, that either increases the number of sand and gravel trucks in our downtown area or increases the hours in which the trucking occurs, is strongly opposed by the City. These trucks already significantly impact downtown area land uses, and any expansion would be in opposition to the City's efforts to improve the livability of this area and redevelop its downtown core into a vibrant commercial destination, consistent with the General Plan and Downtown Specific Plan.

Given the current impact of truck traffic on the streets in the City of Moorpark, as well as the anticipated increase resulting from approval of these projects, each project should be conditioned to contribute its "fair share" of the anticipated cost of completion of the SR-23 bypass. As we communicated previously in connection with comments on the DEIR, the City of Moorpark has had this bypass identified in the General Plan Circulation Element since 1992, and an alignment study was prepared for this bypass in 2007. Currently the City is preparing a preliminary engineering design for it. The bypass involves only three properties. One of these properties, currently under development with the Moorpark Highlands Specific Plan, will have the grading for the SR-23 bypass completed as part of its project improvements, with the land irrevocably offered for dedication. One of the properties is already Caltrans right-of-way, and the third property is currently just north of the City boundary in the unincorporated County.

JANICE S. PARVIN, Mayor | ROSEANN MIKOS, Mayor Pro Tem | KEITH F. MILLHOUSE, Councilmember | DAVID POLLOCK, Councilmember | MARK VAN DAM, Councilmember

The SR-23 bypass has a reasonable potential to mitigate impacts created by the existing sand and gravel trucks driving through the City's central town core area. Once constructed, the SR-23 bypass will circumnavigate existing sand and gravel trucks, and additional trucks in the future if the proposed modification expansions are allowed, around the City's residential neighborhoods and commercial districts of the downtown. The trucks' use of the SR-23 bypass will be better served with uninterrupted access to their customers via direct connections to existing SR-118, for distribution of goods and materials. Furthermore, the trucks' use of the SR-23 bypass will alleviate noise, air quality, emissions, carrying capacities of roadways, traffic and storm water quality impacts on the existing downtown roadways of the City of Moorpark and will reduce the conflicts that exist between the passenger vehicles and trucks in these existing narrow roadways.

We would suggest that the timing of the payment of the fair share contribution be made prior to any increase in truck traffic over present levels. We would be happy to discuss with you the appropriate means of calculating the "fair share" as well as any other issues or concerns you may have with the suggested condition.

The function of a CUP is to ensure that appropriate conditions are imposed on a given use to mitigate the impacts on surrounding uses. The nexus between the activities described in the CUP and the truck traffic impacts on the streets in the City of Moorpark is clear. Limiting the required contribution to the applicants "fair share" of the cost of addressing those impacts will ensure that the mitigation is proportional to the impacts.

As always, we would appreciate notification of any upcoming public hearings or meetings on this project. You may contact me directly or Joseph R. Vacca, Principal Planner at (805) 517-6236 or via email at jvacca@ci.moorpark.ca.us if you have any questions.

Sincerely,

David A. Bobardt
Community Development Director

C: Honorable City Council
Honorable Planning Commission
Steven Kueny, City Manager
Joseph M. Montes, City Attorney
Yugal Lall, City Engineer/Public Works Director
Joseph R. Vacca
Chron
File

EXHIBIT A
to Moorpark's June 26, 2013 Comment Letter on the Grimes Rock FEIR

CITY OF MOORPARK

COMMUNITY DEVELOPMENT DEPARTMENT | 799 Moorpark Avenue, Moorpark, California 93021
Main City Phone Number (805) 517-6200 | Fax (805) 532-2540 | moorpark@ci.moorpark.ca.us

October 26, 2012

Brian Baca
Planning Manager
County of Ventura, Resource Management Agency
Planning Division
800 South Victoria Avenue
Ventura, CA 93009

RE: Recirculated Draft Environmental Impact Report (EIR)
Modification No. 2 to Conditional Use Permit No. 4874
Grimes Rock, Inc.
3500 Grimes Canyon Road, Fillmore

Dear Mr. Baca:

Thank you for sending the City a copy of the Recirculated Draft EIR, (RDEIR) for the proposed expansion of Grimes Rock Inc.'s mining operations. The City of Moorpark recognizes the importance of the proper management of the County's aggregate resources to provide for present and future County needs. However, as has been clearly stated in past correspondence, expansion of any of the mining operations along State Route 23 north of Moorpark, that either increases the number of sand and gravel trucks in our downtown area or increases the hours in which the trucking occurs, is strongly opposed by the City. These trucks already significantly impact downtown area land uses, and any expansion would be in opposition to the City's efforts to improve the livability of this area and redevelop its downtown core into a vibrant commercial destination, consistent with the General Plan and Downtown Specific Plan.

The RDEIR prepared for the expansion of Grimes Rock mining operation does not adequately address the full extent of the project impacts. Based on the comments below related to the significance of impacts and the feasibility of mitigation measures, this document should be revised and recirculated for public comment prior to its use as a decision-making tool on this expansion proposal.

1. Project History and Existing Operations (Section 2.2) – The EIR refers to truck trip limits in terms of "one-way" trips per day. Clarification should be provided on whether each truckload is considered one or two trips, and whether the trucks importing gravel to the site are counted as part of the permitted truck trips. If the document means for one truck load to equate to two trips than the document should clearly state that. This section should also provide more detail on the market for the material. Proper analysis and understanding of the permit request depends on knowing in approximate terms how much material is provided to the Simi Production Consumption Region, how much is provided to the Western (Ventura County) Production Consumption Region, and how much is

JANICE S. PARVIN, Mayor | ROSEANN MIKOS, Ph.D., Councilmember | KEITH F. MILLHOUSE, Councilmember | DAVID POLLOCK, Councilmember | MARK VAN DAM, Councilmember

provided to western Los Angeles County. If the four existing sand and gravel mines are now meeting the aggregate demand for Ventura County, where will the additional material go if the expansion is permitted? Also, this section does not state whether or not the Grimes Rock site is importing gravel to produce aggregate, as is occurring at the Wayne J. Sand and Gravel operation according to that EIR, or if sufficient gravel existing at this location to preclude the future need to import gravel if the expansion is approved. If gravel is currently being imported or will need to be imported if the project is approved, the EIR should document the source of that gravel and assess the impacts of the importation. This information is important in the understanding of the impacts and comparison of the alternatives. Finally, this section states the existing CUP currently limits the mine to deliver "nearly all" its product to the State Ready Mix batch plant in Saticoy. This term, while perhaps quoting a project condition, is vague. "Nearly all" needs to be more clearly defined to understand the baseline and the consequences of the applicant's requested modification to allow hauling via any route to any customer location, and eliminate any volume or timing restrictions on trucks going south.

2. Related Projects (Chapter 3.0) – With respect to the related projects list, the project list is not current for Moorpark and needs to be updated.

3. Traffic (Chapter 4.1) – The traffic mitigation is not adequate; nor is the proposed mitigation enforceable, measureable or monitorable and should be enhanced if the RDEIR is considering an increase in truck trips.

   - After review of RDEIR, the City remains concerned that the RDEIR, without substantial analysis, dismisses the SR-23 bypass as a future project beyond the timeframe of the expansion of the proposed mining operations. The City of Moorpark has had this bypass identified in the General Plan Circulation Element since 1992, has had an alignment study was prepared for this bypass in 2007, and is currently reviewing a proposal to prepare a preliminary engineering design for it. The RDEIR provides no evidence that the expense makes this alternative infeasible. The bypass involves only three properties. One of these properties, currently under development with the Moorpark Highlands Specific Plan, will have the grading for the SR-23 bypass completed as part of its project improvements, with the land irrevocably offered for dedication. One of the properties is already Caltrans right-of-way, and the third property is currently just north of the City boundary in the unincorporated County. The RDEIRs does not even include this alternative in the discussion of environmentally superior alternatives. Furthermore, the RDEIR does not include funding of the SR-23 bypass as required mitigation and the past position has stated that this is because a funding mechanism for this improvement does not currently exist. The RDEIR has not provided any evidence to demonstrate that a funding mechanism is infeasible. Rather, a funding mechanism should be fairly easy to establish by the County as mitigation (i.e. fee per truckload). The proposed expansion of the mining operation should only be considered if the establishment of a funding mechanism is required as mitigation, and no increase in operations above what is currently permitted should take place unless or until, the funding mechanism has been created.

- If all mining expansion projects were approved allowing a maximum of 3,076 total daily truck trips with no restrictions and half of those trips travelled south, the City of Moorpark would experience 1,538 truck trips travelling through the City which could equate to over one truck every minute for a twenty-four hour period.

4. Noise - The RDEIR indicates that project specific and off-site traffic noise impacts are significant and unavoidable. This is not acceptable to Moorpark as the citizens, residents and business present along SR-23 and SR-118 should not be subject to increased noise as a result of this project. This section of the RDEIR should include more analysis and adequate mitigation that is enforceable, measureable or monitorable. Furthermore, the RDEIR has not been updated to include analysis on reductions in noise from Spring Road being improved from High Street north, connecting through to Walnut Canyon Road. This should be analyzed in the noise section of the RDEIR, because Walnut Canyon Road south of Spring Road experiences less noise than was analyzed with the original drafting of this document.

The SR-23 bypass has a reasonable potential to mitigate impacts created by the sand and gravel trucks driving through the City's downtown. However, the RDEIR has not addressed this alternative and has not provided substantial analysis. Therefore, the proposed RDEIR is not sufficiently complete to warrant certification at this time. We request the Environmental Report Review Committee to direct that this analysis be completed and that this analysis of the SR-23 bypass be recirculated for public review prior to recommending certification.

As always, we would appreciate notification of any upcoming public hearings or meetings on this project. In that regard, can you please email us the anticipated timeline, or schedule for project review including anticipated schedules for upcoming public hearings. In addition, the notification area for this EIR should include all properties affected by the truck traffic from the mine driveway to the freeway on-ramps at Los Angeles Avenue.

You may contact me directly or Joseph R. Vacca, Principal Planner at (805) 517-6236 or via email at jvacca@ci.moorpark.ca.us if you have any questions.

Respectfully,

David A. Bobardt
Community Development Director

C: Honorable City Council
Honorable City of Moorpark Planning Commission
Honorable Ventura County Board of Supervisors
Honorable Ventura County Planning Commission
Steven Kueny, City Manager
Joseph M. Montes, City Attorney
Joseph R. Vacca, Principal Planner
Chron
File

EXHIBIT B

B.

CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 · FAX (805) 524-5707

OCT 29 2012

October 26, 2012

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Brian R. Baca
Ventura County Planning Division
800 S. Victoria Ave.
Ventura, CA 93009

Re: Comments on County of Ventura Recirculated Draft Environmental Impact Report for the Grimes Rock, Inc. Expanded Mining Facility Project, SCH # 2003111064

Dear Mr. Baca,

The City of Fillmore ("City") has reviewed the Recirculated Draft Environmental Impact Report ("RDEIR") for the Grimes Rock, Inc. Expanded Mining Facility Project ("Project"). The City appreciates the opportunity to comment on the RDEIR. We respectfully submit these comments to help ensure that local decision makers fully comply with CEQA (Public Resources Code § 21000 et seq) and the CEQA Guidelines (14 Cal. Code of Regulations §§ 15000 – 15387) with respect to the Project. The City, and its residents and business owners, are concerned about the disproportionate and long-term significant adverse traffic impacts on our community and roadways, as well as traffic-related noise and other impacts.

After carefully reviewing the RDEIR, with the assistance of legal and expert scientific consultants, we have determined that the RDEIR and its analysis can be improved in several areas. First, the technical studies and reports upon which the RDEIR is based must be updated. CEQA Guidelines § 15088.5, regarding recirculation of an EIR, is predicated upon an assumption of a timely process. In this case, the RDEIR has been issued well over three years after the last Draft EIR was issued, with underlying technical analyses that range in age from 5 to 17 years old, and based upon a NOP issued in 2003 – a full nine years ago. The County should have had these outdated technical analyses reviewed and verified for adequacy and adherence to current standards by a qualified scientist or engineer before using them as a basis for the RDEIR.

For example, the Air Quality technical report on which this 2012 RDEIR is based was prepared in 2006, based upon a 2002 emissions factors model, and run through a 2025 horizon year for a project that has a 2040 horizon year. We believe an air quality report for an EIR in 2012, that is based upon a 2002 model, and that uses baseline data from 1991 through 2005, and which uses a 2025 horizon year for a 2040 project, and which relies upon a list of related projects 3 to 8 years out of date for the cumulative impacts scenario, is not adequate. But the RDEIR is

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based on technical reports just like that, not only in Air Quality, but in nearly every single impact area in the RDEIR. i

All of our detailed comments are below, but we are particularly concerned about one proposed mitigation measure. The RDEIR recommends a traffic mitigation measure that "limits" northbound peak hour trips ("PHT") through Fillmore to 300 in any single morning peak hour and 300 in any single afternoon peak hour, and imposes no limitation on the number of truck trips throughout the rest of the day. (RDEIR, pp. 4.1-70 to 4.1-71.) That equates to **one truck trip every 12 seconds** through Fillmore in the morning and afternoon peak hours, and *unlimited* truck trips the rest of the day. The existing mining operation (before the changes being proposed by the RDEIR) is limited to only 300 truck trips *for the entire day*. (RDEIR, pp. 2-1 to 2-2.) The RDEIR states this new mitigation measure will reduce traffic impacts to a less than significant level. But it actually greatly increases allowable northbound truck trips, to a level that is *very* significant. And this mitigation measure is in conflict with the conclusions of the County's own traffic study, which states that *total* daily trips – not just peak hour trips – must be limited to 300 in order to reduce impacts to less than significant. (Traffic Study, p. 102.) ii

Because the Project is a "project of statewide, regional, or areawide significance" pursuant to CEQA Guidelines § 15206(b)(2)(E) (which the RDEIR does not recognize), we urge Ventura County staff to work with the cities of Fillmore, Moorpark, and Santa Paula as though they were "responsible agencies" under CEQA, as required by Public Resources Code § 21092.4(a), to identify and implement feasible and appropriate mitigation measures to protect our communities from the Project's impacts, which will have effects lasting over several decades. The City requests a consultation meeting with County staff to discuss more effective and appropriate mitigation measures, and to establish an enforceable plan by which they can feasibly be implemented. (CEQA Guidelines § 15082(c).) iii

General Comments

1. More than three years have elapsed since issuing the second previous draft EIR (June 2009) for this proposed project. The first Draft EIR was issued in 2006 and the Notice of Preparation (NOP) was issued almost 10 years ago. Rather than prepare a new EIR, including a fresh Notice of Preparation and conducting the required public scoping effort, the County prepared a recirculated draft EIR document in 2012 composed of modified documents that date back to 2003, 2006 and 2009. The RDEIR is therefore a compendium of old analyses, with supporting technical reports ranging from 1995 (paleontology), to 2004 (biology), and the most recent assessment prepared in 2007 (traffic, utilizing a County model based upon January 2004 forecast data). 1

2. The only NOP supporting this CEQA process was prepared and issued in November 2003, nearly a full decade ago, and was never reissued to solicit updated agency input or public involvement over that time, despite the protracted lapse of time, material changes in the proposed action and the high level of public concern and controversy regarding the project as evidenced by comment letters submitted to the County in 2006 and 2009 on the two earlier Draft EIRs. 2

3. The list of related projects to support analysis of cumulative effects is based upon coordination with the City Fillmore in 2004, and with the City of Moorpark in 2009. There is no list and apparently no coordination for the City of Santa Paula, despite the high volume of heavy mining truck traffic that will be routed through that City as well. (RDEIR, pp. 3-1 to 3-4.) 3

4. CEQA Guidelines § 15088.5 regarding recirculation of an EIR is predicated upon an assumption of a timely process, in which recirculation occurs between the notice of availability of a draft EIR but before certification, normally assumed to be about a year-long process, (see §§15100 and 15108). This guidance is intended to protect applicants from delay, and to insure that responsible and affected agencies, and the public generally, have timely information and meaningful opportunities for participation – both to be informed, and to provide input. In this case, the RDEIR has been issued well over three years after the last Draft EIR was issued, with underlying technical analyses that range in age from 5 to 17 years old that are either outdated by many years, or at a minimum have not been properly confirmed as still technically and legally valid or updated. Further, the County has not engaged in consultation with affected jurisdictions and the public over these 3+ years, relying instead upon a single scoping process initiated nearly a decade ago (2003) and subsequent limited opportunities for comment and participation in 2006 and 2009. This does not serve CEQA's purposes of full disclosure, agency coordination, public involvement, and informing decision makers (see CEQA Guidelines, §§15002, 15086, and 15088). 4a 4b

5. More than nine years after issuing an NOP and more than three years since the previous second Draft EIR was issued, the County should have undertaken current and meaningful consultation and coordination with the cities (Fillmore, Moorpark and Santa Paula) that will be primarily affected by heavy mining trucks routed through their communities, with attendant air quality and noise effects. Instead, this 2012 document relies upon comments provided in processes that are now moot as they were conducted 3, 6 and 9 years ago, including use of 2004 Fillmore data and 2009 Moorpark data for development 5

of its lists of related projects for the basis of a cumulative impact analysis. The County conducted no apparent coordination or inclusion of the City of Santa Paula despite their letter submitted in response to the 2003 NOP. 5

6. The environmental baseline the RDEIR uses to determine Project impacts is "the level of mining operations and ground disturbance authorized by the existing permits or other entitlements, even if only a portion of the authorized mining operations or ground disturbance has occurred." (RDEIR, p. 2-12.) This is in direct violation of CEQA. An impact analysis that compares impacts to conditions that may be allowed under a permit but have not actually been reached rather than to environmental conditions as they actually exist results in misleading comparisons rather than an analysis that informs decision-makers and the public. (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal. 4th 310, 320-322.) The only exceptions are (1) when an existing facility is only being continued and not expanded, and (2) when a previous EIR has already been *certified* and the document at issue is a *subsequent* EIR under Public Resources Code § 21166 & CEQA Guidelines 15162(a) – *not* as with the RDEIR here where no EIR has ever been certified and the document at issue is a *recirculated* EIR under CEQA Guidelines § 15088.5. (*Communities*, 48 Cal. 4th at 326-327.) 6

7. The definition of the baseline environment relies upon outdated information. This includes for example the 2004 Fillmore and 2009 Moorpark lists of related projects, a biological resources assessment based upon 2004 data, a 2007 traffic report based upon a 2004 County traffic model, 2006 air quality and noise assessments, and a 1995 paleontology assessment. (We would normally deem the 1995 paleontology assessment inconsequential since ancient resources do not change over 17 years, except that in this case, potential loss of paleontological resources has been determined to constitute a significant impact for which feasible mitigation has not been identified.) At a minimum, each of these underlying technical assessments should have been reviewed and their adherence to current standards confirmed by a qualified scientist or engineer. 7

8. Based on analysis in the prior 2006 and 2009 EIRs, mitigation measures were formulated to mitigate the impacts of the Project to less than significant. However, the RDEIR now rejects or deletes a large number of those mitigation measures as "infeasible under CEQA as it relies on a future funding or implementing mechanism that has not been formulated, funded, or adopted." (RDEIR, Table A-2.) The RDEIR cites CEQA Guidelines § 15126.4(a)(2) as justification for rejecting these mitigation measures. It may be 8

acceptable to reject the mitigation measures for this reason if they are "fair share" contribution fees because the Project is not responsible for the entire recommended mitigation improvement and when there is no enforceable plan to ensure the fees will actually be spent on the mitigation improvement. (*Tracy First v. City of Tracy* (2009) 177 Cal. App. 4th 912, 937-938.) But some of these mitigation measures do not appear to be fair share contributions. Rather, it appears the Project is responsible for the entire mitigation improvement. (See, 2006 DEIR MM# T1-1 and T1-3 on RDEIR Table A-2, page i.) If that is so, the RDEIR can and must discuss and recommend these as mitigation measures because they can be made enforceable as a condition of approval for the Project to comply with CEQA Guidelines § 15126.4(a)(2). (CEQA Guidelines § 15126.4(a)(1)(B).) 8

9. For the remainder of the 2006 mitigation measures rejected based on CEQA Guidelines § 15126.4(a)(2) (*see*, 2006 DEIR MM # T3-2, T3-3, T5-1, T6-1, N3-2, N3-3, LU7-1, BR1-2, all in RDEIR Table A-2), the County has not worked with the cities of Fillmore and Moorpark (and Santa Paula) in an attempt to develop an enforceable plan to ensure fair share fees from the Project would be used to implement the mitigation measures. The County must do so in order to fulfill its duty to mitigate. The City of Fillmore hereby offers to enter into a binding agreement or other program with the County and the Project applicant that will require the applicant to pay fair share fees to Fillmore for the mitigation improvements located in Fillmore and that will ensure that such fees are used by Fillmore to implement those mitigation improvements. For instance, Fillmore hereby offers to enter into a binding agreement with the County and the Project applicant to require the Project applicant's fair share fee payment for noise mitigation to Fillmore is actually used by the City of Fillmore for specific noise mitigation measures. (2006 DEIR MM # N3-3, RDEIR Table A-2, p. v.) As such, there is an enforceable plan available to ensure the fees are used for the actual recommended mitigation. These mitigation measures therefore cannot be rejected based on CEQA Guidelines § 15126.4(a)(2) unless the City, County, and Project applicant have consulted and no enforceable agreement is possible. (*Tracy First v. City of Tracy* (2009) 177 Cal. App. 4th 912, 937-938.) 9

10. The Project meets the definition of a "project of statewide, regional, or areawide significance" pursuant to CEQA Guidelines § 15206(b)(2)(E) because it is an industrial facility over 40 acres in size, among other reasons. The RDEIR does not recognize this. The County should have recognized the need to re-scope the Project as a project of regional and/or areawide significance instead of relying on the 2003 NOP. Added to the CEQA statute and guidelines in 2005, and not applicable at the time of the 2003 NOP for 10

the first EIR regarding this project, CEQA Guidelines § 15206 needs to be recognized and adhered to in a 2012 EIR. 10

11. Because the Project is a "project of statewide, regional, or areawide significance," the County was required to consult with Fillmore as though Fillmore were a responsible agency. (Public Resources Code § 21092.4(a).) The County as lead agency was required to consult with Fillmore "as soon as a lead agency has determined that an Initial Study will be required." (CEQA Guidelines § 15063(g).) That is, consultation was required "prior to determining whether a negative declaration or environmental impact report is required." (Public Resources Code § 21080.3(a).) However, the County's first consultation with Fillmore on the Project was when the County prepared and circulated a Notice of Preparation in 2003 – *after* the County had decided to prepare an EIR. 11

12. The lead agency must hold a public scoping meeting for every "project of statewide, regional, or areawide significance." (CEQA Guidelines § 15082(c)(1).) There is no indication in the RDEIR that a scoping meeting was ever held. 12

13. Despite having been discussed in the original noticing, the cumulative effects of the three mining projects concurrently proposing substantially expanded operations (Grimes Rock, Inc., Wayne J Sand and Gravel, and Best Rock), all located adjacent to each other, utilizing the same haul routes and affecting the same environment, are not adequately discussed in this single-project EIR. For example, we can find no mention even of the status of the other two proposals. The cumulative impacts scenarios should also have given greater consideration to the fourth major mining operation (CEMEX), which is noted to be a large operation that is presently operating at levels much lower than permitted. Failure to adequately consider all of these projects minimizes disclosure of the real potential cumulative effects that may represent the most significant adverse effects of traffic and attendant noise and air quality impacts. The timing, nature, and location of these nearly identical operations should compel the County to proactively initiate a comprehensive and consistent management approach to ensure cumulative effects are effectively and efficiently minimized and mitigated. 13

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Traffic/Circulation

The following comments are presented based on a review of the Recirculated Draft Environmental Impact Report (September 2012) and the supporting traffic study (Traffic Study for the Grimes Canyon Quarries in the County of Ventura, Katz, Okitsu & Associates, August 2007) prepared for the proposed mining expansion project.

14. Page 4 of the traffic study and page 2-1 to 2-2 of the RDEIR state that, as currently permitted, the *maximum* number of daily one-way truck trips from the project is 300. However, page 4.1-71 of the RDEIR states the currently permitted project is allowed to generate 300 *average* daily trips. This inconsistency should be corrected. 14

15. The RDEIR recommends a traffic mitigation measure (T1-1) that "limits" northbound peak hour trips ("PHT") through Fillmore to 300 in any single morning peak hour and 300 in any single afternoon peak hour, and imposes no limitation on the number of truck trips throughout the rest of the day. (RDEIR, pp. 4.1-70 to 4.1-71.) That equates to **one truck trip every 12 seconds** through Fillmore in the morning and afternoon peak hours, and *unlimited* truck trips the rest of the day. The existing mining operation (before the changes being proposed by the RDEIR) is limited to only 300 truck trips *for the entire day*. (RDEIR, pp. 2-1 to 2-2; Traffic Study, p. 4.) The RDEIR labels its proposed new "limit" as a mitigation measure that reduces the traffic impacts to less than significant levels. But it actually greatly increases allowable northbound truck trips, to a level that is *very* significant. 15

16. There is no evidence anywhere in the RDEIR or its appendices for the RDEIR's conclusion that Mitigation Measure T1-1 will reduce the impacts resulting from exceeding Thresholds 2 and 5 (noted on page 4.1-69 to 4.1-70 of the RDEIR) to a less than significant level. The RDEIR claims it does so without any evidence in support. (RDEIR, p. 4.1-70.) The traffic study concludes that these impacts can be reduced to a less than significant level only if there is no "expansion of total trips or peak hour trips." (Traffic Study, p. 102.) But Mitigation Measure T1-1 *does* permit an expansion of total trips. The currently permitted project is allowed a maximum of only 300 trips for the entire day. (RDEIR, pp. 2-1 to 2-2; Traffic Study, p. 4.) Mitigation Measure T1-1 would allow 300 trips in any single morning peak hour, 300 trips in any single afternoon peak hour, and unlimited trips throughout the rest of the day. (RDEIR, pp. 4.1-70 to 4.1-71.) In order to implement the mitigation measure recommended in the traffic study (which the RDEIR must do in order to support its mitigation measures with substantial 16

evidence), Mitigation Measure T1-1 must be amended to impose a maximum of 300 PHTs *and* a maximum of 300 total one-way trips per day. 16

17. Mitigation Measure T1-1B on page 4.1-75 of the RDEIR states that overnight parking is allowed provided that . . . "d. All operations and activities related to overnight parking conforms to the 'hours of operation' listed in Condition of Approval 1 (Project Description)." We can find no reference in the Project Description or anywhere in the RDEIR to a "Condition of Approval 1." 17

18. Mitigation Measure T3-1 imposes a Traffic Impact Mitigation Fee ("TIMF") for each "approved increase in heavy truck ADTs above the previously permitted volume . . .". (RDEIR, p. 4.1-81.) But the mitigation measures in the RDEIR permit unlimited ADTs. The RDEIR does not explain what "approval" it is referring to or what body "approves" the increase in ADTs. Presumably this is referring to the County's approval of the CUP for the Project. But since there is no recommended limit on ADTs in the RDEIR, what happens if the County imposes no condition of approval limiting ADTs? 18

19. The RDEIR does not explain the TIMF program referenced in Mitigation Measure T3-1. What must the fees be used for by the payee jurisdictions? Without this analysis, how can the RDEIR conclude that the TIMF fees will reduce cumulative impacts to less than significant? 19

20. Pages 2-18 – 2-19. Please confirm the accuracy of the Project Description sections 2.4 and 2.5 stating that the proposed doubling of production can be accomplished with the existing plant facilities and equipment, and that no additional equipment is required. In addition, please clarify that the total of 7 employees listed in Table 2-3 really represents a greater number of employees over multiple shifts (21 or more to cover 24 hour operations and weekdays and weekends?), with only 7 of those employees on site at any given time. The RDEIR should be revised to address/clarify this inconsistency. 20

21. As noted in General Comments above, the lists of related projects in Section 3.0 utilized as a basis for evaluating potential cumulative effects – including those related to traffic – is significantly out of date (8 years for Fillmore and 3 years for Moorpark), is inconsistent as to dates as noted, and fails to include the City of Santa Paula, despite its 2003 request to be included, and it being one of the affected communities. 21

22. Page 4.1.2 indicates that the proposal consists of extending the horizon year from 2025 to 2040. Therefore, a year 2040 analysis should be conducted. It is stated that no additional project traffic would occur during this extended timeframe and therefore, no new analysis is needed. However, it is reasonable to assume that additional cumulative traffic would occur during this timeframe (ambient growth, additional related project traffic, etc.) assuming a certain annual percent increase in traffic levels over time and therefore, additional cumulative impacts could occur. Applying the County's logic on this point, there would seem to be no need to adjust the analysis for <u>any</u> time frame beyond 2025, which is not a reasonable assumption if the project would remain online for an additional 15 years. We also note that in the noise section, the RDEIR states that future ambient traffic volumes are anticipated to increase over time. (See comment number 40 below, and RDEIR, p. 4.3-1.) 22

23. The traffic assessment for this 2012 EIR is not adequate because it is based upon a 2004 model, with traffic count data from 2002, 2003, 2004 and 2006, 2006-2007 peak-hour counts, a 2025 horizon year for a 2040 project, and a list of related projects 3 to 8 years out of date. 23

24. The discussion of Passenger Car Equivalent (PCE) factors on pages 4.1-6 – 4.1-8 provides some background, although it does not acknowledge the current 2010 *Highway Capacity Manual* standards (Transportation Research Board). Throughout the analysis truck trips are underestimated when reported as simple average daily trips, and when modified using the lowest possible (PCE) of 2 or 3 without taking into account the constraints of existing local road conditions. Standard practice for mining trucks is a PCE of 2 for unloaded trucks and 4 for loaded trucks when applied to good quality roads. PCEs as high as 10-11 may be more applicable for rural and narrow roads or steep grades, and higher PCEs should be used to account for the effects of hundreds of 40-ton loaded mining trucks passing through sensitive communities with narrow lane widths, urban, commercial and residential districts, and numerous cross streets, driveways and sensitive uses such as schools. Accounting for those sensitivities, a PCE of 4 or 5 would have been more appropriate for loaded trucks on State Route 126 through the City of Fillmore. 24

25. Impacts on pavement have also been underestimated based upon assumptions that roads have been designed to handle heavy trucks (reference to Traffic Index Pavement Design of 7.0 or greater, page 4.1-60). A quantitative-based analysis of pavement should be conducted for all roadway study segments. Truck traffic is the primary factor affecting 25

pavement design life. Therefore, pavement loadings should be estimated with and without the project under existing and cumulative conditions for full disclosure of potential impacts. According to Caltrans, at 40 tons per loaded mining truck, a road damage multiplier of 10,000:1 applies – one mining truck contributes to wear and tear of pavement surfaces equal to the effects of 1 average passenger car or light truck. 25

26. Page 4.1-3 indicates that no new peak hour trips would be generated due to the imposition of the mitigation measures identified in Section 4.1.5 of this EIR. Since the horizon year has shifted from 2025 to 2040, it would seem reasonable that additional projects and additional ambient growth would occur and should be incorporated in a revised analysis. Page 4.1-6 indicates that traffic counts from 2002 through 2006 were used for existing conditions. Updated traffic counts should be provided or at least a sampling of current counts should be compared to the previous counts to determine whether traffic has changed significantly. 26

27. Page 4 of the traffic study indicates that the days of operation will be extended to include Saturdays. A Saturday analysis should be conducted and included in the traffic and noise analysis to ensure no significant impacts will occur. 27

28. Page 5 of the traffic study indicates that year 2007 is designated as the near term horizon year for analysis purposes. Use of this year is now inappropriate and does not reflect on the ground roadway conditions or traffic levels of service for roadway segment and intersection and freeway on and off ramps. Based on the current proposal, an updated timeframe should be used in which the proposed expansion is in full operation. 28

29. Page 52, Table 21. An average trip rate has been calculated from the three existing sites based on empirical traffic data and corresponding production quantities. It is unclear why all three sites need to be combined to develop an average rate. If all sites operate independently, why weren't the independent calculated rates applied to each individual site to estimate future trip generation? 29

30. Page 52. The design hour volume trip generation estimate for currently permitted traffic was determined by dividing the daily activity by 6 hours. It seems that rather than using an assumed value of 6 hours, the estimates should be based on the empirically collected data instead. 30

31. Page 53. The application requests that on special occasions, the peak rates be allowed to operate at higher levels than the average rates. It is unclear when these special occasions will occur. Therefore, the peak rates, rather than the average rates should be used in the analysis. 31

32. Pages 80 and 81. The traffic forecasts on Figures 26 and 27 illustrate the Year 2025 peak hour traffic volumes with the addition of the proposed project. Some of the turning movements are less than those shown for existing conditions (e.g. Figure 3 shows 409 existing vehicles heading southbound through, whereas Figure 26 shows only 345 vehicles for 2025 conditions at the intersection of Walnut Canyon Rd./High St.). It is unlikely that traffic volumes would be less in the future unless significant infrastructure improvements were constructed that would cause shifts in travel patterns. This inconsistency should be addressed. 32

33. Page 83. Table 36 indicates that the delay for the worst movement at the intersection of Grimes/Broadway is shown to be 0.636 under existing conditions. However, the average intersection delay is shown to be 8.3. It appears that this is an error since the delay for the worst movement should be higher than the average delay. 33

34. Page 85. Table 37 indicates that the intersection of Moorpark/Los Angeles operates at LOS D under existing conditions but operates at a better LOS (B) under future conditions (Scenarios 2 and 3). This seems counterintuitive since traffic volumes are anticipated to increase in the future and no further explanation is provided. 34

35. Page 85. Table 37. The project impacts shown are based on a comparison between existing plus permitted conditions and existing plus proposed project conditions. However, the project impacts should instead be based on a comparison of existing conditions (2012) to existing plus proposed project conditions (2040). 35

36. Traffic Signal Warrants should be provided for unsignalized intersections for all analysis scenarios. This is an industry standard for a traffic impact analysis in an EIR. 36

37. Page 94. The intersection of Broadway/Walnut Canyon Road is forecast at a level of service F but would not have a significant impact since the project would not add traffic to the critical movements. The level of service worksheets are not available so it is not possible to verify whether the project would add trips to the critical movements. 37

38. The mitigation measures on page 98 indicate that a 150 foot left turn pocket will be provided at the site's entrance. This length should be based on the anticipated 95th percentile queue of project traffic entering the site during the peak hour, or the 150 foot length, whichever is greater. 38

Air Quality

39. The Air Quality technical report on which this 2012 RDEIR is based is inadequate because it was prepared in 2006, based upon the 2002 EMFAC model, with baseline data from 1991 through 2005, and run through a 2025 horizon year for a project that has a 2040 horizon year, and relies upon a list of related projects 3 to 8 years out of date for the cumulative impacts scenario. 39

Noise

40. The assessment of noise impacts presented in section 4.3 is derived entirely from the 2006 DEIR. No supporting technical appendix is provided, but the text notes that the analysis is based on field measurements taken over a three day period in September 2004, more than eight years ago. The analysis horizon for the original noise assessment is also for the 2025 time period that applied to the 2006 project under review. This is inadequate for a 2012 EIR because it is based on only three days of data collected in 2004, using a 2025 horizon year for a 2040 project, and a list of related projects 3 to 8 years out of date. 40

41. In the preface to the noise section, the RDEIR states that "*the analysis of noise generated by project-related truck traffic on the local haul routes is independent of the duration of the mining activities.*" It goes on to add an analytical conclusion that "*To some extent, the effects of project related traffic noise would be diminished with the passage of time due to the anticipated long-term increase in ambient traffic volume. In any case, the analysis presented herein is adequate to describe the effects of noise generated by the proposed project.*" (page 4.3-1). We disagree than additional 15 years of heightened noise from hundreds of heavy mining trucks passing through the center of the City of Fillmore has no additional impact than 15 years less of that noise source, and we find the County in error to have reached its conclusions regarding the effect of "long-term increase in ambient traffic volume" that was not included in an updated traffic assessment (see comment number 22 above) or supported by any analysis in this document. 41

42. We also question why the County failed to have the noise assessment reviewed and verified for adequacy and adherence to current standards by a qualified scientist or engineer. 42

Biological Resources

43. We find no flaws worth noting in the analysis of biological resources, (section 4.6), but we do note the County actually did consult experts to confirm the validity of its outdated 2006 biological field inspections. That is in stark contrast to its failure to confirm the outdated studies in all other impact areas. The RDEIR does not explain why this impact area was treated differently. The County reports that: "*As part of the preparation of this RDEIR in 2012, field inspections of the project site were conducted by the County Planning Division Biologist and biologists for the California Department of Fish and Game. These inspections confirmed the biological resource conditions reported in the 2006 Draft EIR.*"; (Page 4.6-1). It is questionable as to why this was the only technical area for which such expertise was engaged and at least generically described. 43

44. No record of the above-noted 2012 field inspections is included in Volume 2 Appendix E with the Biological Resources supporting technical materials, no names or dates are given, and no contacts with the California Department of Fish and Game are recorded in section 8.2 (2) – *Other Consulted Public Agencies and Contacts*. The field inspections therefore lack supporting documentation. 44

Paleontological Resources

45. The assessment of paleontological resources (section 4.7) is based upon technical reports produced by an archaeologist (Robert Lopez) in 1995, with protection guidelines developed by a geologist (Dr. Robert Gray) in 1998 (RDEIR Volume 2, Appendix F). For this resource area the dated analyses probably do not represent a fatal flaw since the nature of these ancient resources does not change over 14 to 17 years. However, in this case, potential loss of paleontological resources has been determined to constitute a significant impact for which mitigation is deemed infeasible. Because of the significance the County attributes to the impact on these resources, at a minimum, each of these underlying technical assessments should have been reviewed and their adherence to current standards confirmed by qualified scientist(s). 45

Alternatives

46. The selection and assessment of alternatives (section 5.0) is inadequate for a variety of reasons. Had the traffic impact assessment been properly formulated, the impacts identified as drivers for the selection of alternatives should have included traffic, as well as traffic related noise along haul routes (which is identified in the RDEIR). In that case, 46

alternatives may have considered greater limitations on peak hour trips, and operational limitations on haul truck operations, including for example hours of the day, and elimination of Saturday haul operations as a means to reduce potential impacts of greatest concern to the local communities. Instead the selected action alternatives examine only whether to continue existing operations with or without the new reclamation plan (Alternatives 2 and 3), or reducing the increase in production capacity with mining to continue either longer (to year 2053), or to the year 2040 as now proposed (alternatives 4 and 5). These alternatives produce no meaningful reduction in the allowed daily peak hour trips or average daily trips, and therefore do not really address either traffic or traffic-related noise experienced in Fillmore, Moorpark, or Santa Paula. 46

47. One criterion listed for measuring and identifying the environmentally superior alternative is whether the alternative will *"Attain project objectives? Yes/No"*; (section 5.7, table at bottom of page 5-7). While there is nothing inherently wrong with applying this criterion to the assessment, we note that nowhere in the document could we find any statement of the Project's [applicant's] objectives. 47

Section 8.0-8.3 Preparers of the EIR, Contacts and References

48. Flaws described in earlier comments are highlighted in the List of Preparers (section 8.0, pages 8-1 – 8-2), and the References Section 8.3, page 8-3 – 8-5. Following a brief explanation that the recirculated document has been prepared by County staff, the list of preparers includes parties that prepared technical reports for earlier iterations of EIRs for the project with no identification of roles in preparing this 2012 RDEIR, or whether they were consulted in any way six years after their initial involvement. At the very least, technical experts should have been consulted regarding their professional opinions about the adequacy of their original analyses for use 5 to 17 years after they were originally prepared. That no effort was made to update or confirm the analyses is likewise confirmed in the list of references, which contains no reference materials dated later than 2004 other than the County General Plan, Initial Study Assessment Guidelines, and Air Quality Assessment Guidelines. 48

Conclusions

We again request a consultation meeting with County staff to discuss more effective and appropriate mitigation measures, and to establish an enforceable plan by which they can feasibly be implemented. (CEQA Guidelines § 15082(c).) After such consultation, we respectfully urge the County to revise and recirculate a new RDEIR in accordance with our comments above and

the results of our consultation. It is in both the County's and the City's interest to protect our communities from the impacts of this project of areawide significance that will have effects lasting over several decades.

Respectfully submitted,

Rigo Landeros
Acting City Manager
City of Fillmore

cc: Honorable Mayor and Members of the City Council, City of Fillmore
Steve Stuart, Fillmore Community Development Director
Tiffany Israel, Fillmore City Attorney
Jeffrey G. Harvey, Ph.D., HMCG

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EXHIBIT B
to Moorpark's June 26, 2013 Comment Letter on the Grimes Rock FEIR

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OCT 26 '12 or 11:51 D.

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VIA E-MAIL:brian.baca@ventura.org AND
U.S. MAIL

October 25, 2012

Mr. Brian R. Baca
County of Ventura, Planning Division
800 South Victoria Avenue
Ventura, CA 93009

Re: Modified Conditional Use Permit No. 4872-2-Revised Draft Environmental Impact Report-Applicant Russell Cochran

Dear Brian:

Our law firm represents the neighboring property owners. We have reviewed the Notice of Availability and obtained a copy of the Recirculated Draft Environmental Impact Report (RDEIR) both from the County Planning Department Website and the CD from the Planning Department. Our comments in our letter dated October 22, 2012, are incorporated herein as set forth in full and we provide the following additional comments and concerns.

BIOLOGICAL RESOURCES

Section 4.6 of the RDEIR, the section on Biological Resources, is out of date, inadequate, and inappropriately relies on documents (specifically the 2006 DEIR) that are superseded by this RDEIR.

The document is unclear as to when biological surveys were conducted on the site. It appears that none of the plant or animal specific surveys have been conducted within the last 5 years and there is no evidence of additional updated surveys by consultants, including date of inspection and observations. In addition, areas of the proposed project have never been surveyed.

The RDEIR references biological resource surveys completed in 2000/2001 and again in 2003. The most recent survey listed in the RDEIR was the "Envicom Corporation EIR Biological Surveys" conducted in 2003 and 2004. Oak Tree surveys from 2003 and 2004 are also referenced. It appears that the last survey for California Coastal Gnatcatcher 1

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285

was conducted in 2003, nine years ago. As we have seen repeatedly in Ventura County, sensitive species appear between surveys. The oak trees enlarge and may be of necessary documenting size or new trees. 1

The Biological Resources Section is vague and does not provide clear and understandable disclosure for what protocols were followed and when, and under what circumstances the various surveys were conducted. Some of the surveys appear to have been conducted concurrently for multiple mining facilities. Results from the surveys are not clearly presented in this document. In addition, a devastating regional wildfire swept through the area in 2004. It appears that some of the analyses are dependent on pre-2004 aerial photographs in order to reconstruct what may have site conditions prior to the wildfires. The last Envicom survey, conducted in 2004, occurred just months following the fires. It is unclear what the site physical conditions were this close following a regional wildfire. It is likely that the fires may have substantially altered the biological community on and adjacent to the project site. In any case, the Envicom survey is also over five years old. There are no referenced comprehensive floristic biological surveys that have been conducted on the property within the last five years. 2

Further, we have also seen repeatedly in Ventura County new or undocumented plant species after a fire, especially species that need heat to produce or germinated seeds. There is a lack of discussion whatsoever on this issue.

Section 4.6 the RDEIR contains the following language under Existing Conditions [Ref RDEIR 4.6 p. 1]:

> *To prepare the Biological Resources Section of the EIR for the proposed Grimes Rock Sand and Gravel, Inc (Grimes Rock) project, Envicom Corporation, the County's CEQA consultant, conducted site specific surveys, evaluated data from existing reports for the proposed expanded project area (existing plus additional project area) and adjacent areas, and studied a variety of technical and scientific publications. Data from the sources are incorporated herein by reference and presented in summary form as appropriate. Updated research conducted for this EIR included vegetation mapping (prior to a November 2003 fire and a January 2005 flood), observations and recording of on-site plants and animals, a focused springtime floristic survey, an oak tree inventory, and a protocol survey for the coastal California gnatcatcher.*

> *As part of the preparation of this RDEIR in 2012, field inspections of the project site were conducted by the County Planning Division Biologist and biologist for the California Department of Fish and Game. These inspections confirmed the biological resource conditions reported in the 2006 Draft EIR.*

Inclusion of this statement in this Recirculated Draft Environmental Impact Report is troubling on several levels. As written, it may even lead one to believe that the surveys were recently conducted, were comprehensive in nature and that the status of the impact analyses is fully complete and up to date. There is no documentation of what occurred and what was reviewed in 2012. What about enlargement of oak trees, new oak trees or new species as a result of fire? This is simply not addressed. 3

This Recirculated Draft Environmental Impact Report is intended, on its own, to provide sufficient evidence in order to understand and consider the potential adverse environmental impacts from the proposed project. As stated in the Scope of the RDEIR [Ref: RDEIR 2.7]:

> *It is intended that this document be adequate to satisfy the requirements for environmental review for each of the discretionary entitlements required to authorize the proposed changes in the facility.*

This is a Recirculated Draft EIR. This RDEIR (not the 2006 Draft EIR), is the environmental document circulated for review and comment by the public. This RDEIR (not the 2006 Draft EIR), is also the environmental document that will be used by the lead agency to make a reasoned determination based on presented substantial evidence. The conditions reported in the 2006 Draft EIR are irrelevant (and are, additionally, unavailable for public review). The County agency that reviewed the 2006 DEIR (the Environmental Report Review Committee) does not even exist anymore. Any reliance on the 2006 DEIR is suspicious.

Of equal or greater concern, even if there were merit in referring to the 2006 DEIR (which there is not), the "conditions" that are contained in the 2006 Draft EIR that were "confirmed", were based on incomplete biological surveys conducted in 2004 and earlier, all of which are now well over five years old. 4 Furthermore, the County's initial study has been updated. Board of Supervisors adopted new initial study guidelines on April 26, 2011. These were not used for the RDEIR and should have been. Appendix A is the 2003 initial study. Further biological protocols have also been updated and it cannot be determined from the document were followed. New thresholds have been adopted in biological and other areas addressed in the initial study guidelines. 5

This RDEIR does not contain any survey results from any comprehensive biological surveys (conducted while following recently revised protocols) that were completed within the last five years. If the recent "inspections" referenced in the narrative section above constitute actual comprehensive floristic biological surveys, then the RDEIR should reference them as such, provide the results, and include the date and specific reference to the surveys in the Biological Resource list in Section 8 of the RDEIR. 6

Of additional concern, none of the surveys conducted in 2004, or earlier, included the proposed additional expansion area (such as the truck parking area, the newly proposed onsite haul road, or the area adjacent to the proposed new intersection at Grimes Canyon Rd). If the surveys did include these areas, the results are not presented in this RDEIR. All of these areas may experience adverse environmental impacts to Biological Resources that have not been surveyed under standardized protocols. As one example, light from truck headlights and the noise generated from trucks using the newly proposed onsite haul road may adversely impact adjacent biological communities. There are also many existing trees (and potential nesting sites) in immediate proximity to the newly proposed southerly project entrance, and there is a drainage course along Grimes Canyon Road in this location. None of these have been considered in this RDEIR. 7

The California Natural Resource Agency (CDFG), recently revised their biological resource protocols and published "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" in 2009 (revision date: November 24, 2009). This RDEIR is subject to these changes in protocols (though several key components of the RDEIR do not even comply with the old protocols).

The purpose of the revision to the protocols was, in part, to provide direction for the appropriate means and methods to be followed to adequately disclose the potential impacts from a proposed project during the public review process, as specifically required under CEQA. In addition, the protocols are to *"assist the lead, trustee and responsible reviewing agencies to make an informed decision regarding the direct, indirect, and cumulative effects of a proposed development, activity, or action on special status native plants and natural communities"*. 8

The timing and number of survey visits to be conducted are determined by geographic location, the natural communities present, and the weather patterns of the year(s) in which the surveys are conducted. The seasonal timing of the surveys must match the times when observance of species is likely to occur. In addition, *"Surveys should be comprehensive over the entire site, including areas that will be directly or indirectly* 9

impacted by the project." [Survey Protocols p. 3]. Under the section of the new protocols titled "Use of Existing Surveys", the new protocols state: *"Habitats, such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components may require yearly surveys to accurately document baseline conditions for purposes of impact assessment. In forested areas, however, surveys at intervals of five years may adequately represent current conditions."* 9

The revised protocols specifically include the necessity for additional surveys when existing surveys are not current; are not comprehensive in nature, or; the physical site conditions may have changed due to fire history [Survey Protocols p. 4].

Except under extraordinary and supportable circumstances, 5 years is the upper limit on the age of biological surveys. Some of the site surveys appear to have taken place at least eight or nine years ago (it is hard to tell), and may be over ten years old. The last California Gnatcathcher survey was conducted in 2003. No results from comprehensive floristic biological surveys conducted within the last five years are presented in the RDEIR. 10

The analyses on Biological Resources do not consider the 2004 wildfires. Wildfires have the potential to substantially alter the biological community in the short term and over medium and longer term periods. Most of the surveys were conducted prior to the fires. The last Envicom survey was conducted within months following the wildfires. The area's biological communities would have been substantially different for the short period of time immediately following a major fire when the Evicom surveys were conducted. The biological site conditions have undoubtedly changed significantly in the eight years following the fires. The existing surveys are out of date. 11

In addition, it appears that there have been no comprehensive surveys completed on the proposed expanded areas, including: the new haul road, near the newly proposed southern entrance, in the area of proposed truck parking, or on any of the adjacent properties in the immediate proximity to these areas. 12

All of the biological surveys need to be redone and completed with updated current surveys. All the data is stale. There is no data contained in the RDEIR that reflects what are the current (post wildfire and within the last five years) biological conditions on the site. New surveys are the only way the public has an opportunity to review and comment on the potential adverse environmental impacts to Biological Resources that may be caused by the project. In addition, it is not possible for the lead agency to make an informed decision based on outdated, incomplete information and stale information. 13

TRAFFIC

The circulated RDEIR document is incomplete. In addition, the traffic analysis is out of date and uses calculations that are no longer valid. Portions of the traffic study referenced in the RDEIR are missing from Appendix B. In addition, the traffic/circulation element of the RDEIR calculates so-called "current" traffic conditions for 2007, not for 2012. The information has not been updated. In addition, the traffic volume calculations use an understated growth factor in determining "near term" traffic conditions. 14

The traffic study (and the calculations included therein) has not been updated since 2007 and components of the traffic information are missing entirely. The RDEIR states [Ref: RDEIR p. 4.1-5 and 6]:

> *Existing traffic data was obtained from the Grimes Canyon Quarries Ventura, California Traffic and Circulation Study, Associated Transportation Engineers (ATE), October 2002. The additional traffic counts were conducted specifically for this study by Traffic Data Services in September 2003, January 2004, April 2004, and November 2006. Traffic count data used in the study is compiled in Appendix B.*

There is no traffic count data provided in Appendix B. In fact, Appendix B is limited to a copy of only a portion of the 2007 traffic study by Katz, Okitsu & Associates. The Katz , et al, study in Appendix B is included only through page 137. The balance of the document is missing. None of the appendices to the traffic study (which are presumed to include the referenced traffic count data) are included in Appendix B of the circulated document. It is impossible to determine which studies were used for which intersections or when any of the traffic counts were taken. The RDEIR document is incomplete. In order for the public to have a fair and reasonable opportunity to review the environmental documents, a complete set of documents must be provided to the public with adequate time to review and provide comments. It is impossible for the lead agency to make a reasoned determination based on incomplete information. 15

Not only is a significant portion of the data missing, but the data that is presented has not been updated to reflect traffic conditions in 2012. It appears that the Traffic/Circulation section is written as if the project were to be implemented in 2007. So-called "current" 16

traffic volumes are calculated based on much earlier traffic counts (though the document is unclear when the actual count dates occurred at specific intersections). An "escalator" is then applied to the earlier traffic counts to account for traffic changes over the ensuing time period to predict what traffic volumes would be in 2007 [Ref: RDEIR 4.1 p. 21]. 16

> *Baseline 2007 conditions describe the near-term condition that is expected to occur if the mines are allowed to continue to operate at the maximum level of operation allowed under their existing permits.*

The same paragraph later goes on to state:

> *To simulate near term area-wide growth by the year 2007, the 2006 peak hour volumes in Figures 4.1-3, 4.1-4, and 4.1-5 were increased by a factor of 1.04.*

None of the traffic analyses presented in this RDEIR uses 2012 as the baseline year for the proposed project expansion. The traffic information has not been updated since 2007. All of the traffic counts took place over five years ago. To compound that flaw, the calculations have not been updated for any of the years since 2007. The document continues to reference traffic conditions in 2007, as if 2007 were now. A "near-term 2007 traffic condition" is meaningless in the year 2012. If updated calculations have been completed, where are the results? The traffic calculations, the tables and the text should be updated. 17

The calculations in the traffic analyses include a growth factor of 1.04 percent. This is based on an annual traffic volume growth factor of 2% [Ref: RDEIR 4.1 p. 22]. If one were to utilize the same 2% annual growth factor through 2012 (not through 2007; a much shorter time period), the growth would be approximately 12%, not 1.04% as used in the study. These calculations are flawed. As such, the information presented in this RDEIR is inadequate. The flawed calculations render it impossible to make an informed determination on the traffic information as presented in this RDEIR. The public should have a fair and reasonable opportunity to review any updates to the traffic information. 18

<u>The traffic count data is confusing and the age of the collected field data is out of date. Therefore, the Traffic and Circulation analysis is inadequate.</u> The traffic study is based on traffic counts conducted in 2002, 2003, 2004, and 2006. There is no information provided in this RDEIR that describes when one set of data is used and when a different set of data is used. The RDEIR states [Ref: RDEIR p. 4.1-5 and 6]: 19

> *Existing traffic data was obtained from the Grimes Canyon Quarries Ventura, California Traffic and Circulation Study, Associated Transportation Engineers (ATE), October 2002. The additional traffic counts were conducted specifically for this study by Traffic Data Services in September 2003, January 2004, April 2004, and November 2006. Traffic count data used in the study is compiled in Appendix B.*

19

The age of the traffic count compilation dates are all more than five years old. Some are over 11 years old. Again, the data is stale. Substantial changes in traffic patterns or subsequent development may have substantially increased (or reduced) vehicles volumes over the last 6 to 11 years. Additionally, the information provided is confusing. It appears that the traffic and circulation analysis mixes data from different studies and from different dates.

For instance, in the Traffic/Circulation section of the RDEIR, Figure 4.1-3 [Ref: Existing Traffic Volumes-AM Peak Hour, p. 75], suggests that the traffic heading south on Grimes Canyon Road at the project entrance is 552 vehicles (545 southerly through-traffic vehicles + 7 vehicles turning southerly from the mine entrance). At the next southerly analyzed intersection (at Grimes Canyon Road and Waynes Way), there are 594 vehicles reaching the intersection from the north. There is an increase of 42 vehicles on this short section of highway. Why are these counts so different? There is no intervening intersection to account for this significant discrepancy in vehicle counts. Were these counts taken on different days? Were they taken at different times? Are the traffic counts from different studies? Because the traffic study is incomplete, there is no way to review the intersection-specific data. Intersection-specific data spreadsheets should be provided for review in the traffic study. The entire portion after page 137 of the traffic study (including the study appendices where the data spreadsheets may be located) is missing from the published document. This missing data may provide information as to why the intersection traffic counts provided in Figure 4.1-3 show such inconsistent information. On the other hand, even if the supporting data is presented in Appendix B, the RDEIR narrative in the Traffic/Circulation element should provide an explanation for the substantial discrepancy. The RDEIR should provide information in a clear and understandable manner. The public should not have to dig through the appendices to try to understand the data being presented. Based on the limited information provided, one can only presume that the traffic counts at these two intersections were taken at different times or on different dates. Without the missing data, however, it is impossible to make a reasonable or meaningful comment on the document as published.

20

The traffic counts are out of date (up to 11 years old). The information provided is confusing and inconsistent. The traffic study in Appendix B is incomplete. As such, there is insufficient evidence on which to base a reasonable determination on the adequacy of the traffic and circulation element contained in this RDEIR. The traffic counts are out of date and come from too many sources. New and current traffic counts (specific to this project) should be undertaken. A new traffic study (specific to this project) should be completed. The public should be provided with a reasonable opportunity to review and comment on the updated information. 21

The assumed baseline used for traffic analyses is fatally flawed for any proposed traffic increase that will occur along any route other than on one of the currently approved haul routes. The existing CUP has restrictions that establish specific haul routes that can be used for truck traffic. Additionally, the existing CUP includes limits on the times and number of truck trips that are allowed on any of the approved haul routes. The 2003 Notice of Preparation states [Ref: NOP 1.6 p. 6]:

> *The existing CUP limits the project to only deliver material to the State Ready Mix batch plant at Vineyard Avenue and SR 118 in Saticoy. Delivery occurs via two approved routes: 1) a Northern Haul Route which runs from the project site north on SR 23 to SR 126, west on SR 126 to SR 118, then south to the State Ready Mix plant, and; 2) a Southern Haul Route which runs from the project south on SR 23 to Broadway, west on Broadway to Grimes Canyon Road, south to SR 118, then west to the State Ready Mix plant. Only 64 of the currently permitted daily maximum of 300 one-way truck trips may use the Southern Haul Route. In addition, project related truck traffic using this Southern Haul Route have limitations on their arrival and departure times in order to minimize traffic volumes during peak travel hours, and during school bus operations.* 22

The existing CUP contains limitations and establishes the approved routes that the trucks may follow. This is the "existing condition" at the time of publication of the Notice of Preparation. If these restrictions have changed, then the fundamental existing conditions at the time of the issuance of the Notice of Preparation have changed and a new Notice of Preparation should be issued.

This CUP modification seeks to eliminate the haul route restrictions that are currently in place by allowing project-related traffic to use any route. This proposed modification is a substantial change in the currently permitted existing conditions even without any expansion in material production at the mining facility. 23

The baseline for existing conditions (under CEQA), are substantially different along any of the Approved Haul Routes when compared to any of the locations that are not on one of the Approved Haul Routes. This difference is important. The traffic analyses utilized in this RDEIR fails to make a distinction in the currently permitted vehicle trips between what is currently permitted along the Approved Haul Routes and what is currently permitted at locations outside of one of the Approved Haul Routes.

How many project-related vehicles are currently permitted to travel along any location that is not on one of the Approved Haul Routes? (As the existing permit limits the direction of travel to the Approved Haul Routes, one would expect the number allowed outside of the Approved Haul Routes to be zero, by definition). Under the route and timing restrictions contained in the current CUP, it is certainly not 300 trips, as suggested by the assumptions and methodology adopted in the traffic study. 23

The RDEIR utilizes Average Daily Trips (ADT's) in much of the analyses. The Traffic Volumes allowed under the existing permit is 0 (zero) Average Daily Trips (ADT) at any location that is not on one of the currently approved haul routes. This is the "existing environmental condition" at the time of the NOP publication. If this is not the case, the RDEIR document should clearly explain why this is not the case. The RDEIR should provide the current existing permit allowances along all routes where truck traffic will likely travel under the CUP modification. This should disclose the existing condition along the Approved Haul Routes and also what are the existing permitted traffic allowances at locations outside of the currently Approved Haul Routes. 24

The proposed CUP modification will increase project-related traffic volumes in new locations where no permitted traffic currently exists. Since no project related traffic is currently allowed at these locations, the appropriate traffic volume "existing baseline" for any location that is not on a currently Approved Haul Route should be 0 (zero) ADT's. If this is not that case, then the RDEIR should explain why a higher baseline is appropriate to use in these non-permitted locations. 25

Many of the potentially impacted intersections and roadway segments included in the RDEIR traffic analyses are not on one of the Approved Haul Routes. 26

The Traffic Study assumes that the "maximum permitted 300 Daily Trips" under the existing CUP creates an existing "baseline" condition. The analyses in the RDEIR inappropriately use this 300 ADT baseline for all locations that are analyzed (both along and outside of the Approved Haul Routes), as if the existing CUP allows unrestricted traffic on any route and at any time. However, the maximum 300 Daily Trips are not an 27

accurate baseline under the current permit for any location that is outside one of the Approved Haul Routes. The project traffic is currently restricted outside of the Approved Haul Routes.

The traffic analysis in the RDEIR uses an "incremental analysis" methodology by theoretically analyzing only those additional ADT's that would be created by the plant expansion. Essentially, the assumptions are: total traffic from expanded operations is 460 trips; less the maximum 300 currently permitted ADT's; equals 160 new ADT's. This "incremental" ADT is listed at 160 additional ADT's resulting from the increased plant expansion. The subsequent impact analyses in this RDEIR are based on this limited 160 ADT increment. This approach (analysis of incremental traffic volumes above the currently permitted maximum traffic volume) is certainly appropriate under CEQA in many circumstances. However, in this instance, the current CUP (the existing permit), restricts truck traffic to very specific Approved Haul Routes. The current CUP also restricts the volume of allowed truck traffic at specified times at many locations. Most of the intersections that are analyzed in this RDEIR are at locations that are not on one of the currently Approved Haul Routes. The modification to allow travel on routes not currently approved (or at times not currently approved) will create "new" project-related traffic at locations where that traffic is not currently permitted. Therefore, the use of a so-called "maximum 300 currently permitted ADT" is inappropriate for most of the locations analyzed in this RDEIR. If this is not the case, the RDEIR should explain why utilization of 300 ADT's is an appropriate baseline to be used for locations outside of one of the approved haul routes. The explanation should be in sufficient detail so as to make the explanation understandable. 27

Without further explanation, all of the anticipated traffic (not the supposedly "incremental" traffic) that will be generated from the mine would be new Project-related traffic at any of these intersections. That is, all project related traffic that comes from the facility and which will travel on roadways that are not on one of the currently approved haul routes, is "new" traffic at these locations. The full volume of the traffic (not an inappropriate "incremental" projection), should be analyzed at these locations. If this is not the case, the explanation should be presented for public review with adequate time available for comment. 28

<u>The "baseline" as used for the Current Peak Hour Trips (PHT's) is inappropriate at any intersection or roadway segment that is not on one of the currently approved haul routes In addition, the removal of time restrictions would cause impacts that have not been analyzed in this RDEIR.</u> As described above, the current CUP restricts truck traffic to specifically approved haul routes and additionally restricts the time when truck traffic

may impact the surrounding roadway network. As much of the traffic analysis in this RDEIR is based on Peak Hour Trips, the same questions raised above regarding Average Daily Trips also pertains directly to Peak Hour Trips. Currently permitted truck traffic along any roadway segment or at any intersection that is not on one of the currently Approved Haul Routes is restricted. Therefore, the appropriate baseline to be used for analysis of PHT's is dictated by the limitations in the current CUP. The baseline at locations along any of the Approved Haul Routes would be different than would be the baseline at locations outside of any of the Approved Haul Routes. Any traffic generated from the plant during a Peak Hour that would not be allowed under the current CUP (i.e. outside of one of the currently approved haul routes) would be "new" project-related traffic at those locations. The removal of the route restrictions and the re-routing of traffic onto these roadway segments would increase traffic from what is currently permitted, even without the expansion of the mining operations. As such, all project related traffic (from the existing operations or from the proposed expanded operations) should be analyzed as "new" project-related traffic at any intersection or roadway segment where traffic is currently not permitted. 28

The current permit restricts traffic to 64 PHT's going south during the AM Peak Hours. This modification seeks to remove that restriction (through adoption of Mitigation Measure T1-1A). If the volume is currently "time restricted" at a location, and that restriction is removed allowing a higher traffic volume, then the resulting increase in traffic during that time along any affected location is also "new" project-related traffic during that time. The CUP modification is seeking to remove the time restrictions. The increase in traffic resulting from the removal of the time restriction would result in higher traffic volumes than are allowed under the current permit even without an increase in plant operations and should be analyzed as such. 29

The full volume of the increased Peak Hour traffic (not an inappropriate "incremental" projection), should be analyzed at these locations using the appropriate baseline. The analysis should include proposed changes in approved routes and removal of time restrictions, as well as increases due to plant operation volume. The new data should be presented for public review with adequate time available for comment.

<u>The traffic analysis understates the number of project-related truck traffic trips that will impact the area roadways.</u> The project is proposing to double the traffic volume generated by the facility (from 300 daily trips to a maximum 600 daily trips (DT's). The RDEIR anticipates that up to 600 daily trips would be required in order to adequately service some customers or to provide enough material during busy demand periods. The increased vehicle traffic that would be generated is dependent upon customer needs. As 30

such, it is reasonable to assume that the maximum 600 DT's would occur at the project at some time. Otherwise, the applicant wouldn't request the higher allowance. The traffic analyses (and the related Noise, Congestion and Safety elements) utilize a lower daily average (460 daily trips). Daily averages reflect what may happen on average over a given period of time. Use of traffic "averages" may make sense when analyzing impacts over time, such as in determining long- term health risks or cumulative impacts. However, this modification is seeking an increase in vehicle trips up to 600 trips per day. An increase to 600 daily trips is exactly what the CUP modification is asking, and this is the traffic volume that will impact the area roadway network on any given day. This increase in traffic (600 daily trips) will cause much longer delays, more congestion, more noise, and may contribute to more safety concerns than would the lower "average" traffic volume. This higher daily trip allowance is being requested so as to meet specific expected requirements of a customer that may have a higher daily load requirement or to send out more trucks when the regional demand is higher. It is unrealistic to assume that on any given day, at any given intersection or along any given roadway segment that fewer than 600 daily trips would occur. This is the permit modification that is being requested. It is unreasonable to assume that the higher maximum traffic volume would not happen. As this higher project-related daily trip volume is likely to occur, and because the increased traffic will additionally adversely affect traffic impacts at the studied intersections, the traffic analyses should analyze the actual anticipated higher volume (600 DT's), not the lower average (460 DT's). CEQA does not distinguish between an environmentally significant impact and an environmentally significant impact that only happens for a temporary period of time. Both are significant under CEQA. The RDEIR should utilize the actual traffic volumes that are likely to impact the roadways. This is 600 daily trips. 30

In addition, by virtue of their dependence on the traffic analysis: the Noise, Congestion, and Safety assessments should also utilize the higher 600 daily trip traffic volume in the analyses, not the lower 300 daily trip average that is currently used in the analyses. In particular, higher traffic volumes will undoubtedly result in higher noise generation. The traffic analysis for noise should be revised to reflect the actual projected anticipated higher daily trips.

The new data should be presented for public review with adequate time available for comment.

The cumulative traffic analysis is inadequate. For the reasons stated above, at all intersections and roadway segments that are not currently on one of the Approved Haul Routes, the full traffic generated from the project (that will utilize any of these locations) is contributory "new traffic" generated by the Grimes Rock mining facility at these 31

locations. It should be included as such in the cumulative traffic analysis. Furthermore, it does not appear that the traffic analysis has taken into consideration all projects that have been approved in the City of Moorpark, County of Ventura, City of Oxnard, that have a cumulative impact on traffic in this area since the original traffic studies. The cumulative impact analysis is lacking such considerations. Not all of the mines are subject to regulated Approved Haul Routes. For purposes of cumulative analyses, the traffic generated from each mine will vary in what is the currently permitted maximum traffic. 31

NEW TRUCK PARKING AREA

The analysis of potential impacts from Overnight Parking of Trucks on the site is inadequate and defers an environmental determination until a later date. The DEIR delays the environmental assessment of the potential impacts that may be caused by parking trucks on the site. The RDEIR states [Ref: 4.1-p. 76-77]:

> *Overnight parking and daytime parking of driver's cars could increase contaminants leaking into the aquifers and surface waters if the vehicles are parked on water permeable surfaces. If the vehicles are parked on impermeable surfaces, the surfaces could reduce aquifer recharge and/or result in contaminated surface runoff.*

Later in that same paragraph, the RDEIR states [Ref p. 4.1-76]: 32

> *Any plans or operations authorized under this mitigation measure* [onsite truck parking] *could only occur if the Watershed Protection District WPD concludes that no adverse impacts to water resources will occur.*

It is the purpose of this RDEIR to identify potential impacts, present data and provide information sufficient so as to allow the lead agency to make a reasonable decision based on the evidence presented. This portion of the DREIR puts off a determination of potential adverse impacts to Water Resources to a later date, and defers that determination to an agency that is not the lead agency. The impact on the aquifer and water resources must be fully analyzed, addressed and mitigated as part of the RDEIR, not at some future date.

As other identified significant impacts (specifically noise and traffic congestion during peak hours) contained in the RDEIR are intended to be mitigated, in part, by the overnight parking of trucks on the site (and those reductions in impacts are dependent on this measure), environmental analysis of the potential impacts from this addition to the project are necessary now, in conjunction with this RDEIR. Putting this analysis off until

later jeopardizes the other mitigations and creates an inability to make the mandatory finding required to certify the RDEIR.

The potential adverse impacts from parking trucks overnight on the site should be analyzed and quantified in conjunction with this RDEIR, not put off (or "piecemealed") to a later date when there is little likelihood of opportunity for further public review or comment. The RDEIR must address all mitigation measures in the document. The provided analysis of potential impacts on water resources from truck parking on the site is inadequate, as presented. 32

WATER RESOURCES

The water basin is in severe overdraft. Evidence is not presented to establish that the net quantity of groundwater in the basin will not be decreased due to the expansion of the mine. The continued availability of water for the mine is not clearly established. The current water usage reported in the RDEIR does not match the current water usage stated in the Reclamation Plan. Neither of these annual water usage volumes coincide with the historical water usage volumes reported by The Fox Canyon Groundwater Management Agency, (FCGMA). The rationale that the mine expansion will not cause a significant environmental impact on Water Resources is inadequate and inaccurate. 33

The RDEIR lists the Thresholds of Significance for impacts on ground water resources in section 4.5.3. These include five thresholds. The relevant thresholds; one, three and five state [Ref: RDEIR 4.5 p. 14]:

> *1. Any land use or project that will directly or indirectly decrease, either individually or cumulatively, the net quantity of ground water in a groundwater basin that is overdrafted or creates an overdrafted groundwater basin shall be considered to have a significant groundwater quality impact. ...*
>
> *3. In areas where the groundwater basin and/or hydrologic unit condition is not well known or documented and there is evidence of overdraft based upon declining water levels in a well or wells, any proposed net increase in groundwater extraction from that groundwater basin and/or hydrologic unit shall be considered to cause a significant groundwater quality impact until such time as reliable studies determine otherwise. ...*
>
> *5. General Plan Goals and Policies – Any project that is inconsistent with any of the policies or development standards relating to groundwater quality of the Ventura*

County General Plan Goals, Policies and Programs or applicable Area Plan (above), may result in a significant environmental impact. ...

The increased operations from the proposed project will require more water for dust control, plant operations, and evaporative loss. This increased water consumption is in excess of the water recharge from the site and will cause the net quantity of groundwater to diminish, thereby exceeding threshold 1. 34

The water usage numbers in Table 4.5.5 [RDEIR 4.5 p. 15] are incomplete (or at least confusing). It is unclear if the water usage calculations in Table 4.5.5 include the new expansion area; including the newly proposed truck parking area and newly proposed onsite haul road. The newly proposed onsite haul road and the newly proposed southerly entrance to the mine will require significant dust control. There is no indication in the RDEIR that the calculations in Table 4.5.5 include the water usage for dust control on this new onsite haul road and for the daily offsite road washing that will be required at the newly proposed southerly project entrance (as will be necessary under the Air Quality mitigation measures). In addition, the RDEIR states that proposed truck parking area is not located over the lower aquifer outcrop area and, as such, dust control water used at that location will not re-enter the groundwater basin from this area. 35

Of even greater concern, it appears that the current water usage numbers reported for the plant (and the usage numbers that form the basis for the future water demands calculated in Table 4.5-5) may be grossly understated. 36

There is also a legal question whether or not the applicant has a right to use of water from its alleged wells and whether or not its alleged allocations are accurate and whether or not such water can be used for such industrial use. The FCGMA has been analyzing this issue and has not made a final determination. At this point in time, the available water to the applicant cannot be confirmed and the RDEIR cannot proceed until these final determinations have been made by FCGMA. 37

The RDEIR suggests that groundwater quantities are not impacted by virtue of well water availability. This "availability" is in question. The RDEIR states that water will come from well 03N19W19K02S, located on the adjacent egg city property to the south of the quarry. The section goes on to state [Ref RDEIR 4.5 p. 15]:

The historic FCGMA allocation for well 03N19W19K02S is 131.868 AF/yr. As discussed above, by 2010 FCGMA Ordinance No. 5 will result in a reduction of this allocation to 98.901 AF/yr, after which it will remain constant. 38

The RDEIR fails to address the Los Posas User Group and the developing Las Posas Basin Management Plan. Water is not assured through the life of the permit extension (through 2040). It is not clear that a continuous and enduring allocation of 98.901 AF/yr for this well has been established. There is no analysis of continued water use and availability to 2040. There is no analysis of the proposed Ordinance 8.5 and 8.6 which FCGMA is processing. This will further reduce water availability. The lack of future water must be addressed. 38

The RDEIR states [Ref: RDEIR 4.5 p. 12]:

> *The calculated water usage for the existing quarry is 29.5 AF/year, as shown in Table 4.5.-5. This value is consistent with the 30 to 32 AF/year of water usage reported by the operator for the current quarry production.*

However, the Reclamation Plan states [Ref: Reclamation Plan p. 22]:

> "The existing quarry currently uses approximately 70 acre-feet of groundwater per year for processing of aggregate and dust control."

39

We understand that the actual water usage may historically be even higher than the 70 AF/yr stated in the Reclamation Plan. Historical water usage from the well from 2002 - 2009 (the years we have available) as reported by the FCGMA indicate that the annual average water usage was 82.066 AF. This data should be updated. Historical water usage rates (over a prolonged period) should be verified by the FCGMA. It may also be the case that the facility is currently, or may be planning to use water from another nearby well; a well that may not be authorized for industrial use. The significant discrepancy in current water usage requires explanation and verification. If another well is being used or will be used in the future, including its applicability for industrial use, it should be disclosed.

This historical usage discrepancy also suggests that the calculations for future demands (which are based on lower actual annual water usage) as provided in Table 4.5-5 may be grossly understated.

The RDEIR does not reference or provide evidence that clearly establishes water rights capable of meeting the increased water demands from the proposed project. If a guarantee of continuous water availability and a guarantee of continuous and unchanging allocations 40

(that meet the appropriate calculated future water requirements), the evidence should be provided for public review and comment.

The RDEIR should demonstrate clear and unequivocal evidence from the FCGMA (or other recognized source) confirming the historical water use and providing a guarantee of continuous future groundwater availability.

Without clear and appropriate disclosure of the current existing conditions, the analysis of impacts to water resources is inadequate. Without appropriate calculations demonstrating the future water demands that will be required to accommodate the proposed mine expansion, analysis of impacts to water resources is inadequate. Without clear and sufficient evidence from the FCGMA to demonstrate that sufficient water is currently, and will continue to be available through the life of the CUP, the analysis of impacts to water resources is inadequate. 40

As presented, there is not sufficient evidence in order for the lead agency to render a determination that Water Resources will not be significantly impacted.

<u>The references in the RDEIR related to the underlying rock outcrops are confusing and the provided information may be conflicting. The information should be presented in a clear and understandable form.</u>

The water quality section states [Ref: RDEIR 4.5 p. 3]

> *The runoff from the 28 acres located to the south of the crest of Oak Ridge currently flows southward off of Oak Ridge to a retention basin at Egg City. [...] The retention basin at Egg City is not located over the lower aquifer outcrop area. Thus, most of the surface runoff from the 28 acres located south of Oak Ridge is most likely lost to evaporation and evaportranspiration.* 41

The traffic section states [Ref: RDEIR 4.1 p. 76]:

> *As discussed in Section 4.5 (Hydrology) the site sits over the surface outcrops of the Fox Canyon aquifers. Overnight truck parking and daytime parking of driver's cars could increase contaminants leaking into the aquifers and surface waters if the vehicles are parked on water permeable surfaces.*

This is confusing. The proposed truck parking area is located south of the crest of Oak Ridge. The statements appear to be in direct conflict. Furthermore, the truck parking may

be required to comply with the County's new M-S4 permit, if impervious pavement is required, and this is not addressed in the RDEIR.

Even if they are not in conflict, why is it the case that runoff and standing water from this southerly area (and from the proposed truck parking area) would not reach the aquifer, while water from the mine operations located to the north would reach and "recharge" the aquifer? If onsite water discharge from the north would reach the aquifer (and thus provide recharge), would not runoff from the portion of the facility that is located further south (but contiguous), also reach the aquifer? It appears this would be the case from the traffic section, but not the case from the Water Quality section. 41

Has the "outcrop" been investigated to the extent that its boundaries can be defined in this level of detail? If so, where is the data to support this level of determination? The graphic details, particularly Figure 4.7-1 (Rock Formations Onsite and Nearby), and the geotechnical narrative provided in the RDEIR do not provide sufficient evidence to demonstrate this level of information. If this information exists, it should be made available to the public in an understandable form for review and comment.

If the water reaches the aquifer, it should be considered for water quality purposes; if it doesn't, it is an additional net loss to the aquifer and should be included in the water usage analyses.

<u>The discussion referenced above regarding the inappropriate deferral of determination for potential adverse environmental impacts at the Truck Parking Area also pertains directly to the newly proposed onsite haul road and the newly proposed southerly project entrance.</u>

What analyses of the potential runoff from the newly proposed onsite haul road have been completed? Not only is there potential for ground water impacts, but there is also potential for grease and other contaminants to impact the riparian and drainage courses located immediately adjacent to Grimes Canyon Road at the newly proposed southerly project entrance. 42

The RDEIR inappropriately defers determination of environmental impacts on water quality at the truck parking area to a later date and to an agency that is not the lead agency (as described in the comment regarding the proposed truck parking area above). There is no provided information on potential water quality impacts from the newly proposed onsite haul road included in the RDEIR. The potential for adverse impacts from trucks using the proposed onsite haul road should be analyzed and quantified in conjunction with this RDEIR, not put off (or "piecemealed") to a later date when there is

little likelihood of opportunity for further public review or comment. The potential for impacts to water quality at the newly proposed southerly project entrance should also be analyzed. As the inclusion (or exclusion) of the proposed onsite haul road and the newly proposed intersection with Grimes Canyon Road have the potential to impact other Significant Impacts (Congestion among others) and the respective Mitigation Measures for those impacts is intertwined with the proposed access road and southerly project entrance, it is necessary to complete the environmental review of the potential impacts in conjunction with this RDEIR. Alternatively, the proposed onsite haul road should be removed from the project and from this RDEIR. The provided analysis of potential impacts on water resources from the onsite haul road is inadequate, as presented. 42

NOISE

The environmental analysis on potential noise impacts in the RDEIR is confusing, omits areas requiring analysis and fails to disclose the location or magnitude of potentially significant impacts. As presented, the environmental analysis for Noise in this RDEIR is inadequate.

The statements provided in this RDEIR regarding noise are misleading, confusing and in error. For instance, the RDEIR states [Ref: RDEIR 4.2 p. 1]:

> Given the Open Space designation of the area and the mountainous terrain, it is not foreseeable that this condition *[distance to noise sensitive receptors]* would change from 2025 to 2040. In addition, the analysis of the noise generated by project-related truck traffic on the local haul routes is independent of the duration of the mining activities. To some extent the effects of project related traffic noise would be diminished with the passage of time due to the anticipated long-term increase in ambient traffic volume. 43

This statement fails to recognize the potential future noise impacts on the immediately adjacent residential subdivision, tentative Tract No. 5277 approved in 2005, which has been approved for 12 large estate lots. The newly proposed onsite haul road is located within feet of this approved subdivision. In addition, it is ludicrous to assume that traffic noise from the project would be diminished because ambient traffic noise increases. If the production levels at the site continue at the same level, and the number of trucks hauling material from the site does not change, the noise from the project will not diminish. On the contrary, subsequent development (causing increased ambient traffic) would generate additional overall noise which should be considered under the cumulative impacts analysis. This statement is particularly confusing in that the traffic section of this RDEIR

utilizes a background (ambient) traffic escalator (2% annually) to calculate near term traffic conditions, but takes the position that there will be no traffic changes subsequent to 2025 that would need to be considered in the cumulative traffic analysis between 2025 and 2040. The traffic/circulation element ignores traffic increases after 2025. The RDEIR cannot have it both ways. 43

The onsite noise generating machinery at the facility has shifted closer to potentially sensitive receptors (housing and biological communities). The plant boundaries in this RDEIR significantly expand the site to include APN 500-009-032. This expansion would include a newly proposed onsite haul road and new southerly entrance to the facility located predominantly within this parcel. This parcel was not included in the initial 2003 Notice of Preparation. The project also includes a proposed truck parking area that was not considered in the Notice of Preparation. The newly proposed southerly project entrance will be located on SR23 approximately 700 feet northerly of Shekell Road. There are two existing residential units located immediately across SR 23 from this proposed new entrance. No analyses of the noise impacts to these residences have been included in the RDEIR. In addition, the new facilities are located southerly of the historical plant facilities on the south side of the ridge. To some extent, the ridge forms a natural sound barrier to points further south. The new plans include cutting a breach in the ridge that currently isolates the existing plant facilities from the sensitive receptors located south of the ridge. This proposed boundary change and the proposed new uses in the expanded southern area significantly shift major sources of noise producing equipment at the facility. Trucks will be stopping and starting at the new intersection on SR 23. There will also be a substantial quantity of noise from the trucks utilizing the onsite haul road. The onsite haul road appears to include what looks like a 180° u-turn located at the bottom of an 11% grade. Trucks will be required to come to a near standstill at this location (both going up and going down) in order to negotiate the sharp turn. Noise will also be generated during the morning warm up at the proposed onsite truck parking lot. The project entrance intersection, the u-turn and the truck parking area will generate new sound source locations where trucks will be generating substantial noise where no sound currently exists. The newly proposed southerly project entrance and the onsite haul road are located just across SR23 from existing residences and immediately adjacent to Tract 5277 (not the 2400 feet stated in the RDEIR). The proposed truck parking area is near Tract 5277 and within site distance of the residences off SR 23. Noise generated from these onsite locations may cause environmentally significant noise impacts. There is no noise analysis included for any of these facilities in the RDEIR. In addition, the increase in noise at these locations may affect adjacent biological communities. The noise analysis for the expanded onsite operations (due to the southerly shift in onsite operations), and 44

from offsite truck noise at the proposed new southerly project entrance is inadequate in this DEIR, as presented. 44

<u>There is no noise study provided in this RDEIR. The limited noise analysis as presented in this RDEIR is out of date and fails to disclose where environmentally significant impacts will occur. It does not address the present circumstance in the area. It is stale.</u>

The RDEIR does not contain a noise study. Though a noise study is not specifically required as part of the CEQA process, most of the elements that are found in a standard noise study are required. The RDEIR does not contain any graphics or aerials that disclose where significant noise impacts currently exist or where the additional locations may be that would be additionally impacted by the proposed project. The RDEIR describes six locations in the narrative and tables where sound monitoring took place. The sound monitoring was used to establish Haul Route Baseline Noise Levels in 2004 [Ref: Table 4.3-1]. The noise monitoring took place in 2004, over eight years ago. There has been substantial residential development in the area in the last eight years. The noise study fails to consider potential noise impacts to homes on Shadow Estates, Redbird or Turnstone. It does not consider potential noise impacts to homes on Mann Ct., Vare Ct., Lopez Ct., or Hogan St. The potential noise impacts to Tract 5277 are completely ignored, and the potential noise impacts to the residences located immediately easterly of the proposed new southerly entrance have not been completed. 45

<u>The methodology adopted to assign noise impacts is confusing and nonsensical.</u>
The methodology used in the noise element in the RDEIR appears to use contour distances from centerline to generate potential impacts from the Grimes project relative to the noise generated from the other plants. The analysis applies percentages of distances within a given sound contour to one mine or the next based on the prorated traffic that is generated from each mine. For instance, if there are ten trips in total, and three trips come from mine "A", then mine "A" is assumed to cause 30% of the noise contour. If the noise contour is 100 feet, then the RDEIR assigns 30' of the contour to Mine "A". It does not distinguish if the assigned percentage is closest to the roadway centerline or at the outside edge. In one example, the noise analysis in the RDEIR appears to assign 7 feet of a 56' noise contour expansion to the Grimes Rock facility. The rest of the contour line is assigned to the other mines. In the context of the proposed CUP modification under consideration, it is nonsensical to assign noise within one sound contour line to one source over another. The noise comes from the trucks. As the trucks passes by, they create noise. Under this CUP modification, the applicant has requested that up to 600 vehicle trips per day be allowed to travel on the area roadway network in order to meet customer demand. As such, it is reasonable to expect that that number of trips (600) will be generated from the 46

project on any given day. It is unreasonable to expect anything else. That is what the CUP modification seeks. As such, the higher number of vehicle trips (600), not a lower "average", should be used for the analyses. In addition, since the trucks will be coming from the Grimes rock facility in order to meet customer needs during days of increased demand, it is reasonable that all of the sound coming from the roadway when the Grimes Rock trucks pass by is, in fact, generated by those trucks passing by. If the sound goes out an additional 56 feet, then it is unreasonable to assume that only 7 feet of the generated sound comes from the passing truck. All of the noise comes from the passing truck. 46

<u>The use of "maximum permitted average daily trips" and "Average Daily Trips" to establish a baselines as used in this RDEIR is calculated inappropriately for any location that is not on one of the approved haul routes. The additional modifications and resultant changes provided by approval of Mitigation Measure T1-1A are inadequate.</u>

As described in more detail under the similar comment regarding the inappropriate calculation of baselines used in the traffic analysis, the baseline for traffic used in the noise element of this RDEIR is fatally flawed at any location not on one of the approved haul routes. The maximum permitted daily trips (the "baseline") at any location not along one of the approved haul routes is different than the maximum permitted daily trips (the "Baseline") at any location that is located along one of the approved haul routes. This distinction is important. This CUP modification seeks to eliminate existing restrictions on the routes that can be used by truck traffic. Truck traffic under the current permit is only allowed to use specifically Approved Haul Routes. As such, any change to the CUP which allows traffic to go where it is not currently permitted (or modifies how much traffic is permitted at specific times) creates new project-related traffic at that location. As the CUP modification seeks to alter these restrictions, the appropriate new project-related traffic (and the associated traffic driven noise impacts) must be analyzed using the appropriate baseline. Several of the locations analyzed in the noise element are at locations not on one of the approved haul routes. In addition, the allowed truck traffic volumes during Peak Hour Trips will be additionally affected by other proposed changes in the existing CUP restrictions (including under Mitigation Measure T1-1A). The RDEIR fails to adequately disclose and analyze the various parameters and changes that may occur as a result of the proposed modifications. For further clarification on this issue, please see the related comment in the traffic/circulation portion of these comments. The RDEIR fails to address and consider the new CEQA thresholds and initial study guidelines adopted by Board of Supervisors in 2012. The RDEIR is inadequate and additional information should be provided to the public with adequate time for review and comment. 47

VIBRATION

There is no analysis of vibration of existing homes and proposed home Tract 5277. This must be analyzed. 48

AIR QUALITY

The increase in NOx (ozone) emissions that will result from the project expansion will cause a significant environmental impact on Air Quality. There is no evidence or support that the projected improvements in diesel engines (as suggested in this RDEIR) will actually happen. The analysis of NOx emissions "with" or "without the project" are flawed. 49.A

Increases in NOx (ozone) will be significant and above Ventura County thresholds. The RDEIR suggests various reasons why these significant impacts will be mitigated to insignificant levels. 49.B

The current significance threshold for NOx is 25 (lbs/day). The RDEIR states that the plant has not operated at the permitted capacity. It does not indicate whether, or not daily emissions have been exceeded. The RDEIR fails to disclose the existing environmental condition at the site. However, at the currently maximum permitted capacity, the NOx emissions are estimated to be 30.94 (lbs/day), or about 6 lbs/day above the County's threshold. The increase in production that would result from the proposed modification to the CUP is estimated to increase the NOx emissions by 26.94 (lbs/day), to a total of 57.88 (lbs/day) [ref: Table 4.2-5]. The increase alone is more than double the County's threshold of 25 NOx (lbs/day). 49.C 49.D

The analysis uses future projected improvements in diesel engines to support substantially cleaner emissions from the plant equipment. The logic is unsupported and actually establishes an environmentally significant impact (if one were to actually believe in the future unsupported engine improvements as presented).

The RDEIR is particularly egregious and misleading in the discussion on increases in NOx emissions. The RDEIR assumes that theoretical future improvements in diesel engines will cause a drop in operational NOx emissions. The study quantifies these improvements and states that the after the engine improvements take place, 49.E

The difference between on-site mobile emissions (currently permitted versus proposed project) will be less than significant in the future as the equipment fleet slowly modernizes as shown in Table 4.2-6. [Ref 4.2 p. 14]. 49.E

The RDEIR quantifies these projected improvements in Table 4.2-6 and provides very specific reductions in NOx emissions over time. The table reflects that the improvement in diesel engines will reduce emissions by 56% between 2010 and 2025. The RDEIR does not give an approximation, but quantifies the emission reductions in actual pounds per day. The reductions will be 56% (not 50%, or about 50%, but 56%). 49.F

What is the basis for this definitive assumption in diesel engine improvements? 49.G

What are these rates of improvements in emissions based on over a fifteen year period (2010 to 2025)? 49.H

Is it a sliding scale or do the engines just keep on getting better and better, year after year? 49.I

Is there a definitive timetable for the replacement of the diesel engines? None is included. 49.J

The study uses the year 2025 as the Long-term analysis projection, and reflects a reduction of 56% in emissions between 2010 and 2025. Based on these projected improvements, if these same percentages were to continue for the balance of the CUP permitting period (to 2040), the emissions would be close to zero. This makes no sense. 49.K

Taken a step further, however, if one were to assume that the diesel engine improvements actually were to occur as stated, then without the project expansion, the NOx emissions would certainly drop below the 25 lbs/day county threshold. In this case, the improvements in diesel engines would cause a reduction in NOx emissions such that they would no longer be environmentally significant, even at the currently permitted maximum activity level. This is a major improvement. Why is this significant benefit not listed in one of the Project Alternatives? One can only assume that it is not listed because there is no logic or support behind it. 49.L The County has not guaranteed that all new state of the art equipment is purchased and mandated to be used. Continued use of old equipment will impact air quality. 49.M

Using the calculations provided in this RDEIR, the theoretical improvement in diesel engines cited in this RDEIR would significantly lower the NOx emissions below the environmentally significant threshold without the project. However, the increase in plant 49.N

production would simultaneously raise NOx emissions and create a significant impact where none existed without the project. Either way (believe the assumptions or not), there is simply no way to quantify the offsets. The whole premise is absurd. Without additional data to support the engine improvement assumptions made in the RDEIR related to future NOx emissions, there is not sufficient evidence to support a reasonable determination for what are the likely air quality emissions related to NOx. If there is sufficient data to support this position on improving diesel engines, where is the numeric support and where is a timetable for implementation of equipment replacement? 49.N

<u>The Proposed mitigation measures do not establish that the impacts will be reduced to Less than Significance.</u> 50.A

Actual, effective and feasible mitigation projects to reduce air quality impacts must be identified as part of the relevant mitigation measures under CEQA. The RDEIR establishes the VCAPCD's Carl Moyer Program to reduce emissions through payment of fees in lieu of physical mitigation. The RDEIR lists an efficiency of $2.67 per pound of emissions reduced. This appears to be using 2008, or older, reports. These numbers are actually at least four to six years old. The calculation of the fees in 2012 efficiencies is not clearly provided. Are the efficiency numbers used in the RDEIR still valid in 2012 numbers? In addition, the mitigation fee appears to be predicated on calculations for three years of emissions from operations. The RDEIR is unclear on why three years of facility operations is the basis for determining the mitigation fee for operations that will continue for 35 years. The RDEIR does not contain information on how the fee will be adjusted. Fundamentally, the RDEIR does not include information on how the Carl Moyer program will actually and effectively offset the project related emissions. 50.B 50.C 50.D 50.E

<u>No impact analysis has been included for the proposed recent additional expansion area.</u>

The RDEIR includes an additional expansion area above what was previously considered in the Notice of Preparation (an additional 27 acres). The expansion includes a new onsite haul route, potential truck parking and the potential to add additional off-road haul trucks to the list of onsite facilities. Much of the onsite activity has been shifted to the south of the ridge. No potential Air Quality impact analysis has been included for activities in this southerly area, including substantial new truck exhaust from using the 11% gradient onsite haul road, or from the proposed truck parking area. This proposed new onsite haul route is immediately adjacent to several agricultural and residential uses, including the homes and avocado grove located on the easterly side of Grimes Canyon Road immediately adjacent to the new southerly project entrance. In addition to trucks stopping and starting at SR23 at the newly proposed southerly project entrance, substantial truck stack emissions will result from the trucks going up and down the steep (11% gradient) onsite haul route. Additional substantial emissions will be generated during morning truck 51

warm-up periods at the truck parking area. Additionally, no consideration has been included for the referenced additional onsite equipment; the referenced off-road haul trucks. These new onsite emissions have not been analyzed in this RDEIR. 51

THE NEWLY PROPOSED ONSITE HAUL ROAD AND NEWLY PROPOSED SOUTHERLY PROJECT ENTRANCE

The newly proposed onsite haul road and new southerly project entrance were not included in the initial 2003 Notice of Preparation. The information presented in this RDEIR regarding the newly proposed onsite haul road and southerly project entrance is incomplete. The limited information provided is inadequate. The RDEIR inappropriately delays determination of potentially environmentally significant impacts to a later date when other mitigation measures in this RDEIR are dependent on the feasibility of these newly proposed facilities.

The project now includes a newly proposed southerly project entrance to the facility that will create a new intersection with SR 23 (Grimes Canyon Road) to be located approximately 700' northerly of the intersection of SR23 (Grimes Canyon Rd) and Shekell Rd. The current project entrance to the mine (which will remain in use), is also located on Grimes Canyon Rd, but on the other side of the ridge top to the north closer to Fillmore. There is an existing locked gate at the newly proposed entrance, but no intersection currently exists. The RDEIR references a "Grimes Way" in this location, but apparently that is an old driveway, and certainly no entrance to the mine exists at this location. No mine traffic currently enters or leaves the mine at this location under any existing permits. In addition to the newly proposed entrance, the project now also includes a new onsite haul road. This road would go from the new intersection at SR 23 up to the top of the hill, through the ridge and into the mine facility from the south.

The new intersection and the new onsite roadway have the potential to adversely impact biological resources, noise, congestion, traffic, visual resources, glare, water quality, paleontological resources, agricultural resources, and community character, among others. There is no safety hazard analysis on this on site haul road. We have all seen the tragedy in Santa Barbara where a truck on Highway 154 lost control and its brakes and plowed through a house on a Sunday morning killing a family of four. This is an 11% grade and at the bottom of the road, directly across the street, is an existing residential dwelling. None of these potential impacts is addressed in the body of the document. A superficial reference to a couple of potential impacts is mentioned in the document, but no meaningful environmental analysis is provided. The RDEIR is incomplete. The document doesn't even include a referenced map and description of the facilities.

Section 4.1 references the proposed new onsite haul road and a new southerly entrance to the mining facility. Page 4.1 – 72 of the document states:

> Appendix B includes a map and description of this road.

Appendix B contains no such map or description. In fact, Appendix B is limited to a copy of a 2007 traffic study by Katz, Okitsu & Associates. Not only is any reference to a map or description of this roadway omitted from the document, Appendix B only includes a portion of the traffic study. Even the study is incomplete. The traffic study is included only through page 137. In order for the public to have a fair and reasonable opportunity to review the environmental documents, a complete set of documents must be provided to the public with adequate time to review and provide comments. It is impossible for the lead agency to make a reasoned determination based on incomplete information.

There is no reference at all to the new intersection in the traffic study. Apparently, the new intersection and new onsite haul road were not contemplated when the traffic study was written. This newly proposed intersection does not show up on any of the figures or tables contained in the entire Traffic/Circulation section in the RDEIR. It isn't mentioned in the Traffic Study. There is no numeric analysis of this intersection in the entire RDEIR. This intersection appears to have been thrown in at the last moment without any supporting traffic analysis. Per the RDEIR, SR 23 (Grimes Canyon Road) operates at LOS E at this location under existing conditions. It appears that the project is proposing to double the traffic volume generated by the facility (from 300 daily trips to a maximum 600 daily trips) and remove any existing restrictions on the number of vehicles that may head south from the facility. Does this mean that on any given day that up to 300 trucks could enter and leave the facility from this entrance? It is hard to imagine the consequences of adding this much traffic to SR23 at this location. The RDEIR fails to provide information on the potential impacts on traffic that may be created at this new intersection. In addition, elimination (or modification) of the existing restrictions on the volume of traffic that can go south from the plant (as contemplated by approval of these new facilities), would affect the traffic on all downstream intersections and roadway segments. An adequate CEQA analysis would determine if the impacts would be environmentally significant. 53

The RDEIR suggests this intersection would be built to CALTRANS specifications and that the review of the design of this intersection would happen at the time of plan submission. Of concern, this proposed intersection is located on an uphill gradient of SR23, located on a curve where visibility is restricted, and at a location where the LOS is

already at an unacceptable level (LOS "E"). From what limited information is available, it looks like the newly proposed onsite access road may also come into the intersection at an acute angle. In addition, the geometries of the location include steep hillsides immediately outside of the existing right of way on SR 23 which may preclude the ability to add turn lanes, acceleration lanes or other elements necessary to achieve CALTRANS specifications. The eastern side of SR 23 at this location is a steep hill in private ownership, and expansion of the western side of the right of way is impeded by the newly proposed onsite haul road. It is very possible that a high use intersection may not be feasible at this location at all; much less one designed to CALTRANS standards. Site distances alone may preclude this as a viable location.

Other identified significant impacts contained in the RDEIR (traffic congestion and safety concerns on SR23), are intended to be mitigated by construction of this newly proposed entrance. The mitigation of those impacts is dependent on this new entrance. As such, additional analysis of the feasibility of this intersection is necessary now, in conjunction with this RDEIR. Putting this off until later jeopardizes the other mitigations (and the related anticipated impact reductions).

53

Dependence on mitigation through compliance with established programs and specifications (such construction to CALTRANS standards) is recognized as fundamental to the CEQA process. In this case, however, the delay in feasibility analysis (even basic feasibility analysis) is inappropriate. The location may not be feasible. Delaying the analysis would put off until later the information needed to determine if other environmentally significant impacts (congestion and safety) would remain significant. Analysis of this intersection, including volumes, turn lanes, acceleration lanes, sight distance, stacking distance, approach geometrics and other elements need to be reviewed now, as part of this RDEIR, in order to make an informed decision. There is insufficient data contained in the RDEIR to allow the County decision makers to make an informed decision (or for the public to make an informed comment) about the potential traffic impacts that may result from this new intersection. There is insufficient data to determine if the intersection is feasible and that other mitigations may be warranted or not.

From the limited information supplied, the new internal haul road appears to include a full 180° u-turn within what appears to be a 30 foot radius before heading up the steep 11% gradient toward the top of the hill. There is no analysis of the feasibility of constructing this roadway. Is there sufficient turning radius to accommodate trucks passing each other on this u-turn? The location and design of this roadway appears to be limited by steep terrain and the narrow private property ownership at this location.

Having a u-turn at the bottom of an 11% grade on a thirty foot wide ("paved and dirt") road used predominantly by trucks invites dangerous safety issues. This roadway needs to be fully analyzed and the information needs to be presented to the public with adequate time to review and comment. Because decisions regarding other mitigation measures (and what other identified significant impacts will remain environmentally significant) are dependent on this roadway, this analysis needs to be completed now and not "piecemealed" to a later date. 53

<u>The description of the existing traffic restrictions and the proposed changes to the traffic restrictions that would be eliminated (or not) resulting from the construction of the newly proposed southerly project entrance is hopelessly confusing.</u>

There are existing restrictions that limit truck traffic to defined approved haul routes at locations away from the project. There are also restrictions on the allowed volumes that may go north or south from the mine. There are also time restrictions that restrict the direction or volumes that can be generated, as well as the routes that can be followed. These restrictions are different during peak hour times and during the balance of the day. The CUP modification being analyzed under this RDEIR seeks to alter, or in some cases eliminate entirely, these existing restrictions. The limited narrative that describes the existing restrictions is hopelessly confusing. It does not clearly define what traffic is currently permitted to travel along specific routes and at what time of the day restrictions are in place or what those restrictions are. These are the "existing conditions" under this RDEIR. It appears that the currently permitted traffic baselines are different for different locations (along verses outside of the Approved Haul Routes) and at different times of the day (Am Peak Hour for traffic heading south). The traffic analysis appears to ignore the restrictions imposed by the Approved Haul Routes entirely. Nowhere does the document state what the various existing restrictions are in a comprehensive and understandable manner for the various locations and roadway network surrounding the mine. 54

The narrative that supposes to describe the proposed modifications to the CUP is also hopelessly confusing. It appears that the mitigation measures (T1-1 and T1-1A in particular) would each cause different modifications to the current restrictions. Not only are the current restrictions not adequately explained (i.e. the "existing conditions"), but the multiple ramifications of implementing one or more of the mitigation measures is not clearly disclosed in the RDEIR. In some cases, it appears that the traffic volume to the south would be limited and the specific route would also be restricted. In others, the traffic volume would be limited, but the route would no longer be limited. In others, the volume could be up to 600 daily trips, but the traffic during peak hours would be only 64 trips allowed to the south. In others the traffic volume to the south would be unlimited

and without time restrictions. The traffic study does not include any numerical information on the traffic impacts at the proposed new southerly project entrance. The traffic analysis also does not provide any numerical analysis for what would happen at intersections located further from the facility where volumes, approved haul routes, traffic volumes or times of travel would be affected with implementation of the newly proposed southerly project entrance (Mitigation Measure T1-1A). The traffic analysis on the surrounding roadway network that would result with implementation the newly proposed southern entrance (MM T1-1A) is hopeless confusing and inadequate. It may even be the case that the traffic analysis already assumes the implementation of Mitigation Measure T1-1A. It is impossible to understand. CEQA requires a clear understanding and disclosure of the existing conditions, the proposed changes and the potential impacts that will result from the proposed changes. As presented, this RDEIR fails to do that. 54

The RDEIR suggests that implementation of the proposed new southerly project entrance would mitigate traffic congestion on SR 23 to less than significant. The RDEIR fails to address what additional congestion impacts may be created by the new intersection. The RDEIR fails to address potential congestion impacts on portions of SR 23 outside of the hilltop location.

The RDEIR presents no numerical data to support that the Congestion impacts would be reduced to less than significant along any portion of SR 23, with or without the proposed new southerly project entrance. There is no provided baseline in the RDEIR that demonstrates that congestion on this section of roadway would be less than significant without traffic from the project. It appears that congestion along this section of SR23 would still be significantly impacted (though obviously not from truck traffic from the Grimes Rock mine). However, the traffic without the project still appears to be environmentally significant. The analyses do not indicate what would happen at or near the new intersection. This new intersection may cause delays on SR23 that have not been analyzed. The significant stacking that will occur while trucks wait to make a left turn across northbound SR 23 to enter the project may cause new significant northbound or southbound congestion impacts. Any delays on SR 23 caused by the new intersection would be project-related impacts. In addition, the RDEIR fails to address potential congestion impacts on the section of SR 23 south of the newly proposed southerly project entrance (between Shekell Road and the new project entrance) or on other locations along SR 23 south of the project. Is this section of roadway still environmentally impacted? There will certainly be increased impacts from project-related traffic at this roadway section. The information presented is inadequate in order to understand the potential ramifications of adding a new intersection on this portion of SR 23 (if such an intersection is even feasible). 55

From the limited information available, it appears that the newly proposed onsite haul road and southerly project entrance may cause adverse environmental impacts in addition to traffic impacts.

The new onsite haul road and proposed new southerly entrance will result in substantial changes to the project that were not envisioned or disclosed in the initial 2003 Notice of Preparation. These new facilities shift a large portion of the entire onsite impact causing sources of impacts into the southerly community area, south of the ridge top where none of these impacts would have existed without the new onsite haul road, the new southerly entrance or the new truck parking area. 55

As set forth in the County Code section 8104-7.2 the purpose of the Mineral Resources Protection overlay zone (MRP) is "to minimize land use conflicts and the purpose is not to obligate the county to approve the use permits for the development of the resources subject to the MRP."

Community Character: The newly proposed onsite haul road and proposed southerly project entrance appear to be located immediately next to tentative tract No 5277, which has been approved for 12 large estate lots. There are also two existing homes across from this proposed new entrance. The proposed road and project entrance have not been analyzed for their impacts on this residential subdivision and the existing home. The new haul route and project entrance are certainly not in character with these residential and agricultural uses. 56

Noise: The RDEIR states that the closest sensitive receptors are located approximately 2400 feet from the mine operations. This newly proposed onsite haul road is located only feet away from residential subdivision Tract 5277 and the new project entrance is immediately adjacent to the existing homes across SR 23. This tract and the homes will undoubtedly be impacted by onsite noise operations from trucks going up and down the steep gradient of the onsite haul road and by the offsite noise impacts created at the newly proposed intersection along SR 23. 57

Glare: The RDEIR suggests that because the mine operations already cause an unavoidable significantly adverse impact for glare visible along SR23, that the glare caused by the new onsite haul road and new project entrance would not be additionally environmentally significant. However, this road and the new intersection are on the south side of the ridge where no light intrusion and glare issues currently exist. This new haul road has the potential to cause glare and other visual impacts across the lands to the 58

south, especially in consideration of the steep roadway leading down from the ridge where headlights in the early morning hours may cross the entire southerly landscape. Undoubtedly, glare from the trucks coming down the 11% gradient would impact conditions at Shekell Road just southerly of the proposed new project entrance. Glare from the onsite operations, including the proposed haul road and the truck parking area would be incompatible with the rural nature of the community south of the ridgeline. Glare from headlights from the use of the onsite haul road in the early morning hours (and from the truck parking area) would also not be compatible with Mitigation Measure B11-1 in the Biological Resources element, which prohibits light intrusion into lands outside the limits of disturbance to 0.5 foot-candles. 58

Visual Resources: As all previously identified visual impacts were limited to the north or to the adjacent SR23, the visual analysis contained in the RDEIR does not show views from the southerly side of the ridge. Before the introduction of the new onsite haul road, the truck parking area and the new proposed southerly project entrance, views of the operations or views of the trucks from the project were not going to impact the area to the south. However the onsite haul road, the southerly project entrance and the proposed truck parking area, as well as the breach that would be cut through the ridgeline, all have the potential to cause visual impacts to the south where none currently exist. A new and adequate visual impact analysis showing views from the south would assist in determining potential adverse impacts on visual resources. Without such a study there is insufficient evidence on which to base a reasoned determination on potential adverse impacts on Visual Resources. 59

Biological Resources: None of the biological surveys conducted for the property included the area of the newly proposed onsite haul road or the area adjacent to the proposed new intersection at SR 23. If the surveys did include these areas, the results are not presented in this RDEIR. These areas may experience adverse environmental impacts to biological resources that have not been surveyed under standardized protocols. Light from truck headlights and the noise generated from trucks using the newly proposed onsite haul road may adversely impact adjacent biological communities. There are also many existing trees (and potential nesting sites) in immediate proximity to the newly proposed southerly project entrance, and there's a drainage course along Grimes Canyon Road in this location. None of these have been considered in this RDEIR. 60

Water Resources: Water quality issues may be caused by runoff (grease and dust) along the proposed new onsite haul road and in the area of the new project entrance. No environmental analysis for potential impacts to water quality related to the onsite haul 61

road or new project entrance are included in this RDEIR. Applicability to M-S4 has not been considered or addressed, if impervious areas are required. 61

Paleontological Resources: The RDEIR states that paleontological resources will be unavoidably significantly impacted by the project. No survey of the of proposed new onsite haul road, proposed truck parking area, or the area in proximity to the newly proposed project entrance have been surveyed for Paleontological Resources. 62

Air Quality and Agricultural Resources: Stack smoke and increased particulate matter, especially from trucks stopping to cross SR 23 and from trucks going up the steep grade on the proposed onsite haul road, may adversely impact the avocado grove (located just easterly of SR 23 at the proposed project entrance) and may impact the agricultural operations located just to the south of the expanded facility area (project numbers 64, 65 and 66 on the List of Related Projects [Ref: RDEIR p. 3-4]). The adjacent residential Tract 5277 is also slated to include substantial agricultural elements. 63

Health: No analysis is provided in this RDEIR that addresses potential health risks from the new intersection and onsite haul road on the residences located immediately adjacent to the proposed new intersection or within Tract 5277. 64

The newly proposed onsite haul road and new southerly project entrance have the potential to cause significant environmental impacts that have not been analyzed in this RDEIR. These facilities were not even contemplated in the initial 2003 Notice of Preparation. There is insufficient information provided in this RDEIR on which to make reasonable comments regarding these facilities. There is insufficient evidence on which the lead agency could base a reasoned determination that these new elements will not cause significantly adverse environmental impacts.

SUPPLEMENTAL QUESTIONS

The RDEIR is vague, confusing or fails to provide sufficient information in order to answer the following questions:

1. The Reclamation Plan shows mine production will continue through 2040 [Ref: Reclamation Plan Table 2, p. 10]. This table is slightly different, but it is roughly analogous to the annual average production rate described in the body of the RDEIR (approximately 1.8 million tons annually). Per the schedule in the Reclamation Plan, there are 4.9 million tons of material slated to be produced in the 65

last 3 years (2038-2040). However, the Reclamation Plan also states in another location that the reclamation of the site, including a 3 year monitoring period on the re-vegetation, will be completed by the 2040 end date [Ref: Reclamation Plan p. 15]. These two operations appear to conflict. How can the production continue through 2040, and simultaneously be subject to a 3 year reclamation and re-vegetation monitoring period on the same area at the same time? This requires additional explanation. What amount of water will be required for re-vegetation? 65

2. Figure 3.3-1 in the Reclamation Plan shows that the existing Egg City foundation slabs will remain after re-vegetation. The mine boundary was expanded to encompass this area. The 2003 Notice of Preparation states:

> Upon completion of all mining activities, the applicant would remove its plant facilities and all equipment from the site at the commencement final reclamation. All foundations and pavement, the plant and buildings will be removed. The compacted areas will be ripped and reworked to a consistency and permeability similar to that of the original soils, and remaining unvegetated areas will be regraded to conform with the local topography and revegetated. 66

The narrative in the Reclamation Plan also indicates that all unnecessary foundations will be removed. The Figure and the narrative appear to be in conflict. Will these foundations be removed and the area revegetated? These two potential outcomes are inconsistent. The Reclamation Plan and body of the RDEIR should clarify what will happen. What about fugitive dust for removal of the foundation and grinding thereof?

3. Figure 3.3-1 (Revegetation Plan) in the Reclamation Plan does not show the newly proposed onsite haul road or the area around the proposed new southerly project entrance. Will these areas be removed and revegetated? The narrative in the body of the RDEIR and the Reclamation Plan are not consistent or this area. 67

4. The Reclamation Plan [Ref: p.22] states that runoff from the quarry flows northward and eventually into the Fillmore Basin. Section 4.5 (Hydrology and Water Resources), in the body of the RDEIR, suggests that water from the quarry 68

re-enters the aquifer located south of the ridge. These statements appear to be inconsistent. Please explain. 68

5. Section 4.1, Traffic/Circulation suggests that Passenger Car Equivalents (PCE's) are utilized in some components of the traffic analyses. Several of the tables in section 4.1 include notes that PCE's are not used, and that these tables are to be used for information purposes only. This is confusing. Why are PCE's used at some times, and not in others? Why are these tables included and what does for information purposes only mean in this context? The document should not compare apples to oranges. 69

6. The very first entry, Related Project, No 1, Tract 5277 (Caprock), in the list of Related Projects, is not shown on Figure 3.1c (Related Projects Map – Ventura County). This 12 lot residential subdivision is located immediately adjacent to the proposed project. The impact on this project seems to be missing in various areas of the RDEIR. 70

7. The following information is not provided in Section 4.1 or in the traffic study. Given all of the variable parameters contained in the existing conditional use permit and what is proposed by the project, the traffic analysis is particularly confusing as presented in the RDEIR. These questions are included to attempt to clarify some (but certainly not all) of the questions that are raised by the proposed project as presented in the RDEIR):

   a. What is the current daily maximum truck traffic volume that is permitted (under the existing CUP) to go through the intersection of Moorpark Avenue (SR 23) and High Street in the City of Moorpark? This is one of the selected intersections in the project study area. Maximum Daily? Average Daily? AM Peak Hour? PM Peak Hour? 71
   b. What will be the truck traffic volume that will be allowed at this intersection under the proposed project? Maximum Daily? Average Daily? AM Peak Hour? PM Peak Hour?

c. What is the "incremental" truck traffic volume that was used for the traffic impact calculations at this intersection? Maximum Daily? Average Daily? AM Peak Hour? PM Peak Hour?
d. What will be the maximum allowed truck traffic volume at this intersection if Mitigation Measure T1.1A is approved? Maximum Daily? Average Daily? AM Peak Hour? PM Peak Hour?
e. If the volumes in "d" are different than the volumes in sub-question "b", above, was this difference considered in the calculations? If so, where are the calculations presented? 71
f. Were these variables (particularly the potential variations in "average daily trip" allowances under the various different mitigation measures) at this intersection, including the change in vehicle volume restrictions inherent in Mitigation Measure T1-1A, considered in the Health Risk and Climate Change elements in the RDEIR? This doesn't appear to have been addressed anywhere in the document. If it was considered, where are the results? If not, then it should be, with adequate time allowed for review and comment.

8. The RDEIR indicates that there are concerns regarding trucks leaving the mine and not following existing regulations. The DEIR specifically references this for gravel extraction vehicles using Moorpark Avenue through the central district of Moorpark [Ref: RDEIR 4.1 p. 13]. There are potential impacts to safety, traffic, community character, noise and other potential impacts. The RDEIR suggests that these concerns are being investigating separately from this RDEIR. Isn't this RDEIR exactly the place to address with this issue? If operations at the mine are causing downstream issues/impacts (directly or indirectly), then isn't it the purpose of this RDEIR to effectively identify the nature and scope of those impacts, determine if they are environmentally significant and provide direction in determining if the impacts can be mitigated, or if the impacts are unavoidably significant? Putting this issue off and failing to disclose and address an identified impact is contrary to the basic tenants of CEQA. This issue should not be put off (or "piecemealed") until later. 72

9. The midday peak hour was included in the traffic analysis because the project site currently generates higher traffic activity during this hour than during the 73

traditional AM and PM peak hours. The traffic analysis attributes this to the nature of operations as well as to existing CUP limitations upon hauling of materials during the AM Peak. The proposed project, particularly under Mitigation Measure T1-1A, proposes to modify, or eliminate, the AM restrictions. How was this proposed modification (the modification or elimination of the AM restrictions) considered in the traffic analysis? Were separate calculations prepared? Are separate tables available? Would different criteria be applied to these intersections with or without mitigation measure T1-1A? Where in the RDEIR is this information disclosed? 73

10. Midday peak hour analyses are not available in the County's traffic model. What consideration was given to analyzing traffic impacts for midday peak hour traffic analyses between 2006/2007 and 2025/2040? Because the project traffic is highest during these periods, is it not appropriate to complete this analysis? If the analysis has not been completed, what justification is there for not completing this analysis? Also, this is 2012, not 2007. Have midday peak hour activities been calculated through 2012? If not, why not?

The published document is incomplete, thus preventing a thorough and comprehensive review. The missing elements are inextricably intertwined with other elements of document. As such, we reserve the right to make additional comments to the Recirculated Draft Environmental Impact Report until such time as we have had adequate time to review and comment on the complete document.

Should you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

NORDMAN CORMANY HAIR & COMPTON LLP

Nancy Kierstyn Schreiner

Nancy Kierstyn Schreiner
Attorney

NKS:ke
copy: LeRoy Smith, County Counsel
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EXHIBIT B
to Moorpark's June 26, 2013 Comment Letter on the Grimes Rock FEIR

OCT 23 2012 G.

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October 22, 2012

Mr. Brian R. Baca
County of Ventura, Planning Division
800 South Victoria Avenue
Ventura, CA 93009

Re: Modified Conditional Use Permit No. 4872-2-Revised Draft Environmental Impact Report-Applicant Russell Cochran

Dear Brian:

Our law firm represents the neighboring property owners. We have reviewed the Notice of Availability and obtained a copy of the Recirculated Draft Environmental Impact Report (RDEIR) both from the County Planning Department Website and the CD from the Planning Department. We are surprised to see that the RDEIR is an incomplete document. The RDEIR document appears to have been made available to the general public and published with parts missing. Since new information has been added to the EIR prior to final certification of the EIR, the EIR must be recirculated with this information. Public Resource Code section 21092 and CEQA Regulation 15088.5. It is critical that the general public have all of the information to fully comment and evaluate the proposed project. As set forth in the County Code section 8104-7.2 the purpose of the Mineral Resources Protection overlay zone (MRP) is "to minimize land use conflicts and the purpose is not to obligate the County to approve the use permits for the development of the resources subject to the MRP." It is critical to the general public to have the full and accurate information. 1A

The following information is omitted both from the website and the CD.

The applicant listed on the Notice of Availability refers to Russell Cochran. However the RDEIR refers to Grimes Rock Inc., as the applicant. See Page 1-1. This inconsistency is not explained anywhere in the RDEIR. Who is the actual applicant? Is there an amended application? 1B

Section 4.1 references a proposed new onsite haul road and a new southerly entrance to the mining facility. Page 4.1 – 72 of the document states:

"Appendix B includes a map and description of this road."

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Appendix B contains no such map or description. In fact, Appendix B is limited to a copy of a 2007 traffic study by Katz, Okitsu & Associates. Not only is any reference to a map or description of this roadway omitted from Appendix B, Appendix B only includes a portion of the traffic study. Even the study is incomplete. The traffic study is included only through page 137. The balance of the document appears to be missing. In addition to the missing map and description of the newly proposed onsite haul road, none of the appendices to the traffic study are included in Appendix B of the circulated document. 1B

The traffic study (and the calculations included therein) has not been updated since 2007 and components of the traffic information are missing entirely. The RDEIR states [Ref: RDEIR pg 4.1-5 and 6]:

"Existing traffic data was obtained from the Grimes Canyon Quarries Ventura, California Traffic and Circulation Study, Associated Transportation Engineers (ATE), October 2002. The additional traffic counts were conducted specifically for this study by Traffic Data Services in September 2003, January 2004, April 2004, and November 2006. Traffic count data used in the study is compiled in Appendix B."

There is no traffic count data provided in Appendix B. In fact, Appendix B is limited to a copy of only a portion of the 2007 traffic study by Katz, Okitsu & Associates. The Katz , et al, study in Appendix B is included only through page 137. The balance of the document appears to be missing. None of the appendices to the traffic study (which are presumed to include the referenced traffic count data) are included in Appendix B of the circulated document. It is impossible to determine which studies were used for which intersections or when any of the traffic counts were taken. The RDEIR document is incomplete. In order for the public to have a fair and reasonable opportunity to review the environmental documents, a complete set of documents must be provided to the public with adequate time to review and provide comments. It is impossible for the lead agency to make a reasoned determination based on incomplete information. 2

Further, Section 1.5 which describes the project does not include this new internal access road and entrance onto the public street. The maps set forth in the project description do not reflect his new internal access road and entrance onto the public street. However, on page 4.1-72the DEIR states "to accomplish this, the applicant proposed to construct an internal access road within the project site." However it is completely omitted from the project description even though it is proposed by the applicant. One cannot ascertain without the map supposed to be set forth in Appendix B exactly where this new road will be. This internal access road and new entrance onto the public street is inconsistent with the purposes of the MRP to minimize land use conflicts. This new road 3

OCT 2 3 2012

appears to be proposed immediately next to Tentative Tract No 5277, which has been approved for 12 large estate lots. There is also an existing home across from this proposed new entrance. The proposed road set forth in T1-1A has not been analyzed for its impact on this residential subdivision (Tract 5277) and the existing home. 3

In order for the public to have a fair and reasonable opportunity to review the environmental documents, a complete set of documents must be provided to the public.

The newly proposed onsite roadway and new southerly project entrance at Grimes Canyon Road are substantial changes from the Project Description as provided in the initial 2003 Notice of Preparation. Neither the published RDEIR available online, nor the document CD provided through the County include any information in Appendix B regarding this proposed onsite roadway. The document is incomplete. As such, it is impossible for the public to have an opportunity to review and meaningfully comment on the newly proposed onsite haul road and new project entrance. 4

As stated, not only is reference to the proposed onsite haul road and new project entrance omitted from the circulated RDEIR document, the provided traffic study is incomplete. It is impossible to understand from the data provided what are the means and methods used to create the traffic study. For instance, no detailed intersection data is provided. No traffic count data spreadsheets, no dates on which traffic counts were taken at specific intersections, and none of the other data that normally accompanies a traffic report are provided. For instance, on Figure 4.1-3 (Existing Traffic Volumes-AM Peak Hour, pg 75), the Figure suggests that traffic heading south on Grimes Canyon Road at the project entrance is 552 vehicles (545 southerly through-traffic + 7 vehicles turning southerly from the mine entrance). At the next southerly analyzed intersection (at Grimes Canyon Road and Waynes Way), there are 594 vehicles reaching the intersection from the north. There is an increase of 42 vehicles on this short section of highway. Why are these counts so different? There is no intervening intersection to account for this significant discrepancy in vehicle counts. Were these counts taken on different days? Were they taken at different times? Because the traffic study is incomplete, there is no way to review the intersection-specific data. Intersection-specific data spreadsheets (normally shown in a traffic study appendix) should be provided for review in the traffic study. The entire portion of the traffic study after page 137 is missing from the published document. This missing data may provide information as to why the intersection traffic counts provided in Figure 4.1-3 show such inconsistent information. On the other hand, the missing intersection-specific data may not show why the vehicle counts are so different (a discrepancy which may cause one to question the fundamental conclusions of the traffic 5

OCT 23 2012

study). Without the missing data, however, it is impossible to make a reasonable or meaningful comment on the document as published. 5

There is no traffic analysis provided in the RDEIR for the proposed new intersection that will be created at the new southerly project entrance where the new onsite haul road would enter Grimes Canyon Rd. Potential adverse environmental impacts on Traffic, and on Glare, Noise, Biological Resources, Community Character and other elements may be influenced by the missing data. The traffic analysis is inextricably intertwined with the other potentially adverse environmental conditions that may be generated from the proposed project. As such, the missing information is not isolated in the context of an appropriate review. Informed comments can only be generated by reviewing the missing data in conjunction with the balance of the document. 6

Without a complete document, especially a map specifically reflecting this new access road and entrance to the public street, as well as other missing vital data, the public is deprived of a meaningful opportunity to comment upon potential substantial adverse environmental effects of the project. As such, a complete RDEIR must be recirculated with adequate time for the public to review and provide comments.

We would appreciate your reconsideration that the RDEIR be recirculated and that the full review and comment period will be restarted upon availability of the complete document. We reserve our right to provide further public comments on the RDEIR.

Should you have any questions or comments, please do not hesitate to contact me.

Very truly yours,
NORDMAN CORMANY HAIR & COMPTON LLP

Nancy Kierstyn Schreiner
Attorney

NKS:ke
copy: LeRoy Smith, County Counsel

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NOV 02 2012

State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
http://www.dfg.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

Q.

October 31, 2012

Brian R. Baca
County of Ventura, Planning Division
800 S. Victoria Ave.
Ventura, CA 93009
Fax No.: (805) 654-2509

Subject: Recirculated Draft Environmental Impact Report for the Grimes Rock, Inc. CUP Modification 4874-2 and Amended Reclamation Plan Project, SCH #2003111064, Ventura County

Dear Mr. Baca:

The Department of Fish and Game (Department), has reviewed the Recirculated Draft Environmental Impact Report (RDEIR) for impacts to biological resources. The applicant is proposing to modify the existing Conditional Use Permit (CUP) for the Grimes Rock Mine to:

- Increase the size of the permit boundary from 164 acres to 231 acres (a 41% increase);
- increase the maximum permitted mined area from 48.4 acres to 135.3 acres (a 180% increase);
- increase the sand and gravel production rate from 952,500 tons per year to 1.8 million tons per year (a 89% increase);
- extend the mining end date to 2040;
- expand allowable average daily one-way truck trips from 852 to 1,576, from the hours of 6:00 AM until dusk;
- implement revised Reclamation Plans.

The proposed project site is located at 3500 Grimes Canyon Road (Highway 23), between the cities of Moorpark and Fillmore, adjacent to Oak Ridge in the Santa Susana Mountains, in Ventura County (County). Mining is proposed to be conducted in 3 phases, each phase taking 10-15 years to complete, until a final anticipated end date in the year 2040. Site reclamation is proposed to occur in phases, roughly corresponding with the end of each phase of mining (e.g., Phase 1 site reclamation will be performed at the end of Phase 1 mining). The end use of the reclaimed mining site is proposed as open space.

Proposed project impacts include the removal of the following habitat types:

- Venturan coastal sage scrub and sparse coastal sage scrub (65.4 acres);
- coast live oak woodland (2.14 acres);
- Southern California black walnut woodland (4.78 acres);
- southern riparian scrub (0.3 acre); and
- annual grassland (14.02 acres).

Conserving California's Wildlife Since 1870

Wildlife with the potential to be impacted by the project include the Federally Threatened and California Species of Special Concern coastal California gnatcatcher (*Polioptila californica californica*), the California Species of Special Concern loggerhead shrike (*Lanius ludovicianus*), northern harrier (*Circus cyaneus*), coast horned lizard (*Phrynosoma coronatum frontale*), silvery legless lizard (*Anniella pulchra pulchra*), Townsend's big-eared bat (*Corynorhinus townsendi*), San Diego desert woodrat (*Neotoma lepida intermedia*), and San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), and the California Native Plant Society List 1B slender mariposa lily (*Calochortus clavatus ssp. gracilis*), Robinson peppergrass (*Lepidium virginicum* var. *robinsonii*), and wedge-leaf horkelia (*Horkelia cuneata* ssp. *puberula*).

Measures proposed in the RDEIR to mitigate impacts include:

- compensatory mitigation acreage, with maintenance endowments, to be dedicated as open space at a ratio of 2:1 for removal of coastal sage scrub, riparian scrub, and woodland habitats, 0.5:1 for removal of sparse coastal sage scrub, and 1:1 for annual grasslands;
- preparation of a wedge-leaf horkelia protection plan;
- pre-construction surveys for or avoidance of nesting birds and other sensitive wildlife species, with buffer zones placed around active bird nests;
- relocation of sensitive animal species discovered during pre-construction surveys, to at least 500 ft. beyond the limits of mining;
- protocol surveys for coastal California gnatcatcher;
- preparation of Native Vegetation Planting Plans for reclaimed sites;
- protection of sensitive wildlife from lighting impacts.

The Department is California's trustee agency for fish and wildlife resources, holding these resources in trust for the People of the State pursuant to various provisions of the California Fish and Game Code. (Fish & G. Code, §§ 711.7, subd. (a), 1802.) The Department submits these comments in that capacity under the California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its related permitting authority under the California Endangered Species Act (CESA) and Fish and Game Code section 1600 et seq., the Department also submits these comments likely as a responsible agency for the Project under CEQA. (*Id.*, § 21069.)

California Wildlife Action Plan

The California Wildlife Action Plan, a Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. The Department looks forward to working with the County to minimize impacts to fish and wildlife resources with a focus on these stressors.

Rare Plant Assessments

The RDEIR Section 4.6.1 indicates that, in 2012, field inspections of the project site were undertaken by the County biologist and Department of Fish and Game biologists. The RDEIR states that these inspections confirmed the biological resource conditions contained in the 2006 draft EIR. Department staff visited the proposed project site, which included two areas containing stream channels, on May 25, 2012. That site visit was not intended to supplement 1

survey data for the RDEIR, thus the RDEIR should not imply the RDEIR contains up-to-date biological survey data. 1

The RDEIR relies upon a series of botanical assessments of the project site which were undertaken at various times by various consultants between 2001 and 2004. The original reports that describe these assessments are not included in the RDEIR and therefore we cannot determine whether they were conducted in a manner that is consistent with the Department's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf). Surveys by Mr. Carl Wishner, a botanical consultant, are described in the RDEIR as being conducted in June and July, 2003, with a subsequent one day visit in May 2004 (post 2003 wildfire and a drought year). This information suggests that spring blooming species, and species sensitive to drought conditions could have been missing or under-represented. 2

Also, the County has developed and adopted Locally Important Species lists for special status plants and animals that are uncommon and declining in the local and regional area (http://www.ventura.org/rma/planning/pdf/ceqa/locally-important-species/Final-2012-Locally-Important-Plants.pdf). Botanical assessments therefore should be conducted consistent with the Department's 2009 protocols, and they should include addressing species on Ventura County's Locally Important Plant list. 3

The Department is concerned the project area could support the state listed endangered plant species, San Fernando Valley spineflower (*Chorizanthe parryi* ssp. *fernandina*). San Fernando Valley spineflower occurs in geologic formations at Newhall Ranch that are similar to those found within the proposed mining area, including older surficial sediments, Pico and Saugus formation. Observations over the last decade suggest that in years of drought, spineflower populations can be extremely scarce, or even absent. The Department is therefore concerned that field surveys may not have been adequate to determine the presence or absence of this endangered species within the project area. 4

The RDEIR identifies two special status plants which occur onsite, slender mariposa lily and wedge-leaf horkelia. The RDEIR lacks maps showing the locations of these populations and does not describe the aerial extent or population numbers for these two special status plants. The Department is therefore unable to evaluate the feasibility of avoiding impacts to all or a portion of the onsite populations, nor can we adequately evaluate the mitigation proposed to offset impacts to wedge-leaf horkelia (Mitigation Measure BR 1-2). 5

Special Status Plant Communities

The Department is concerned the proposed project would expand mining into sensitive woodland habitats. We are also concerned about loss of the "escarpment" area, located on the highest ground within the project area, in the south central portion of the Grimes Rock site. This escarpment is associated with dense stands of walnuts on the north facing slopes and is a unique geologic feature likely to support important local wildlife habitat, including various bat species, San Diego desert woodrat and possibly other California Species of Special Concern. This geologic/habitat feature is not specifically discussed in the DEIR, and we cannot determine whether it was examined adequately for nesting sites and/or habitat for sensitive wildlife species. An alternative which avoids this escarpment area should be evaluated. 6

During our onsite visit in May 2012, the Department observed extensive areas occupied by a native annual grass, little-seed muhly (*Muhlenbergia microsperma*). While this grass is not rare, the extensive stands may constitute a unique herbaceous component of a local and regional plant association. This species seems to favor south and west facing slopes. The Department recommends that seeds from this species be collected for use in reclamation of south and west facing slopes (hottest slopes) following completion of mining. A native plant nursery could grow out little-seed muhly for the purposes of increasing the amount of seed available for revegetation. 7

Indirect Effects of the Proposed Project

CEQA requires a lead agency to consider the whole of the action when analyzing a project's environmental impacts (CEQA Guidelines §15063(a)(1), §15378). This includes actual or potential indirect effects that are reasonably foreseeable (CEQA Guidelines §15064(d)). The proposed project includes mining activities which would remove several hills within the proposed project site. The hill removals will lead to changes in photoperiods and hydrology at adjacent off-site habitats, particularly in the northeast corner of the proposed project site, adjacent to Grimes Canyon Creek. Changes in photoperiod and hydrology have potential for significant effects to off-site habitats (e.g., creating significantly drier conditions). The Department therefore recommends an analysis of the effects of this indirect impact. 8

Mitigation

Mitigation Measure BR 1-1 - BR 1-1 describes the general criteria and requirements for addressing impacts to sensitive habitats by acquiring and permanently protecting offsite habitats of comparable or greater value. Offsite natural habitats in the general area are likely subjected to livestock grazing. We recommend that the plan and documentation required under BR1-1 include provisions for addressing livestock grazing through development of a grazing management plan. This plan should generally limit or restrict livestock access to streambeds and shrub-dominated plant communities and exclusionary fencing may be necessary. Grazing of areas dominated by annual grasses may be appropriate, but residual dry matter should be retained at levels above 750 pounds per acre; in area of year round grazing or during droughts, grazing should be restricted. 9

The Department is concerned the proposed mitigation for removal of sparse coastal scrub, by providing compensation habitat at a ratio of 0.5:1, would be inadequate. In general, the Department does not recommend compensation habitat for temporary impacts at less than a 1:1 ratio. The RDEIR should provide additional information to support the rationale for the 0.5:1 ratio (e.g., extremely diminished habitat utility for wildlife within the existing sparse coastal scrub community). 10

The Department is also concerned the proposed mitigation for removal of southern riparian scrub habitat at a compensation habitat ratio of 2:1 would be inadequate. The Department typically requires mitigation for this habitat type, as part of a Lake and Streambed Alteration Agreement (LSAA), at a compensation habitat ratio of 3:1. The RDEIR would likely serve as the CEQA document for a LSAA required for the proposed project, and so should reflect a 3:1 ratio requirement for compensation habitat for southern riparian scrub. 11

Mitigation Measure BR 1-2 - The RDEIR identifies two potential mitigation options to address loss of onsite populations of wedge-leaf horkelia. Option 1 directs that an offsite population be protected, and Option 2 directs that a population of wedge-leaf horkella be introduced to a 12

permanently protected offsite location where it does not currently exist. For either option to be effective, a more detailed characterization of the onsite wedge-leaf horkelia population is necessary, including a determination of the aerial extent and population abundance. If an offsite introduction is pursued, additional information on its biological, ecological and habitat requirements would be critical to inform those efforts. The Department recommends that any offsite introductions demonstrate they have met effective success criteria prior to allowing any direct or indirect impacts to the onsite population. We also recommend that any offsite habitat acquired for wedge-leaf horkelia support an existing population of comparable or greater size to that being impacted. 12

Truck Traffic and Roadkill

The County Planning Division has produced "Roads and Biodiversity Project: Guidelines for Safe Wildlife Passage" (Ventura County Planning Division, 2005), intended to educate and instruct on methods to mitigate negative wildlife-roadway interactions. A paragraph contained in that document states:

> "According to the U.S. Department of Transportation's Federal Highway Administration, as of 1999, there are more than 3.9 million centerline miles of public roads that span the United States. Each day, an estimated 1 million animals are killed on roads, making roadkill the greatest direct human-caused source of wildlife mortality in the country (Forman 1998). "

The project as proposed will result in an increase in truck traffic on State Route 23 from the Grime Rock Mine almost double the current condition. Trucks will be traveling on several miles of highway through open space containing a variety of wildlife species which could be run over. We could not find in the Biological Resources or Traffic sections of the RDEIR a discussion of the impact an increase in truck traffic will have on wildlife. 13

The Department therefore recommends impacts on wildlife from the proposed increased truck traffic be analyzed in the RDEIR. Adequate mitigation for significant adverse impacts should be presented. The guidelines mentioned above should be consulted for appropriate mitigation measures.

The Department also is concerned with the allowance for truck traffic beginning at 6:00 AM. 6:00 AM is an hour or more before sunrise for part of the year, and can be very dark. Wildlife activity can be greater just prior to and at dawn, at the same time that driver visibility is reduced. The Department therefore recommends the truck hauling time restriction changed to between sunrise and sunset. 14

Reclamation Plan

The Reclamation Plan (Plan) contained in Appendix G describes a finished slope of 2:1 (horizontal:vertical). To minimize erosion and facilitate revegetation, the Department recommends a finished slope no steeper than 3:1. The slopes should be configured to prevent grading outside of the permitted mining area. 15

Topsoil stockpiles should be protected from erosion and placed where they will not intercept drainage. To preserve beneficial soil microorganisms and retain seed bank viability, the piles should not be deeper than three feet or stored for more than five years. The mining method, top-down on slopes, will facilitate reapplication of topsoil as soon as the bench is constructed. 16

Revegetation should emphasize the use of plant propagules obtained from the local and regional area. We therefore recommend that onsite seed collections be undertaken over a period of several years prior to mining disturbance, and that this seed be properly stored for future use when mining is completed. 17

Soil amendments are not recommended unless soil testing indicates that specific micro- or macronutrients are lacking. To determine the appropriate level and type of soil amendment, project soils should be compared to undisturbed native soils and amended to approximate the natural condition. If fertilizers are used, the application rate should not exceed 100 lbs. per acre. Slow release fertilizers are preferred when working with native species so that mycorrhizal function is not impaired. Reapplication of topsoil/growth media often precludes the need for soil amendment.

The revegetation component of the reclamation plan generally does not recognize that plant community composition on south and west facing slopes can be very different from those on more mesic north and east facing slopes. We therefore recommend that specific plant palettes be developed for each slope aspect. Plant palettes for revegetation should be based upon actual sampling of onsite plant composition and relative cover values should reflect differences between south and north facing slopes. 18

The reseeding methodology described for seed mix B (representing about two-thirds of the reclaimed site) involves hydroseeding. Hydroseeding is ineffective in arid sites. Seed is not incorporated into the substrate and is subject to predation and desiccation if it germinates. Drill seeding or imprinting are far more effective methods of introducing seed to an arid site. Drill seeding is proposed in the Plan for slopes 3: 1 and flatter. Configuring finished slopes to 3:1 would allow the use of drill seeding for the entire site. 19

Reclamation Success Criteria - The proposed Plan identifies minimum success criteria for revegetation of mined areas. A table for Seed Mix "A" (to be used on the floor of the mined area) stipulates that a minimum of four perennial species be represented. However, we note that only three perennial species are proposed to be seeded there, so this table should be corrected to show three and not four species. 20

Revegetation performance standards should be based on perennial species unless an annual plant erosion control cover is specified. The revegetation performance standards should also include density and species richness in addition to plant cover to ensure that pre-disturbance vegetation conditions are approximated. Sample sizes must be sufficient to produce at least an 80 percent confidence level. 21

Impacts to Jurisdictional Drainages

The Department has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on the notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA Agreement is a project subject to CEQA. To facilitate issuance of a LSA Agreement, if necessary, the environmental document should fully identify 22

the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. The failure to include this analysis in the project's environmental document could preclude the Department from relying on the Lead Agency's analysis to issue a LSA Agreement without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project. 22

Thank you for this opportunity to provide comment. Questions regarding this letter and further coordination on these issues should be directed to Mr. Martin Potter, Staff Environmental Scientist at (805) 640-3677 or Ms. Mary Meyer, Staff Environmental Scientist at (805) 640-8019.

Sincerely,

Betty J Courtney

for Leslie S. MacNair
Environmental Program Manager
South Coast Region

Reference

Ventura County Planning Division. 2005. Roads and Biodiversity Project: Guidelines for Safe Wildlife Passage. Southern California Association of Governments. 48 pp.

cc: Department of Fish and Game
Ms. Betty Courtney, Santa Clarita
Mr. Martin Potter, Ojai
Mr. Dan Blankenship, Santa Clarita
Ms. Mary Meyer, Ojai
Mr. Jeff Humble, Ventura

State Clearinghouse
Mr. Scott Morgan, Sacramento

5.

Ventura County
Watershed Protection District
Groundwater Section

MEMORANDUM

DATE: November 26, 2012

TO: Brian Baca – RMA Planning Division

CC: Mark Bandurraga – Watershed Protection District, Hydrology Section

FROM: Rick Viergutz – Watershed Protection District, Groundwater Section

SUBJECT: Comments on Grimes Rock Re-circulated Draft EIR and Amended Reclamation Plan

Thank you for the opportunity to comment on the subject documents. The Re-circulated Draft EIR is for a modified Conditional Use Permit (CUP) 4874-2 and amended Reclamation Plan for the Grimes Rock, Incorporated Mining Facility. The applicant is requesting approval to extend the effective term of the permit from 2013 to 2040, expand the excavation area from 48 to 135 acres, and increase production from 950,000 to 1,800,000 tons per year. Our comments are broken down into comments on the Re-circulated Draft EIR, and comments on the Amended Reclamation Plan.

General Comments

In general we find that Section 4.5 of the Re-circulated draft EIR contains updated information about identification of impacts and mitigation, but it also contains older information that has become dated. We feel this dated information should be updated, and in at least one instance we are raising a concern about the dated information and its ability to be used to project water use for the "Expanded Project". The Watershed Protection District did an independent analysis of the groundwater recharge at reclamation and it conditionally indicates groundwater recharge at reclamation will be at least equivalent to recharge prior to mining; however our independent analysis is only valid if the infiltration of the surface soils is maintained. There is no provision in the Re-circulated Draft EIR that the infiltration performance of on-site soils at mitigation be quantified. It is the Groundwater Section's opinion that infiltration performance be quantified, and a performance standard should be established now and included in the mitigation measures. Doing so provides better assurances that at reclamation (year 2040) it will be clear what the actual performance criteria for site soil infiltration are. 1

Specific Comments:

Surface Water Quantity

Page 4.5-3 describes that runoff from the 28 acres located to the south of the crest of Oak ridge currently flows southward off of Oak Ridge to a retention basin. It further states that most of the surface runoff from the 28 acre area is "most likely" lost to evaporation and evapotranspiration. Please summarize the supporting evidence for this conclusion, and please summarize the retention basin construction details. If the retention basin bottom is pervious, a portion of the surface water will likely infiltrate into the underlying shallow alluvial aquifer. 2

Groundwater Quantity

Page 4.5-5 states that after reclamation the excavated area of the site will convey all storm water runoff to the Santa Clara River valley. This section also states that the basins are in a state of "severe overdraft." It is not clear what the subject document means with the term "severe overdraft;" however, data indicate that localized pumping cones of depression exist in the Las Posas Basins and groundwater levels have risen in other parts of the Las Posas Basins. 3

Page 4.5-6 states that Ordinance No. 8.1 is the current version of the Fox Canyon Groundwater Management Agency's Ordinance Code. Actually Ordinance No. 8.1 is no longer in effect, the current Ordinance Code was adopted in December 2011. This section also provides statements about the purpose of Section 4.0 and 5.0 of the FCGMA Ordinance Code No. 8.1; however the statements are overly-narrow and do not reflect a number of goals within those Ordinance Code sections. Those statements should be removed, or clarified. 4

The second to last paragraph on page 4.5-6 references Table 4.5-3, and Table 4.5-4. The data source for Table 4.5-3 is listed as the FCGMA (undated). The well numbers are truncated in the table making verification of the well number and the data linked to it difficult. Table 4.5-4 is also out of date as the most recent water level data listed is from 1982. This table should be updated, and if that well is no longer available, the County Groundwater Section may be able to provide more recent water level data from nearby wells. 5

The final paragraph on page 4.5-6 describes groundwater extraction trends in the East Las Posas Basins. This section describes that groundwater extraction has recently declined to approximately 15,000 acre feet per year (U.S. Geological Survey, 2003). More current data is listed in the data table below and it indicates that the average groundwater extractions from 2007-2011 is approximately 24,636 acre-feet per year. Please update the subject document to reflect this.

Calendar Year	East Las Posas Basin Reported Extractions in Acre-Feet (data from FCGMA records Nov 2012)
2001	12,743
2002	18,216
2003	15,231
2004	17,172
2005	12,908
2006	17,415
2007	21,774
2008	24,163
2009	29,669
2010	27,158
2011	20,365

6

The final paragraph on page 4.5-6 also describes some generalized data from U.S. Geological Survey, 2003 about recharge to the Las Posas Basins from the aquifer outcrop area, and recharge to the Las Posas Basins from other sources. This paragraph describes groundwater extraction as creating groundwater quality problems. We suggest that this paragraph be improved by describing some of the uncertainty in the U.S. Geological Survey, 2003 report. It could also draw on more recent data about the basins. Some of this data is available from the Fox Canyon Groundwater Management Agency. 7

Page 4.5-6 also includes a discussion about pending groundwater allocation reductions that will be triggered by the Fox Canyon Groundwater Management Agency. Those allocation reductions have already been completed. 8

Figure 4.5-2 is shown as being sourced from the FCGMA (undated). An inspection of the map shows that the map legend is incorrect. "Aquifer Outcrop" should be labeled the "Lower Aquifer Outcrop Zone," and "Additional Recharge Area" should be labeled the "FCGMA Expansion Area." 9

Page 4.5-11 states that the mine operator reports (year 2003?) that the existing quarry currently uses approximately 30 acre-feet of water per year for processing and dust control. It states that water usage for 2003 was 32 acre feet per year, and the current water source is well 03N19W19K02S.

FCGMA records indicate that reported extractions from 03N19W19K02S were 107.9 acre feet in 2003. The reported average annual groundwater extraction from 2002 through 2011 for wells used by the mine operator is approximately 95 acre-feet per year. Data from 2010 and 2011 indicate that mine water use was 51.882 and 53.865 acre-feet per year, respectively. Actual reported groundwater use is much greater than 30 acre-feet per year; this discrepancy should be addressed. 10

Page 4.5-12 includes Table 4.5-5 "Water Use Calculations Grimes Rock, Inc. Ventura County, California." The table lists Total Net Annual Water Usage for "Current Conditions" and "Expanded Project." Table 4.5-5 shows the net annual water usage is estimated at 29.5 acre feet; however, actual reported water usage to the FCGMA is significantly higher. Data reported to the FCGMA for 2002-2011 show an annual average water use of approximately 95 acre-feet per year. Data from 2010 and 2011 indicate that mine water use was approximately 52 and 54 acre-feet per year, respectively. Given this discrepancy, it appears something is not being accounted for in Table 4.5-5. Table 4.5-5 and its supporting discussion in the subject document is used to provide an estimate of water use for the Expanded Project; however, the discrepancies between reported and estimated water use suggest it is not an accurate reflection of actual water use or water use for the Expanded Project. We recommend these estimates be verified and revised using actual groundwater extraction data reported by the mine operator. 11

Based on FCGMA extraction reporting for the Grimes Rock Mine, groundwater is extracted from four groundwater supply wells (03N19W19K02S, 03N19W19N03S, 03N19W19P02S, and 03N19W18Q01S). The project will exceed the 1.0 acre-foot threshold of net annual increase in groundwater extraction. Generally the County of Ventura relies on input from the FCGMA where increases in groundwater extraction are proposed. Normally, if a project increases water use, but the water use stays below the FCGMA allocation, then the water quantity impacts are not considered significant by the County. Unfortunately the environmental document does not clearly lay out the Expanded Project water use. It appears the proposed water use for the "Expanded Project" (which approximately doubles current production) is much closer to the existing 2010 and 2011 water use for the existing project. In summary, it isn't clear what the "Expanded Project" groundwater use will be, or if it will exceed the mine operator's extraction allocation. Until this is made clear, the potential threat to groundwater quantity cannot be determined. 12

Section 4.5.4 Project Impacts

Changes in Groundwater Recharge (Impact WR 1)
According to the Re-circulated Draft EIR, Mr. Brian Baca (CHG 398) of Ventura County Planning has certified that the lower slope gradients resulting from mining will increase percolation of rainfall into the ground and increase average annual recharge to the underlying groundwater aquifers. This may be correct; however, the Groundwater Section's key concern with this is that there is no performance metric in the subject document describing a necessary minimum soil infiltration rate at reclamation, or how it should be measured. 13

Section 4.5.6 Mitigation Measures

Reduction in Groundwater Recharge (Impact WR 1)
To verify that mitigation measure WR 1 is successful, the document should outline requirements to establish a numerical baseline for pre-mining infiltration rates. The baseline can be used to validate the referenced Santa Barbara County recharge rate, and to confirm the post-mining infiltration rate at reclamation is equal to or greater than pre-mining conditions.

To support a requirement for establishing baseline permeability of the proposed mining area, Mr. Mark Bandurraga of the Watershed Protection District – Hydrology Section, conducted an analysis of the pre- and post-mine infiltration based on available information. Mr. Bandurraga's analysis is attached. 13

Comments on the Amended Reclamation Plan

Based on our review of the Grimes Rock Amended Reclamation Plan, we have the following comments:

Water Supply Wells: Currently, one water supply well (State Well Number (SWN): 03N19W18Q01S) is located on the floor of the mine at an elevation of approximately 1,130 feet above mean sea level (amsl). The proposed final mining elevation is approximately 1,000 feet amsl which will likely require the well casing to be lowered. The permittee should summarize how they plan to lower the well casing as mining progresses, and intentions for the well at reclamation. Lowering (cutting off) the well casing may remove the required annular seal, so this should be addressed. 14

Impervious Concrete Surfaces: Several (6) concrete surfaces are located south of the active mining area and within the mine property boundaries. The Reclamation Plan should clearly state if the concrete surfaces will remain at mine reclamation, or be removed. If the concrete surfaces are to remain at reclamation, the impervious surface should be factored into the final percolation values. 15

Attachment: Email from Mark Bandurraga November 9, 2012

Dana Files - Grimes Recharge Issues and Qualitative Evaluation

From: Mark Bandurraga
To: Viergutz, Rick
Date: 11/9/2012 2:10 PM
Subject: Grimes Recharge Issues and Qualitative Evaluation
CC: Files, Dana; Rindahl, Bruce
Attachments: Soils.jpg

Rick, Dana:

Based on the info contained in the EIR I don't think we need to do the Curve Number analysis to look at the runoff and related infiltration for the existing and post project conditions for this sand and gravel mine. The following data are provided in support of this conclusion.

Existing Conditions
CURRENT MINING AREA
Contains impervious or compacted surfaces related to excavation and processing activities.
Our soils maps for the current mining area (attached) show that as mostly badlands WPD soil type 1 (SCS type D) with a high runoff potential/low infiltration capacity
Aerial photos show non-vegetated disturbed soils.
Relatively flat processing area, steep slopes at the excavation front.
Runoff currently limited to 10-yr peak with detention basin
PROPOSED MINING AREA
EIR Vegetation Section says the primary vegetation for the 87.7 ac expanded mining area is 56.3 ac of Coastal Sage scrub, 9.1 ac of sparsely vegetated steep slopes, and 14 ac of non-native annual grasses.
Average slope in existing proposed area greater than average slope after reclamation
Current natural slopes lead to channelization of flow and fast concentration times.
Soils are sandy or clay loams, WPD soil type 4, which is similar to SCS type B with relatively low runoff potential/high infiltration capacity.

Proposed (Reclaimed) Conditions
CURRENT AND PROPOSED MINING AREAS
Current processing areas will be converted to vegetation with a top layer of relatively pervious soils.
Reclaimed slopes encourage longer overland flowpaths before channelization occurs, leading to more opportunities for infiltration. SThe steepest reclaimed slopes are located above relatively flat (1%) slopes of the processing area that will lead to more infiltration than the existing condition.
Reclamation plan calls for minimum 3 inches of topsoil and use of processed fines for top layer of soil at site prior to revegetation.
Revegetation of site will likely replace current sparsely vegetated steep slopes with more vegetation than in the current condition, leading to slower runoff travel times. Slightly more evapotranspiration will occur in these areas, offsetting the increased percolation to an unknown extent.
Runoff from proposed area will be limited to pre-developed 10-yr peak.

CONCLUSIONS
Based on the above data, the infiltration from the current work area should be enhanced by the reclamation activities through the application of topsoils and alteration of slopes to cause more infiltration and slower travel times than currently occur during design-level storms. For the proposed excavation areas, the soils are currently are shown to have a relatively high infiltration rate so if testing of the soils after reclamation show the upper soil layer to have a similar percolation rate as existing, then recharge to the ground water aquifers should not be decreased by the project. The current steep slopes and channelization of runoff in this area will be converted to flatter slopes and longer overland flow distances by the project, offsetting any losses due to

evapotranspiration from increased vegetation over what is currently observed at the site.

RECOMMENDATIONS
Following the statement on Page 4.5-16 about mitigation measures, we should provide a comment requiring the site developer to collect pre- and post project percolation data from the proposed mining area to show that the percolation rate has not been affected by the project or reclamation activities.

Let me know if you need more info on this, or clarification on anything from the above.

Mark Bandurraga
Engineer IV- Design Hydrology
Ventura County Watershed Protection District
800 S. Victoria Ave- M/S 1610
Ventura CA 93009
Office (805) 654-2015
Fax (805) 654-3350
>>> Rick Viergutz 11/9/2012 8:05 AM >>>

EXHIBIT C

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Pasadena
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San Diego
Woodland Hills

MEMORANDUM

To:	Dave Bobardt City of Moorpark	Date:	June 25, 2013
From:	Clare M. Look-Jaeger, P.E. CL-Jaeger Alfred C. Ying, P.E., PTP ACY. LLG, Engineers	LLG Ref:	1-13-4026-1
Subject:	Peer Review of Grimes Rock Mining FEIR/Traffic Analysis/Conditions of Approval		

As requested, Linscott, Law & Greenspan, Engineers (LLG) has prepared this memorandum summarizing the peer review comments on the various environmental review documents associated with the Grimes Rock, Inc. Expanded Mining Facility project. Our review has focused on transportation-related topics and issues of interest to the City of Moorpark. We are also quite aware that a fairly significant history is associated with the site and its operations as evidenced by the current and amended Conditional Use Permit (CUP-4874) and associated Conditions of Approval as well as subsequent requests, appeals, and decisions. This memorandum highlights several issue areas that in our professional judgment require additional review and analysis, including but not limited to the following:

- Saturday Impact Analysis
- Analysis of the SR-23 Bypass Route
- City of Moorpark Significant Impact Thresholds

Proposed Project Overview

The existing Grimes Rock Mining Facility is located at 3500 Grimes Canyon Road. CUP-4874 outlines several conditions and limitations as they relate to hours and days of operation, allowable haul/truck routes and use, identification of trucks, among others. The Grimes Rock, Inc. Mining Facility is currently limited to 952,500 tons per year and no more that 300 truck trips per day. Truck arrivals and departures can occur every 15 minutes during certain AM hours and only 64 of the 300 one-way truck trips may use the Southern Haul Route (i.e., Grimes Canyon Road to Broadway, to Grimes Canyon Road). Therefore, the Southern Haul Route does not include use of Walnut Canyon Road and/or Moorpark Avenue.

The proposed project ("Project") consists of an expansion in current operations up to 460 average daily truck trips, with no more than 600 daily truck trips during peak operations. The project also consists of the expansion from a five day a week operation (i.e., Monday through Friday between 6:00 AM to dusk) to a 6 day a week operation (i.e., Monday through Saturday) between the hours of 6:00 AM and dusk for trucks entering and exiting the facility. The Project also reflects the Applicant's request to permit 24-hour on-site mining operations and maintains the current time of day restrictions in terms of permissible truck entry and exit hours. Furthermore, the Project proposes to extend its CUP to the year 2040.

City of Moorpark's 12/17/03 Response to the EIR Notice of Preparation (NOP) for Modification No. 2 to CUP 4874, Grimes Rock, Inc.

The City of Moorpark responded to the County's NOP noting that the City was vehemently opposed to any permits or alterations to permits that would permit additional truck traffic through the City along Walnut Canyon Road and Moorpark Avenue. As such, the City requested that several items be addressed in the EIR, particularly relating to traffic and transportation issues, and are generally described below:

- The City stated opposition to expanded operations to include Saturday operations and requested that the land use impact be fully addressed in the EIR.
- The City opposes any deletion of conditions that currently prohibit use of Walnut Canyon Road and requested that the SR-23 Bypass Route be analyzed as an alternative, given that the bypass route is reflected in the City's General Plan Circulation Element and has been designated by the Ventura County Transportation Commission as a priority project for State Transportation Improvement Program (STIP) funding.
- The City noted that the current CUP-4874 haul route restrictions (i.e., which expressly prohibit use of Walnut Canyon Road as part of the Southerly Haul Route) do not include associated mechanisms for on-going monitoring and enforcement as well as a means for penalty and revocation if violations occur. The City requested that the County's Code Enforcement staff be referred this matter and if violations are not immediately and positively dealt with, that the County cease all processing of any expansion of the use. Violations have been documented by LLG and are summarized in the CUP-4874 section of this memorandum, below.
- The City requested project-specific and cumulative traffic analyses using local thresholds and highlighted five specific intersections for analysis within the City.

Review of 2007 Traffic Study and the 2013 Supplemental Traffic Analyses

Two traffic analyses were prepared by Katz, Okitsu & Associates ("KOA") as part of the environmental documentation associated with the Project and both studies were found to be generally prepared using transportation planning industry standard methodologies. LLG specifically reviewed the following documents; 1) *Traffic Study for the Grimes Canyon Quarries in the County of Ventura*, August 16, 2007, as contained in Appendix B (Transportation/Circulation) of the Grimes Rock, Inc. Expanded Mining Facility Final EIR, and 2) the supplemental technical memorandum, *Traffic and Transportation Technical memorandum for the Grimes Rock Quarry*, May 20, 2013, as contained in Section C (Supplemental Traffic

Information) within Volume III of the Final EIR. While the analyses have been prepared in accordance with industry standards, the following comments are provided for consideration by the County prior to taking any action on the Project, as LLG believes additional review and analysis is needed.

Traffic Study Analysis Time Periods

The following points are made with respect to the review of the traffic analysis time periods:

- The City of Moorpark specifically requested that a Saturday analysis be provided. In LLG's review of both KOA studies, no Saturday impact analysis was provided. Since the Project includes an expansion from no Saturday operations allowable under the current CUP, to up to 600 truck trips per day allowed on a Saturday, it is our professional judgment that this is a glaring omission in the CEQA-required environmental documentation.
- While the studies purport to analyze weekday AM, mid-day and PM operations, only the project driveway at the Grimes Rock facility was analyzed during the mid-day peak hour. None of the other study intersections were analyzed for the mid-day condition.

Depending on the current Saturday operating conditions at the 15 study intersections, additional significant traffic impacts could result which would not have been disclosed to the public and the decision makers.

Analysis of the SR-23 Bypass Route

No analysis of the SR-23 Bypass Route is included in either the 2007 or 2013 KOA studies. As previously noted, the City of Moorpark in their response to the Grimes Rock NOP specifically requested that this route to be analyzed as an alternative in the EIR. The City's General Plan Circulation Element includes the SR-23 Bypass Route. The City has completed feasibility studies and conceptual alignment studies (prepared by RBF and Parsons) and has started to obtain some of the property right-of-way within the City. For example, one of the three properties along the SR-23 Bypass Route (i.e., the Pardee Homes) is required by their Development Agreement and associated Conditions of Approval to grade the SR-23 Bypass within their property as part of the project improvements, with the land offered to be irrevocably dedicated to the City. In addition, if approved by the City of Moorpark City Council, an in-lieu fee as determined by the City Manager may be deposited by the developer to pay for the grading of the rights-of-way, thereby relieving the Applicant of the responsibility to grade the identified areas. LLG also notes the following:

- The Ventura County Transportation Commission's (VCTC) *2009 Ventura County Congestion Management Program*, adopted July 10, 2009, lists the SR-23/SR-118 Junction to Walnut Canyon Road (RTP#U5M0704) as one of 11 VCTC Adopted STIP Priority projects.

- Chapter 7 of the *2009 Ventura County Congestion Management Program (CIP Projects List)*, includes the Near-Term, Mid-Term, and Long-Term project lists. The SR-23 Bypass Route Project (i.e., noted as SR-23, Construct New Alignment from SR-23/SR-118 to Walnut Canyon, RTP#U5M0704) is contained on the Long-Term Project list for FY2026/27 through FY2034/35. While it is included on the Long-term Project list, it is recognized and noted by the VCTC that, "Projects could be advanced to Near-Term List if funded".

Therefore, since the Applicant is requesting approvals of expanded operations through the year 2040, the analysis of Year 2040 background conditions and an alternative which includes the SR-23 Bypass Route could and should have been included in the EIR.

City of Moorpark Significant Impact Thresholds

As part of this peer review effort, LLG reviewed the *Traffic Study for the Grimes Canyon Quarries in the County of Ventura*, prepared by KOA, August 16, 2007. In addition, LLG has also conducted a review of the *City of Moorpark General Plan Circulation Element*. Based on the review of these two documents, there appears to be inconsistencies with the significant impact thresholds utilized to evaluate potential traffic impacts for City of Moorpark study intersections. According to the Project Study Methodology section (page 13) of the Grimes Canyon Quarries Traffic Study (which is also summarized in Section 4.1 [Traffic/Circulation], page 4.1-37 of the Final EIR),

> "The City of Moorpark has adopted Level of Service C as the peak hour operating standard for intersection locations. Any project that increases an intersection ICU across this threshold is considered to have a significant impact. If the Level of Service C standard is already not achieved under the "no-project" scenarios (i.e., Scenarios 2 and 5), then a project would have a significant effect if the with-project ICU increases by 0.02 or greater compared with the no-project ICU."

However, under Section 3.0 (Goals and Policies), Level of Service Policy 2.1 of the City of Moorpark General Plan Circulation Element, it is stated that,

> "Level of service "C" shall be the system performance objective for traffic volumes on the circulation system. For roadways and interchanges already operating at less than level of service "C", the system performance objective shall be to maintain or improve the current level of service."

Using the Grimes Canyon Quarries traffic study thresholds, for example, a project ICU increase of 0.02 or greater at an intersection operating at LOS D, E, or F condition would result in a significant impact. However, using the City of Moorpark General Plan Circulation Element level of service policy, the current operations shall be maintained or improved at an intersection operating at LOS D, E, or F condition.

Thus, based on these inconsistencies, if the same level of service standards per the City of Moorpark General Plan Circulation Element were applied to the Grimes Canyon Quarries Traffic Study, there would likely be additional significant impacts in the City of Moorpark which have not been identified previously as part of the Draft EIR, Recirculated Draft EIR, or Final EIR.

Study Area

LLG confirmed that the five specific locations requested for analysis by the City of Moorpark were included in the traffic analyses. A total of 15 study intersections and three street segments were included in the traffic analysis study area. For the 15 intersections, eight locations were within the County, two were within the City of Fillmore and five were within the City of Moorpark.

Baseline Conditions

The 2007 study used peak hour traffic data collected in 2002, 2003, 2004 and 2006 (note: While the actual copies of the traffic counts were not included in the 2007 traffic study, they were included as part of the 2013 supplemental traffic analysis and June 2013 Final EIR). In reviewing the 2013 supplemental technical memorandum, it is recognized that KOA conducted updated weekday AM and PM peak period traffic counts at a total of five of the 15 study intersections in order to validate continued use of the prior baseline conditions. It was concluded by KOA that since the 2013 peak hour traffic counts were generally lower for these five locations, no further analysis or update of existing traffic counts was necessary. While this is typically accepted within the industry, several key locations were not counted as part of the 2013 update. LLG believes that the following two intersections should also have been recounted given the changes in configurations and intersection operation that have occurred since 2007:

- Grimes Canyon Road/River Street – In 2007 this intersection was unsignalized with stop signs facing the eastbound and westbound River Street approaches. The intersection has since been signalized which has resulted in additional capacity. Therefore, LLG believes it should have been recounted as part of the 2013 update to confirm current volumes.
- Walnut Canyon Road/Broadway Road – In 2007 this intersection was under stop-sign control. Since the intersection was revised by the County to remove the stop sign control for Walnut Canyon Road, it too should have been recounted in order to confirm current volumes.

For example, with the stop-signs removed for portions of the Walnut Canyon Road/Broadway Road intersection (i.e., only the westbound Broadway Road approach is now stop sign controlled with the revised intersection configuration), absent updated traffic counts it cannot be determined if this resulted in increased traffic volumes along the Walnut Canyon Road corridor. The 2007 Level of Service (LOS) at this intersection was based on the reported worst-case approach delay.

Therefore, it is possible that had the intersection been reanalyzed by KOA with the new intersection configuration and updated traffic counts, the reported delay for the westbound Broadway Road approach could be greater than delays previously reported for the intersection. Without this analysis, conclusions regarding potential significant traffic impacts cannot be made.

Traffic Study Analysis Conditions (No Analysis of Future Year 2040 Conditions)

The Final EIR traffic impact analysis was based on the 2007 traffic study which assumed Year 2025 as the buildout year. With respect to the analysis conditions LLG notes the following:

- In the 2007 traffic study, KOA acknowledges that they obtained and reviewed the County's travel demand model forecast traffic volumes for the Year 2020. It is further noted that the 2007 traffic study was based on the Ventura County Regional Traffic Model (RTM) results which were prepared in January 2004 and incorporated Year 2020 forecasts. It was then concluded that the five year difference between Years 2020 and 2025 (the horizon year) was minimal and therefore used the 2020 volumes for analysis of the 2025 conditions.
- In 2011, the Southern California Association of Governments (SCAG) revised their population, housing and employment forecasts using local input and latest data from the 2010 Census. SCAG's forecasts are available to Year 2035. Therefore, analysis of a 2035 conditions could have been prepared and extrapolated to Year 2040 conditions.
- Section 1.5 (Project Description), page 1-4 of the Final EIR (dated June 2013) specifically notes that the Applicant is requesting approval of Modification No. 2 of CUP-4874 to authorize, "An extension of the effective term of the CUP from 2013 to an estimated end date of surface mining operations in 2040." As such, a full analysis of Year 2040 conditions is required in order to determine potential significant traffic impacts to the surrounding street system.
- When issue of Year 2040 conditions was also raised by the City of Fillmore, KOA responded with the following three points as to why a 2040 analysis was not necessary:

  > "First, project traffic is not expected or currently permitted to increase over time. There are no subsequent phases or changes to the project that would cause project-related traffic impacts to be different in 2025 than in 2040.
  >
  > Second, project traffic volumes in the affected project area will be a progressively smaller proportion of overall area traffic volumes over time due to anticipated increase in regional traffic volume.

> Third, based upon current data, the 2007 traffic study incorporated into the RDEIR overestimated the projected 2013 traffic conditions. Based on January 2013 counts of actual traffic volumes, the projected area traffic volume for 2025 is overstated in the RDEIR. Thus, the 2025 figures are adequate to disclose long-term impacts of the extended 2040 project."

While LLG acknowledges that the increment of traffic due to the expanded Project operations will be the same in 2040 as in 2025, the future background traffic volumes will increase over time. KOA also acknowledges this point. As such, operations in 2040 will likely be degraded when compared to 2025, absent future capacity enhancements and/or major system-wide trip reductions. In the 2007 study, KOA also acknowledges that the City of Moorpark maintains Level of Service (LOS) C as the peak hour operating performance standard. Therefore, under LOS D, E, or F conditions, an increase in the volume to capacity ratio of equal to or greater than 0.02 due to a project is considered significant. Absent a detailed forecast of Year 2040 conditions, the conclusion made by KOA (i.e., "...In any case, the projected 2025 conditions in the traffic study reflect greater traffic volumes than would be projected with current data and, therefore, given that the project traffic must remain constant per the CUP conditions, are adequate to describe the long-term (2040) traffic effects of the proposed project.") cannot be substantiated. As no 2040 analysis is provided, the cumulative traffic conditions cannot be confirmed and the reported future condition operations are likely understated. Updated socioeconomic data is available and LLG believes that the Year 2040 future cumulative conditions analysis should have been provided. LLG simply cannot agree with the finding that the reported 2025 conditions are the same or better than what can be expected in Year 2040.

Current Grimes Rock CUP-4874 Conditions of Approval

As previously stated, the Grimes Rock CUP-4874 contains several Conditions of Approval relating to the designated haul routes, travel time restrictions, identification of trucks, etc. Condition No. 87 specifically identifies the approved Southern Haul Route as:

> "...defined herein as beginning at the project's point of egress onto State Route 23, traveling south to Broadway, then westerly on Broadway to Grimes Canyon Road, then southerly on Grimes Canyon Road (County road) to State Route 118, then westerly on State Route 118 to the State Ready Mix facility."

Under the peak mine production rate, up to 32 heavy trucks (64 one-way truck trips) are permitted to enter and exit the project site and travel along the Southern Haul Route. In order to determine if this Condition of Approval is being strictly followed, LLG independently conducted heavy vehicle (truck) license plate surveys at two key locations on Friday, June 21, 2013 between the hours of 7:00 AM and 9:00 AM. One survey person was stationed at the Grimes Rock entry/exit driveway and one person was stationed on Moorpark Avenue near City Hall. The last four digits of every heavy vehicle license plate were observed and noted along with the time. Based on documented license plate matches between the two observation points, it was determined that a total of eight inbound truck violations and five outbound truck violations occurred between the hours of 7:00 AM and 9:00 AM and that the Walnut Canyon Road/Moorpark Avenue route is being used by existing Grimes Rock, Inc. related heavy vehicles. The required use of the Southern Haul Route is thus not being enforced.

CUP Condition of Approval No. 86 also requires very specific specifications for truck identification for both trucks owned and leased by Grimes Rock, Inc., and those operated by independent operators. Based on the observations of the LLG survey personnel, proper truck identification protocols are not being followed and enforced.

LLG therefore agrees with the previous City of Moorpark request that the CUP language be revised to reflect mechanisms for on-going monitoring and enforcement, as well as a means for penalty and revocation if violations occur, since violations have now been documented and confirmed. It is apparent based on LLG's review of the *Traffic Study for the Grimes Canyon Quarries in the County of Ventura* that several potential traffic monitoring elements and enforcement mechanisms were presented for consideration.

Please feel free to call us with any questions or comments at 626.796.2322. We look forward to a successful resolution of this matter.

c File

EXHIBIT D

Years of Experience:
[illegible] years

Years with LLG Engineers:
[illegible] years

Education:
[illegible] Engineering
[illegible]

Registrations:
Professional Engineer
CA Registration [illegible]

LINSCOTT
LAW &
GREENSPAN

engineers

Biography

Ms. Look-Jaeger has over 25 years of experience in the preparation of transportation planning analyses, with particular emphasis on the preparation of environmental review analyses for various developments pursuant to the requirements of CEQA. Ms. Look-Jaeger specializes in entitlement processing efforts, particularly on highly controversial projects which involve litigation. Ms. Look-Jaeger is a Principal of Team Pasadena and a licensed Traffic Engineer in the State of California. Ms. Look-Jaeger holds a Bachelor of Science in Civil Engineering (BSCE) degree from Marquette University with an emphasis in Transportation studies.

Areas of Expertise

- Traffic Impact Studies/Analyses for Environmental Review
- Transportation Master Planning/Site Feasibility Planning
- Access and Circulation Planning for Various Modes
- Parking Studies/Shared Parking Demand Analyses
- Conceptual Mitigation Planning/ Improvement Packages
- Regional Facility Operations and Analysis

Relevant Project Experience

NBC/Universal Prior Masterplan and Vision Plan, Universal City, California
Ms. Look-Jaeger served as Principal-In-Charge for the preparation of the traffic impact study for inclusion into the EIR for the prior Universal City Master Plan (1992 through 1998) and Vision Plan formulation (through 2005). Consultation involved circulation master planning to include freeway connections, connections to a Metro Rail Red Line station, and major highway improvements. In its consultation with Universal, Metro and Caltrans representatives regarding the design of the Metro Rail Red Line station at Universal City, issues such as access, parking, pedestrian connectivity, integration of shuttles and a transit bus center, etc. were carefully reviewed and evaluated for feasibility. LLG worked with Caltrans to enhance connections between both the Universal City project site, which encompasses over 450-acres, and the Route 101 Hollywood Freeway. Due to physical constraints (i.e., the Los Angeles River Channel, the Route 101 Hollywood Freeway, adjacent mountains, etc.) both opportunities and limitations were also evaluated as part of the Specific Plan. Recommendations were also provided for Transportation Demand Management (TDM) programs. LLG identified specific mitigation measures, provided representation throughout the prior public review process and assisted in the preparation of the Final EIR. LLG prepared a comprehensive wayfinding program which was integrated with the adjacent freeway system and arterial street system through coordination with Caltrans and the City of Los Angeles. The project was delivered on a time sensitive basis and within budget.

New Century Plan Project, Century City area of Los Angeles, California
Ms. Look-Jaeger served as Principal-in-Charge for the preparation of the traffic and parking analyses included as part of the Draft and Final EIRs for the project proposed by Westfield, LLC which included the development of approximately 358,000 net new square feet of retail-commercial space at the existing Westfield Shopping Center and up to 262 residential units. LLG closely worked with the architect and surrounding agencies in the review and approval of a future connection to a planned subway system with a portal at the site. The firm provided consultation in terms of pedestrian, vehicular, transit and bicycle connectivity. The firm was integral in providing support throughout the challenging environmental review process, including pre-litigation support and prepared hundreds of responses to comments in support of the Final EIR. The traffic analysis reviewed existing and future operations for over 60 locations and a comprehensive mitigation program was developed. Community meeting and public hearing representation was provided. LLG also worked closely with the Council office and various homeowner association representatives.

Years of Experience:
21 years

Years with LLG Engineers:
15 years

Education:
B.S. Mechanical Engineering
University of California, Los Angeles, CA

Registrations:
Professional Engineer
CA Registration TR 1944

Professional Transportation Planner
Certificate No. 154

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engineers

Biography

Mr. Ying holds over 21 years of traffic engineering and transportation planning experience, with particular emphasis on the preparation of traffic impact studies and parking studies for various development projects. He is a graduate of the University of California, Los Angeles in 1992. Mr. Ying has a background in complex operational analyses for intersections and roadway corridors and specializes in 2D and 3D simulation of traffic flows. He has prepared Caltrans Permit Engineering Evaluation Reports (PEER) for the processing of highway improvements and has performed numerous traffic signal timing, signal progression, and signal warrant analyses. Mr. Ying is a licensed Traffic Engineer in the State of California and a certified Professional Transportation Planner.

Areas of Expertise

- Traffic Impact Studies for Environmental Evaluation
- Parking Studies/Shared Parking Analyses
- Operational Analyses for Intersections and Corridors
- Caltrans Permit Engineering Evaluation Report (PEER) Preparation
- Site Access and Internal Circulation Study and Design

Relevant Project Experience

East Los Angeles College Firestone Education Center Project, City of South Gate, California

Mr. Ying served as Project Manager for the preparation of the traffic impact study included as part of the Draft Environmental Impact Report (EIR) and Final EIR. Consultation included the oversight of all existing and future intersection operations at over 30 local and regional study locations and the development of a comprehensive transportation mitigation program for the proposed 12,000-student satellite campus. Mr. Ying prepared all supplemental analyses in support of transportation-related Draft EIR responses to comments and provided public hearing representation in support of the environmental review and public review processes. Mr. Ying was also part of the project's Master Planning team and provided traffic/transportation consultation during the Master Plan preparation process.

Tentative Tract 46018 Plum Canyon Residential Project, County of Los Angeles, California

Mr. Ying acted as Project Manager for the preparation of the traffic impact studies associated with the proposed multi-phase, 2,500 residential dwelling unit project. The firm was integral in the successful project approval and entitlement associated with the first 1,700 residential dwelling units, many of which have been constructed and occupied. Mr. Ying will also oversee the preparation and processing of the traffic impact study associated with the remaining 800 residential dwelling units.

Independent Third Party Technical Peer Reviews, Various Agencies, California

Mr. Ying has provided independent, third party technical peer reviews for various public agencies on traffic and parking analyses prepared by other transportation consultants. Recent peer reviews include: Willow Springs II Project (for City of Goleta), Westar Mixed-Use Village Project (for City of Goleta), Equinox Project (for City of Beverly Hills), Aliso Canyon Turbine Replacement Project (for the California Public Utilities Commission), Citadel Outlets Phase IV (for City of Commerce), among others.

Caltrans Permit Engineering Evaluation Report (PEER) Preparation, Various Agencies, California

Mr. Ying has prepared or assisted in numerous PEER for Caltrans District 7 submittal. Such projects include: I-5 Southbound and Northbound Ramps at Roxford Street in the City of Los Angeles, I-10 Westbound Ramps at Soto Street in the City of Los Angeles, SR-118 Ronald Reagan Freeway Westbound Ramps at SR-27 Topanga Canyon Boulevard in the unincorporated County of Los Angeles, SR-118/SR-23 New Los Angeles Avenue at Miller Parkway in the City of Moorpark, SR-72 Whittier Boulevard at Pacific Place in the City of Whittier, and SR-23 Westlake Boulevard at US-101 Ramps in the City of Thousand Oaks.

EXHIBIT E

RECIPROCAL TRAFFIC MITIGATION AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Moorpark, a municipal corporation ("City"), and the County of Ventura, a political subdivision of the State of California ("County"). City and County are from time to time referred to herein individually as "Party" and collectively as the "Parties".

RECITALS

A. City and unincorporated portions of County share common jurisdictional borders.

B. Traffic District #4 is identified in the Traffic Impact Mitigation Fee Program, Engineering Report, dated October 2001, prepared by the County of Ventura, Transportation Department, copies of which are on file at the Public Works Agency and the Public Works Department, City of Moorpark. The boundaries of this District extend beyond the established City limits and into portions of unincorporated areas of County. Traffic District #4 is shown on Exhibit A, which is attached hereto and incorporated herein by this reference.

C. The City Council of City and the Board of Supervisors of County jointly find as follows:

1. Future development or intensification of existing development (hereafter collectively "Development") of property within City or unincorporated areas of

County will result in an increase in traffic volumes that will cause the level of service ("LOS") of certain intersections or road segments in the unincorporated areas of County, as well as within the City, to fall below the minimum acceptable LOS specified in the respective General Plans of City and County, unless those intersections and road segments are improved so as to accommodate such increase in traffic volumes; and

2. Such increase in traffic volumes will also cause additional air pollution, noise, and restrictions on access for emergency vehicles within City and unincorporated areas of County, unless such improvements to the intersections and road segments are made; and

3. In the absence of an agreement to establish a method of reciprocal traffic impact mitigation to be used in connection with future development within City and County, existing and future sources of revenue will be inadequate to fund such improvements to the intersections and road segments.

D. The Parties bear responsibility under the Congestion Management Law (Gov. Code §65088, et seq.), and under the Ventura County Congestion Management Program ("CMP") approved by the Ventura County Transportation Commission pursuant to that law, to analyze and mitigate the regional traffic impacts of their respective land use decisions. This Agreement fulfills, in part, that CMP mandate.

E. This Agreement also promotes the goals of the Regional Transportation Plan adopted by the Southern California Association of Governments (SCAG Resolution #98-385-3).

F. Each party has a legal responsibility pursuant to the California Environmental Quality Act (Pub. Res. Code §21000, et seq.) and the State CEQA Guidelines (Cal. Code of Regs., title 4, §15000, et seq.) to analyze the regional environmental impacts of development approved by each Party, and to identify and implement feasible mitigation measures. This Agreement addresses that responsibility with respect to impacts attributable to additional traffic volumes on both County and City roads resulting from development approved by either Party.

G. Neither the provisions herein nor any performance hereunder shall in any way limit either party's ability to legally challenge any project or development within the other party's jurisdictional boundaries based upon any grounds, including, but not limited to, traffic impacts and the adequacy of mitigation therefore.

H. The Parties hereto wish to cooperate with each other in order to more effectively respond to the legal obligations described above.

NOW, THEREFORE, the Parties agree as follows:

Section I. Payment of Traffic Fee by City to County

A. For all development approved by City, a fee shall be imposed to reimburse County for the project's pro-rata share of the cost of improvements to intersections and road segments in the unincorporated area needed to accommodate additional traffic generated by the development.

B. The amount of the Fee to be transferred to County with respect to any given development project (as described in paragraph A above) shall be computed in accordance with the following formula:

$$Fee = X*Y*Z$$

where:

X = $7.07 which is the cost per additional average daily trip of improvements to intersections and road segments in the unincorporated area generated by development projects. The list of intersections and road segment improvements and the fee calculations for Traffic District #4 (District), are identified in the report entitled Traffic Impact Mitigation Fee Program, Engineering Report, dated October 2001, prepared by the County of Ventura, Transportation Department and modified by Board approval of General Plan Amendment GPA 05-03.

Y = An inflation adjustment factor, based upon the Engineering News Record Construction Cost Index for the Los Angeles area, to account for inflation from the date of this agreement to the date the fee is computed. The County shall

recalculate in January of each year and send a copy of all calculations to the City by the first day of February each year. City will apply and use the new factor no later than the first day of March of the same year, provided County has timely sent the calculations to the City.

Z = The estimated number of average daily trips that the project will generate determined by either:

1) A traffic study approved by the City Public Works Director, or

2) The total average daily trips for projects as determined by the current version of Trip Generation as published by the Institute of Traffic Engineers or other such published data as routinely used by City to determine traffic generation volumes.

C. The City shall collect the Fee at the same time and in the same manner as City collects other traffic mitigation fees imposed on the project. City shall transfer the Fees to County within 30 business days after collection.

D. County may use the Fees transferred to improve the intersections and road segments listed in the report entitled Traffic Impact Mitigation Fee Program, Engineering Report, dated October 2001, prepared by the County of Ventura, Transportation Department. County intends to make such improvements in such a manner as to prevent the volume-to-capacity ratio of the intersections and road segments from exceeding 0.84, but nothing herein creates a binding obligation upon County to do so. County agrees to meet and confer with City at least annually on

the prioritization of projects and expenditure of funds collected or transferred to the County under this agreement.

E. County shall comply with all requirements of all applicable laws, including, without limitation, Government Code §66000, et seq. with respect to the Fees that are transferred to County and provide an annual report accounting for said funds to the City.

F. County shall defend, indemnify, and hold City and its elected and appointed officers, agents and employees free and harmless from any claim, demand, loss, cost, expense, lien or judgment ("Claim") against City relating to the collection, attempted collection, accounting for, expenditure, or legality of Fees designated for County intersections and road segments. This indemnity shall also include, without limitation, any Claim arising out of County's failure or alleged failure to comply with any applicable law, including, but not limited to, Government Code §66000, et seq. relating to the use of or accounting for Fees transferred to County.

Section II. Payment of Traffic Fee by County to City

A. For all development projects receiving discretionary approval by the County, which are subject to the Ventura County Traffic Impact Mitigation Fee Ordinance (Ventura County Ordinance Code §8601-0 et seq.), and which are located within the unincorporated portion of Traffic District #4, an additional traffic impact mitigation fee (the "Fee") shall be imposed to reimburse City for the project's pro-rata share of

the cost of improvements to City intersections and road segments needed to accommodate additional traffic generated by the project.

B. The amount of the said Fee shall be that amount determined by the City's Traffic Mitigation Fee Program, based upon the traffic anticipated to be generated by the project. In the event the City has no Traffic Mitigation Fee Program in place, the amount of the Fee shall be determined by the City Public Works Director, in accordance with normal procedures utilized by the City to calculate traffic mitigation fee amounts for like projects within the City, adjusted for inflation.

C. County shall collect the Fee at the same time and in the same manner as other traffic mitigation fees imposed on the project. County shall transfer the Fees to City within 30 business days after collection.

D. City may use the Fees transferred to City to improve City intersections and road segments identified in the Fee Calculation. City agrees to meet and confer with County at least annually on the prioritization of projects and expenditure of funds collected or transferred to the City under this agreement.

E. City shall comply with all requirements of applicable laws, including, without limitation, Government Code §66000 et seq., with respect to the Fees that are transferred to City.

F. City shall defend, indemnify, and hold County and its elected and appointed officers, agents and employees free and harmless from any claim, demand, loss, cost,

expense, lien or judgment ("Claim") against County relating to the collection, attempted collection, accounting for, expenditure, or legality of Fees designated for City intersections and road segments. This indemnity shall also include, without limitation, any Claim arising out of City's failure or alleged failure to comply with any applicable law, including, but not limited to, Government Code §66000 et seq., relating to the use of or accounting for Fees transferred to City.

Section III. State Routes

The Parties agree that the responsibility for programming, budgeting, funding, and accomplishing work on state highways rests with the California Department of Transportation. The Parties recognize that the incremental and cumulative impact of projects approved by the local jurisdictions may have an impact on state highways. City and County agree to cooperate with each other and other agencies or entities as appropriate and as required by State law in coordinating needed future improvements. Such cooperation may include arranging local fair share funding for such improvements as may be required by State law.

Section IV. Changes to Agreement

This Agreement may be modified from time to time by mutual written agreement of both Parties.

Section V. Notices

Whenever notices are required to be given pursuant to the provisions of this Agreement,

such notices shall be in writing and shall be served upon the Party to whom addressed by personal service as required in judicial proceedings, or by deposit of the same in the custody of the United States Postal Service or its lawful successor in interest, postage prepaid, addressed to the Parties as follows:

CITY:	Office of the City Manager City of Moorpark 799 Moorpark Avenue Moorpark, CA 93021
COUNTY:	County of Ventura 800 South Victoria Avenue Ventura, CA 93009-1600 Attn: Director of Public Works

Notices shall be deemed, for all purposes, to have been given on the date of personal service or three consecutive calendar days following the deposit of the same in the United States mail, postage prepaid.

Section VI. Arbitration

A. Except as otherwise expressly provided herein, the Parties hereto agree that any claim or dispute between them, arising out of or relating to the terms of this Agreement, shall be resolved by compulsory binding arbitration conducted by a retired Superior Court Judge of the State of California or other qualified person the Parties mutually agree upon. The claim or dispute being arbitrated shall be resolved in accordance with California law.

B. The arbitration proceedings shall be governed by the laws and procedures governing civil judicial proceedings in this State. Each party shall comply with all

applicable laws relating to binding and compulsory arbitration, the directions given by the Arbitrator and the provisions of this Agreement. The determinations made by the Arbitrator, if within the scope of the Arbitration and the Arbitrator's function, shall be binding and conclusive on the Parties and shall be enforceable in the manner provided by law.

C. The Arbitrator shall be selected in the following manner:

1. The Party initiating the Arbitration ("Initiating Party") shall prepare and submit to the other Party a list ("List") containing the names of not to exceed three retired Superior Court Judges all of whom the Initiating Party believes are qualified to serve as Arbitrator. The names of the judges on the List shall be numbered consecutively.

2. The Party upon whom the List is served, within ten calendar days after service of the List, shall either:

   (a) select one of the named retired judges to act as Arbitrator, in which case that retired judge shall serve as the Arbitrator; or

   (b) strike one name from the List.

3. Upon expiration of said ten-day period, if no selection is made, the Arbitrator shall be the retired judge on the List with the lowest number next to his or her name, unless that judge's name was stricken during the ten-day period by the non-initiating party.

4. If, for any reason, the retired judge designated as the Arbitrator is unwilling or

unable to serve as the Arbitrator, the judge on the List with the next lower number whose name was not stricken shall be the Arbitrator. In the event that none of the three retired judges named on a List is willing or able to serve as the Arbitrator, the Initiating Party shall prepare and submit a new List, containing the names of not to exceed three different retired judges, and the above-described procedure shall be followed until an Arbitrator is selected. By way of illustration, if the List served by the Initiating Party, upon the other Party, has the name of three retired judges, A, B, and C, numbered 1, 2 and 3, respectively, and number 1 is stricken, then B, number 2, shall be deemed for all purposes to be the selected Arbitrator.

D. Each party hereto hereby agrees to pay one-half of the compensation to be paid to the Arbitrator, and, except as otherwise expressly provided herein, each party shall bear its own costs and expenses of arbitration, including, but not limited to, attorney's fees and related costs.

Section VII. Non-Severability

This Agreement shall not be deemed severable. If any provision or part hereof is judicially declared invalid, this Agreement shall be void and of no further effect.

Section VIII. Termination

This Agreement may be terminated by either party, with or without cause by the terminating party with not less than one-year advance written notice to the other party. The rights and

duties of the parties under Section IE, IF, IIE and IIF shall survive the termination of this Agreement.

Section IX. Exemptions

The following are exempt from paying of Traffic Impact Fees under this Agreement:

1. Any City-owned or County-owned project approved in accordance with the California Environmental Quality Act of 1970 as amended.
2. Projects with a vested tentative map pursuant to Government Code §66498.1, or a development agreement in force prior to the effective date of this Agreement.

IN WITNESS THEREOF, the Parties hereto have authorized their respective agents to enter into this Agreement as follows:

CITY OF MOORPARK

By: _____
Patrick Hunter, Mayor

ATTEST:

By: Deborah S. Traffenstedt
City Clerk

COUNTY OF VENTURA

By: Linda Parks
Linda Parks, Chair
Board of Supervisors

ATTEST:
JOHN F. JOHNSTON
Clerk of the Board of Supervisors

By: Roberta Rodriguez
Chief Deputy Clerk of the Board

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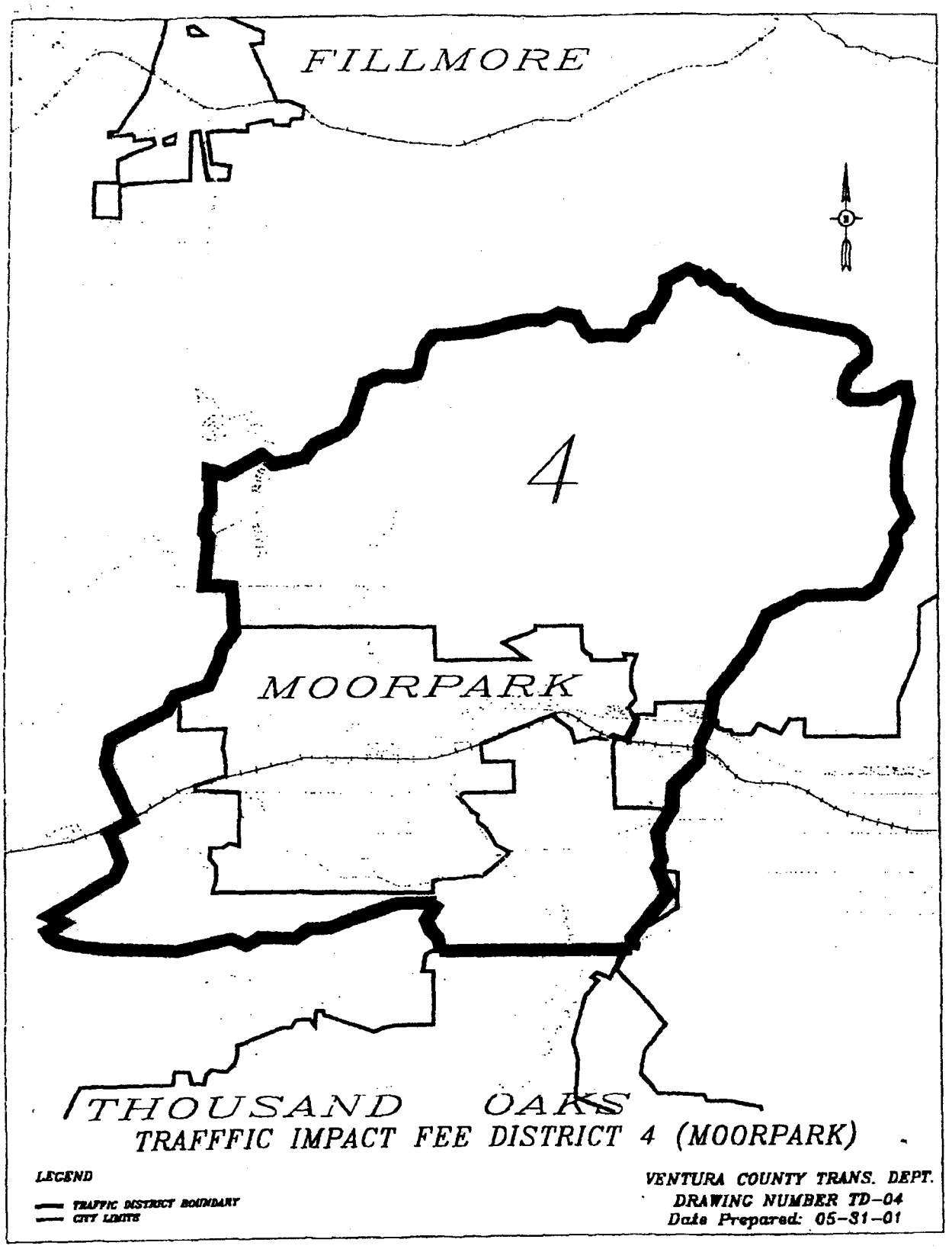
FILLMORE
4
MOORPARK
THOUSAND OAKS
TRAFFFIC IMPACT FEE DISTRICT 4 (MOORPARK)
LEGEND
TRAFFIC DISTRICT BOUNDARY
CITY LIMITS
VENTURA COUNTY TRANS. DEPT.
DRAWING NUMBER TD-04
Date Prepared: 05-31-01

EXHIBIT A

EXHIBIT F

CITY COUNCIL
REGULAR MEETING ANNOTATED AGENDA
MAY 21, 2008
7:00 PM

Moorpark Community Center 799 Moorpark Avenue

1. CALL TO ORDER:

   7:14 P.M.

2. PLEDGE OF ALLEGIANCE:

   BARRY HOGAN, DEPUTY CITY MANAGER, LED THE PLEDGE OF ALLEGIANCE.

3. ROLL CALL:

   PRESENT: COUNCILMEMBER MIKOS, COUNCILMEMBER MILLHOUSE, COUNCILMEMBER PARVIN, COUNCILMEMBER VAN DAM, and MAYOR HUNTER.

4. PROCLAMATIONS AND COMMENDATIONS:

   A. Recognition of Outgoing Teen Council Members.

   MAYOR HUNTER AND RICHARD LEMMO, RECREATION LEADER, PRESENTED OUTGOING TEEN COUNCIL MEMBERS ALYSSA DERSAHAGIAN, CAITLIN DIMMITT, CAITLIN JOHNSON, DEVYN JOHNSON, TIFFANY JOHNSON, GUNNAR MAZUR, KATIE OTOUSA, PAUL PATTERSON, AMANDA SCHAIBLE, AND JUSTIN TUNG WITH CERTIFICATES OF RECOGNITION FOR THEIR SERVICE DURING 2007/2008.

5. PUBLIC COMMENT:

TWO SPEAKERS.

6. REORDERING OF, AND ADDITIONS TO, THE AGENDA:

CONSENSUS TO PULL ITEM 10.D. FROM THE CONSENT CALENDAR FOR INDIVIDUAL CONSIDERATION UPON THE REQUEST OF MAYOR HUNTER.

CONSENSUS TO HEAR ITEM 9.C. PRIOR TO PUBLIC HEARINGS UPON THE REQUEST OF MAYOR HUNTER.

7. ANNOUNCEMENTS, FUTURE AGENDA ITEMS, AND REPORTS ON MEETINGS/CONFERENCES ATTENDED BY COUNCILMEMBERS AND MAYOR:

COUNCILMEMBER VAN DAM ANNOUNCED THE FREE HIGH STREET BROADCAST WILL BE AT 7:00 P.M. ON SUNDAY, MAY 24TH AT THE HIGH STREET ARTS CENTER.

COUNCILMEMBER VAN DAM ANNOUNCED THAT AT 7:00 P.M. ON THURSDAY, MAY 22ND, THE MOORPARK HIGH SCHOOL BAND GRAND FINALE CONCERT WILL BE HELD AT THE HIGH SCHOOL.

COUNCILMEMBER MIKOS REPORTED ON MAY 15TH, SHE AND MR. HOGAN ATTENDED A CEQA AND CLIMATE CHANGE WORKSHOP IN LOS ANGELES PRESENTED BY THE LOCAL GOVERNMENT COMMISSION AND THE CALIFORNIA OFFICE OF THE ATTORNEY GENERAL. SHE PROVIDED A HANDOUT TO COUNCIL AND RECOMMENDED THE CITY DEVELOP A PROGRAM FOR GREEN BUILDING IN MOORPARK.

COUNCILMEMBER MIKOS ANNOUNCED THE 2ND ANNUAL BIO BLITZ, SPONSORED BY THE NATIONAL PARKS SERVICE AND NATIONAL GEOGRAPHIC WILL BE HELD FROM 10:00 A.M. MAY 30TH UNTIL NOON MAY 31ST AT THE SANTA MONICA MOUNTAINS TO COUNT THE DIVERSE PLANT LIFE IN THIS LOCATION. ANYONE INTERESTED IN PARTICIPATING SHOULD CALL NATIONAL GEOGRAPHIC AT 202-457-8496. THIS EVENT WILL BE FOLLOWED BY A FESTIVAL AT PARAMOUNT RANCH.

COUNCILMEMBER MIKOS ANNOUNCED THE RELAY FOR LIFE WILL BEGIN AT 10:00 A.M. AT THE MOORPARK HIGH SCHOOL TRACK ON MAY 31ST.

COUNCILMEMBER MIKOS ANNOUNCED ON MAY 31ST LOCAL AWARD WINNING PUBLIC RADIO STATION KCLU WILL BENEFIT FROM THE PROCEEDS OF A SPECIAL DAY AT THE HOME OF LARRY HAGMAN IN OJAI. GO TO kclu.org FOR MORE INFORMATION.

COUNCILMEMBER MILLHOUSE REPORTED ON HIS RECENT ATTENDANCE AT THE GENERAL ASSEMBLY OF THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS WHERE THE REGIONAL TRANSPORTATION PLAN WAS ADOPTED.

COUNCILMEMBER MILLHOUSE ANNOUNCED THE U.S. MEN'S OLYMPIC WATER POLO TEAM WILL BE TRAINING DURING THE SUMMER AT CAL LUTHERAN UNIVERSITY AND OAKS CHRISTIAN HIGH SCHOOL. A FUND RAISER FOR THE TEAM WILL BE HELD SATURDAY, MAY 24TH FROM 7:30-9:30 P.M. AT THE COLD STONE CREAMERY IN MOORPARK. ALSO 25 LOCAL RESTAURANTS HAVE COMMITTED TO DONATING A PORTION OF THEIR SALES TO TEAM U.S.A. FLYERS FOR DISCOUNTS AND INFORMATION ON MAKING DONATIONS ARE AVAILABLE AT COLD STONE CREAMERY AND AT SOME LOCAL GROCERY STORES.

COUNCILMEMBER PARVIN CONGRATULATED THE MOORPARK ROTARY CLUB, WHICH HAS INCREASED IN MEMBERSHIP ENOUGH TO EXPAND TO FORM A BREAKFAST CLUB.

COUNCILMEMBER VAN DAM CONGRATULATED COUNCILMEMBER PARVIN ON HER RECENT AWARD FROM THE MOORPARK CHAMBER OF COMMERCE AS "WOMAN OF THE YEAR".

8. PUBLIC HEARINGS:

A. Consider Resolution for Commercial Planned Development (CPD) No. 2007-02 to Allow the Construction of a Human Services Center within Two (2) Buildings, Totaling Approximately 25,000 Square Feet, for Non-Emergency Medical/Dental Services, Educational Uses, and Charitable Services, Located on 2.05 Acres at 612 Spring Road on the Application of the Moorpark Redevelopment Agency. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; and 2) Adopt Resolution No. 2008-2712, approving CPD No. 2007-02 with conditions. (Staff: David Bobardt)

agenda report 2008 05 21 cc 08a

APPROVED STAFF RECOMMENDATION, INCLUDING ADOPTION OF RESOLUTION NO. 2008-2712, AS AMENDED. (VOICE VOTE: UNANIMOUS)

9. PRESENTATION/ACTION/DISCUSSION:

A. Consider Alignment Study for Proposed Northerly Extension of State Route 23 (SR 23) (Project 8045). Staff Recommendation: 1) Find SR 23 North alignment as described in Alternate 2 of the agenda report to be consistent with the Circulation Element of the General Plan; 2) Direct staff to work with the developers of properties within and outside the boundaries of the City on efforts to fund, design, and construct future projects to implement the subject proposed highway realignment; 3) Direct that any street design shall incorporate trails consistent with the Circulation Element and maintain existing trail connections; and 4) Further direct staff as deemed appropriate. (Staff: Yugal Lall)

agenda report 2008 05 21 cc 09a

APPROVED STAFF RECOMMENDATION. DIRECTED STAFF TO MAKE SURE ANY ALIGNMENT OF THE BROADWAY EXTENSION IS ON TOP OF THE BLUFF AND NOT ON THE SLOPE OF HAPPY CAMP CANYON REGIONAL PARK OR WITHIN THE PARK SITE AND TO WORK WITH CALTRANS TO ADDRESS ELEVATION AND GRADING ISSUES.

B. Consider Conceptual Design for the North Hills Parkway Project (Project 8061). Staff Recommendation: 1) Receive and file the feasibility study for the North Hills Parkway; 2) Find the highway alignment and preferred alternate set forth in said study for the design of the intersection of North Hills Parkway and Gabbert Road to be consistent with the Circulation Element of the General Plan; 3) Direct that any street design incorporate trails consistent with the Circulation Element and maintain existing trail connections; and 4) Further direct staff as deemed appropriate. (Staff: Yugal Lall)

agenda report 2008 05 21 cc 09b

APPROVED STAFF RECOMMENDATION.

C. Consider Noise Study for State Route 23 Freeway Soundwalls Adjacent to Tract 4975 (Toscana Neighborhood). Staff Recommendation: Direct staff to proceed with soundwall design and permitting. (Staff: David Bobardt)

agenda report 2008 05 21 cc 09c

APPROVED STAFF RECOMMENDATION. DIRECTED STAFF TO CONSIDER GRAFFITI ABATEMENT FOR THE SOUND WALL.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

APPROVED THE CONSENT CALENDAR, WITH THE EXCEPTION OF ITEMS 10.D, WHICH WAS PULLED FOR INDIVIDUAL CONSIDERATION. (ROLL CALL VOTE: UNANIMOUS)

A. Consider Warrant Register for Fiscal Year 2007-2008 - May 21, 2008. Staff Recommendation: Approve the warrant register.

agenda report 2008 05 21 cc 10a

APPROVED STAFF RECOMMENDATION.

B. Consider Revised Design Modifications for Signing and Striping at the Intersection of Campus Park Drive and Princeton Avenue. Staff Recommendation: Approve the subject project. (Staff: Yugal Lall)

agenda report 2008 05 21 cc 10b

APPROVED STAFF RECOMMENDATION.

C. Consider Establishing a Non-Competitive (Management) Employee First Time Home Buyer Program. Staff Recommendation: Authorize staff to proceed with a Non-Competitive Employee First Time Home Buyer Program and authorize the City Manager to approve other program requirements and procedures. (Staff: David Moe)

agenda report 2008 05 21 cc 10c

APPROVED STAFF RECOMMENDATION.

D. Consider Proposed Amendment to the Implementation Plan for Improvements Associated with Tract Nos. 5187-1&2 and 5405, the Meridian Hills Residential Development Project, on the Application of William Lyon Homes [Upon Transfer of Ownership of the Meridian Hills Development Project from William Lyon Homes to Resmark Equity Partners, LLC, (ORA Ashford 94, LLC)]. Staff Recommendation: Approve the Amended Implementation Plan for improvements to Tract Nos. 5187-1&2 and 5405, subject to review of

final language and determination of satisfactory financial capacity by the City Manager and City Attorney. (Staff: David Bobardt)

agenda report 2008 05 21 cc 10d

APPROVED STAFF RECOMMENDATION. DIRECTED STAFF TO PROVIDE A STATUS REPORT ON JUNE 18, 2008.

E. Consider the 2008 General Plan Update Program. Staff Recommendation: Receive and file. (Staff: David Bobardt)

agenda report 2008 05 21 cc 10e

RECEIVED AND FILED REPORT.

F. Consider Resolution Authorizing Submittal of Grant Applications to the California Integrated Waste Management Board for Use of Rubberized Asphalt Concrete. Staff Recommendation: Adopt Resolution No. 2008-2713. (Staff: Yugal Lall)

agenda report 2008 05 21 cc 10f

APPROVED STAFF RECOMMENDATION, INCLUDING ADOPTION OF RESOLUTION NO. 2008-2713. (ROLL CALL VOTE: UNANIMOUS)

G. Consider Resolution Amending the Fiscal Year 2007/08 Budget for Mid-Year Budget Adjustment Corrections for Public Transit Division. Staff Recommendation: Adopt Resolution No. 2008-2714. ROLL CALL VOTE REQUIRED (Staff: Yugal Lall)

agenda report 2008 05 21 cc 10g

APPROVED STAFF RECOMMENDATION, INCLUDING ADOPTION OF RESOLUTION NO. 2008-2714. (ROLL CALL VOTE: UNANIMOUS)

H. Consider Resolution Authorizing the City Manager to Execute all Documents for the California Transit Security Grant Program - California Transit Assistance Fund (CTSGP-CTAF) Program with the Governor's Office of Homeland Security. Staff Recommendation: Adopt Resolution No. 2008-2715. (Staff: Yugal Lall)

agenda report 2008 05 21 cc 10h

APPROVED STAFF RECOMMENDATION, INCLUDING ADOPTION OF RESOLUTION NO. 2008-2715. (ROLL CALL VOTE: UNANIMOUS)

I. Consider Fiscal Agent Contract for Management, Funding, and Cost Sharing Implementation of the Calleguas Creek Watershed Total Maximum Daily Load Program. Staff Recommendation: 1) Authorize the Mayor to sign the Fiscal Agent Contract; and 2) Authorize the City Manager to execute any necessary subsequent amendments to the Fiscal Agent Contract that are consistent with the terms of the Memorandum of Agreement. ROLL CALL VOTE REQUIRED (Staff: Yugal Lall)

agenda report 2008 05 21 cc 10i

APPROVED STAFF RECOMMENDATION. (ROLL CALL VOTE: UNANIMOUS)

J. Consider Amendment No. 2 Revising the Scope of Services and Compensation Plan for Fiscal Year 2008-09 of the Agreement with Library Systems & Services, LLC (LSSI. Staff Recommendation: Approve Amendment No. 2 to LSSI Agreement for operation or the Moorpark City Library, which includes a revised Scope of Services and Compensation Plan for Fiscal Year 2008/09, subject to final language approval by the City Manager. (Staff: Jennifer Mellon)

agenda report 2008 05 21 cc 10j

APPROVED STAFF RECOMMENDATION.

11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

NONE.

12. CLOSED SESSION:

THE COUNCIL RECESSED AT 9:29 P.M. FOR CLOSED SESSION DISCUSSION OF ITEMS 12.D. AND 12.E. ON THE AGENDA.

D. CONFERENCE WITH LABOR NEGOTIATOR (Pursuant to Section 54957.6 of the Government Code) Agency Designated Representative: Steven Kueny Employee Organization: Service Employees International Union, AFL-CIO, CLC, Local 721

E. CONFERENCE WITH LABOR NEGOTIATOR (Pursuant to Section

54957.6 of the Government Code) Agency Designated Representative: Steven Kueny Unrepresented employees: Accountant I; Active Adult Center Supervisor; Administrative Services Director/City Clerk; Assistant City Clerk; Assistant City Engineer; Assistant City Manager; Assistant Engineer; City Engineer/Public Works Director; Community Development Director; Deputy City Manager; Finance and Accounting Manager; Finance Director; Human Resources Analyst; Information Systems Analyst; Information Systems Manager; Landscape/Parks Maintenance Superintendent; Management Analyst; Parks and Landscape Manager; Parks, Recreation and Community Services Director; Planning Director; Principal Planner; Public Works Superintendent; Recreation/Community Services Manager; Redevelopment Manager; and Senior Management Analyst

13. ADJOURNMENT:

9:55 P.M.

ITEM 9.A.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: Honorable City Council

FROM: Yugal K. Lall, City Engineer/Public Works Director

DATE: May 9, 2008 (CC Meeting of 05/21/08)

SUBJECT: Consider Alignment Study for Proposed Northerly Extension of State Route 23 (SR 23) (Project 8045)

DISCUSSION

A. Background

In December of 2005 the Parsons Group was selected to prepare a feasibility/alignment study for the proposed realignment of State Route 23. The project scope is described below.

B. Alignment Study Maps

A set of maps and charts for this project has been distributed to the City Council by separate Memo.

C. Proposed Highway Alignment

The proposed realignment of SR 23 (Attachment 1) would extend Broadway to the east, turn south, and proceed in a southerly direction along the east side of Moorpark Highlands (Pardee), and then connect to the freeway in the vicinity of the existing Princeton interchange.

D. Design Alternatives

1. ***Alternative 1***: This is a "no build" alternative.

2. ***Alternative 2***: This "preferred alternative includes construction of bridge connections to the freeway for northbound 23 and eastbound 23 to 118. An "at grade" on ramp would serve southbound 23. The North Hills Parkway would be

extended easterly to intersect Princeton Avenue just north of the freeway. Northbound traffic from the 118 to 23, would exit the freeway at Princeton and proceed westerly along North Hills Parkway to a four-way intersection with the new SR 23 just north of the freeway. The map attached as Attachment 1 shows these proposed traffic patterns.

3. ***Alternative 3***: This option shows the new SR 23 extending south to Princeton Avenue through Crawford Canyon. Southbound 23 traffic would access the freeway via an on-ramp from eastbound North Hills Parkway. All other traffic would be required to use Princeton Avenue and the Princeton Avenue freeway ramps.

4. ***Alternative 4***: This option is similar to Alternative 3. The only difference is the addition of a "flyover" bridge on-ramp from the new SR 23.

GENERAL PLAN

The Circulation Element of the General Plan calls for an east extension of the SR 23 from the SR 118/SR 23 Freeway to Broadway, along the east side of the Moorpark Highlands Specific Plan area. The proposed alignment of the SR 23 extension in this study is consistent with this plan.

ENVIRONMENTAL DETERMINATION

The Planning Director has determined that the action of the City Council to find the conceptual design/alignment to be consistent with the Circulation Element of the General Plan is exempt from the provisions of the California Environmental Quality Act, in that this action is not an approval of a project.

FISCAL IMPACT

1. ***Estimated Project Cost Summary***: An estimate of total project costs is as follows:

Project 8045: SR 23 Realignment Description	Estimated Cost ($)
Environmental	1,500,000
Design	4,730,000
Right-of-Way	11,065,000
Construction	60,445,000
Inspection	7,000,000
Total	84,740,000

2. ***Project Design Cost Summary***: An estimate of total project costs is as follows:

Description	Total Est. Cost ($)	Approved to Date ($)	Future Costs ($)
Conceptual Design	132,264	132,264	0
Preliminary Design	2,730,000	0	2,730,000
Environmental	1,500,000	0	1,500,000
Final PS&E	2,000,000	0	2,000,000
Total	6,362,264	132,264	6,230,000

3. ***Feasibility Study Costs Summary***: A summary of feasibility design costs incurred to date, is as follows:

Description	Contract Amount ($)	Expense to Date ($)	Unexpended ($)
Alignment Study	132,264	84,413	47,851

4. ***FY 07/08 Budget***: A re-cap of the FY 2007/08 Budget for this project is as follows:

Project 8045: SR 23 Realignment

Description	Prior Years Expenses ($)	Current FY 07/08 Budget ($)	Total Appropriations ($)
Design	71,919	78,081	150,000
Relocation	0	0	0
Right-of-Way	0	0	0
Construction	0	0	0
Inspection	0	0	0
Total	71,919	78,081	150,000

5. ***Current Funding Source***: Project 8045 is funded by Fund 2002: Traffic Mitigation Fund.

6. ***Proposed Future Project Funding***: It is anticipated that future project funding will require participation from the private sector with possible assistance from State and Federal highway improvement grants.

E. Next Steps

Parsons' study listed possible "Next Steps" as follows:
1. Meet with Caltrans for informational discussions.
2. Discuss with Caltrans appropriate project initiation documents.
3. Develop Project Study Report (PSR). Seek conceptual approval.
4. Conduct environmental review.
5. Design.
6. Construction.

A major prerequisite to proceeding with the project would be securing a project funding source.

STAFF RECOMMENDATIONS

1. Find SR 23 North alignment as that described in Alternate 2 of the staff report to be consistent with the Circulation Element of the General Plan.
2. Direct staff to work with the developers of properties within and outside the boundaries of the City on efforts to fund, design, and construct future projects to implement the subject proposed highway realignment.
3. Direct that any street design shall incorporate trails consistent with the Circulation Element and maintain existing trail connections.
4. Further direct staff as deemed appropriate.

Attachment:
1. Location Map and Traffic Patterns

City of Moorpark

Feasibility Study

North Extension of SR-23

April, 2008

ITEM 9.B.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: Honorable City Council

FROM: Yugal K. Lall, City Engineer/Public Works Director

DATE: May 8, 2008 (CC Meeting of 05/21/08)

SUBJECT: Consider Conceptual Design for the North Hills Parkway Project (Project 8061)

DISCUSSION

A. Background

In July of 2004, the City Council approved the selection of the Parsons Group to prepare a feasibility study to investigate the conceptual alignment/feasibility of North Hills Parkway (the project scope is described below).

B. Feasibility Study Maps & Charts

A set of maps and charts for this project has been distributed to the City Council by separate Memo.

C. Feasibility Study

The Parsons Group has completed an alignment/feasibility study for this project. Key points in that study are summarized as follows:

1. ***Executive Summary***: Attachment 1 is a copy of the Executive summary from the study. This brief summary addresses all of the findings and recommendations set forth in the full study.

2. ***Project Segments***: Three segments are discussed in the study, described as follows: 1) the north-south segment extending north from Los Angeles Avenue; 2) the main east-west component of the project, extending east to Spring Road; and 3) the Gabbert Road realignment component of the project. A map attached as Attachment 2 shows the entire project.

3. ***Highway Width***: The recommended right-way corridor for the project varies with a minimum width of 200 feet. The proposed Phase 1 improvements provide for only one lane in each direction. Phase 2, or ultimate, improvements provide for construction of a four-lane highway. The diagram attached as Attachment 3 shows the cross sections for these phases of construction.

4. ***Los Angeles Avenue Intersection***: The north-south segment (at the west end of the project) is proposed to intersect Los Angeles Avenue (SR 118) at a point west of Butter Creek Road.

5. ***Railway Grade Separation***: The north-south segment will include construction of an underpass to allow the street to pass under the railroad.

6. ***Tee Intersection***: The north-south segment is proposed to intersect the east-west segment at an intersection designed to accommodate a possible future westerly extension of the east-west segment of the North Hills Parkway.

7. ***Gabbert Road Intersection***: The preferred alternative provides for a four-way intersection at Gabbert Road. An alternative (not recommended) was studied to provide for a predominant traffic flow between the east leg and the south leg of this intersection.

8. ***Gabbert Road Rail Crossing***: The project includes construction of improvements to complement the proposed improvements, as conditioned for Tract 5147 at the Gabbert Road rail crossing. These improvements have been included in order to better handle the anticipated increased traffic volume on Gabbert Road north of the rail crossing. This rail crossing will remain an "at-grade" crossing.

9. ***Right-of-Way Acquisition***: Approximately 93 acres of right-of-way will be required for the project, however, most of the required right-of-way will be dedicated to the City as part of development projects (Hitch Ranch, SunCal, AB Properties, Pardee, and Tentative Tract 5505). Construction of a bridge over Walnut Canyon Road will require the acquisition of four residential properties.

10. ***Project Cost Estimate***: The project cost estimate is discussed on page 5 of the Executive Summary and in this report under Fiscal Impact.

GENERAL PLAN CONSISTENCY

The Circulation Element of the General Plan calls for an east/west six-lane arterial to extend from the SR 118 Freeway at Princeton Avenue west to Gabbert Road. West of

Gabbert Road, this arterial is planned as a four-lane arterial, ultimately connecting with Los Angeles Avenue on the west side of the City. Gabbert Road is planned as a four-lane arterial from this east/west arterial south to Los Angeles Avenue. The Proposed conceptual design of the North Hill Parkway project is consistent with this plan. The Circulation Element also has an equestrian trail network plan. Any improvements to the road network would have to include improvements consistent with this trail plan.

ENVIRONMENTAL DETERMINATION

The Planning Director has determined that the action of the City Council to find the conceptual design/alignment to be consistent with the Circulation Element of the General Plan is exempt from the provisions of the California Environmental Quality Act, in that this action is not an approval of a project.

FISCAL IMPACT

1. ***Estimated Project Cost Summary***: An estimate of total project costs is as follows:

Description	Estimated Cost ($)
Environmental	1,559,000
Design	6,823,000
Right-of-Way	2,000,000
Construction	66,220,000
Inspection	8,187,000
Total	84,789,000

2. ***Project Design Cost Summary***: An estimate of total project costs is as follows:

Description	Estimated Cost ($)	Approved to Date ($)	Future Costs ($)
Conceptual Design	270,548	270,548	0
Preliminary Design	4,000,000	0	4,000,000
Environmental	1,559,000	0	1,559,000
Final PS&E	2,823,000	0	2,823,000
Total	8,652,548	270,548	8,382,000

3. ***Feasibility Study Costs Summary***: A summary of feasibility design costs incurred to date, is as follows:

Description	Contract Amount ($)	Expence to Date ($)	Unexpended ($)
Feasibility Study	270,548	256,842	13,706

4. ***FY 07/08 Budget***: A re-cap of the FY 2007/08 Budget for this project is as follows:

Project 8061:North Hills Parkway

Description	Prior Years Expenses ($)	Current FY 07/08 Budget ($)	Total Appropriations ($)
Design	256,842	43,158	300,000
Relocation	0	0	0
Right-of-Way		100,000	100,000
Construction	0	0	0
Inspection	0	0	0
Total	256,842	143,158	400,000

5. ***Current Funding Source***: Project 8061 is funded by Fund 2002: Traffic Mitigation Fund.

6. ***Proposed Future Project Funding***: It is anticipated that future project funding will require participation from the private sector with possible assistance from State and Federal highway improvement grants. It is likely that major portions of the improvements would be constructed as part of development approvals. The City previously conducted a preliminary review of the potential use of an assessment district for this route.

D. Next Steps

Parsons' study listed possible "Next Steps" as follows:
1. Meet with Caltrans for informational discussions.
2. Discuss with Caltrans appropriate project initiation documents.
3. Develop Project Study Report (PSR). Seek conceptual approval.
4. Conduct environmental review.
5. Design.
6. Construction.

A major prerequisite to proceeding with the project would be securing a project funding source.

STAFF RECOMMENDATIONS

1. Receive and file the feasibility study for the North Hills Parkway.
2. Find the highway alignment and preferred alternate set forth in said study for the design of the intersection of North Hills Parkway and Gabbert Road to be consistent with the Circulation Element of the General Plan.
3. Direct that any street design incorporate trails consistent with the Circulation Element and maintain existing trail connections.
4. Direct staff as deemed appropriate.

Attachments:
1 Executive Summary
2 Location Map
3 Roadway cross sections

Executive Summary

Overview

This report assesses the feasibility of constructing the following three roadway segments to improve the traffic circulation within the City of Moorpark:

1. North Hills Parkway North/South (N/S)
2. North Hills Parkway
3. Gabbert Road Realignment

Exhibit E-1 illustrates the site overview and conceptual alignments of this project.

The primary objective of this feasibility study is to develop engineering alternatives as a means of establishing the basis of horizontal alignments and vertical profiles. This report also assesses the feasibility of each alternative in terms of the constraints and impacts, as well as the costs associated with project development and construction. The feasibility of each proposed alternative is evaluated based on the current and future operational needs for the City in order to expand the vehicular traffic handling capacity within the project limits.

Conceptual Design and Analysis

To improve traffic circulation and safety, two build alternatives were evaluated as part of this study. The major features of two build alternatives differ slightly. Based on the preliminary study and analysis, both alternatives will enhance traffic capacity and are expected to relieve future congestion in this area.

Preferred Alternative

North Hills Parkway N/S

North Hills Parkway N/S is a four-lane arterial and provides a connection southward to Los Angeles Avenue (SR-118). This arterial crosses the Union Pacific Railroad (UPRR) and the SCE high-voltage overhead power lines immediately north of the railroad tracks in a grade-separated underpass (UP) structure. The intersection at North Hills Parkway N/S and Los Angeles Avenue (SR-118) is proposed as a signalized intersection.

North Hills Parkway N/S is designed to increase traffic capacity, enhance the circulation in the city, and relieve traffic impacts to Los Angeles Avenue (SR-118). The proposed UP structure eliminates the train and vehicular traffic conflicts, enhances safety, and minimizes the delay.

North Hills Parkway

North Hills Parkway is proposed as an approximately 4-mi-long arterial with two 12-ft-wide lanes and a 12-ft outside shoulder in each direction to accommodate the expected demand from proposed developments. North Hills Parkway starts near the west side of the city boundary approximately ½ mi north of the existing Los Angeles Avenue (SR-118) and intersects the proposed North Hills

page 2 blank

Parkway N/S at this location. One-half mile east of the North Hills Parkway and North Hills Parkway N/S intersection, North Hills Parkway extends to the east and intersects the realigned Gabbert Road at an approximate right angle. This intersection is anticipated to be signalized with the predominant movement along the east–west direction on North Hills Parkway.

An overcrossing (OC) structure is proposed where the proposed North Hills Parkway crosses over the existing Walnut Canyon Road (SR-23). Because of the hilly terrain, the OC structure is 65 ft above the area along SR-23. Four residential properties adjacent to SR-23 would be impacted by the proposed North Hills Parkway OC and would have to be relocated.

Phase 1 of North Hills Parkway initially provides for a two-lane highway with a raised median for left-turn lanes or landscaping. At this stage, North Hills Parkway will primarily accommodate the traffic volumes generated by the current housing developments in the city. Ultimately, Phase 2 of North Hills Parkway will be required to be built out when all residential developments along its reach are completed. For this study, the right-of-way needed for the full buildout is included in Phase 1.

Gabbert Road Realignment

South of North Hills Parkway, Gabbert Road is realigned and upgraded to four lanes and joins the existing intersection of Gabbert Road and Poindexter Avenue. The railroad crossing on the realigned Gabbert Road remains at grade; no grade separation is proposed for this crossing. However, the railroad quad gates system on the grade crossing is upgraded to enhance safety.

The realigned Gabbert Road links North Hills Parkway and Tierra Rejada Road, and forms a loop route through the city while improving the traffic circulation.

Alternative 1

Alternative 1 is a variation of the *Preferred Alternative*. In this alternative, the intersection of North Hills Parkway and realigned Gabbert Road is configured as a Y-shaped intersection instead of the cross-shaped intersection described in the Preferred Alternative to accommodate traffic movements between North Hills Parkway and Gabbert Road. This alternative makes the westbound movement on North Hills Parkway the predominant movement through the intersection. In order for this intersection to operate effectively, a separate signal phase would be necessary for the eastbound traffic on North Hills Parkway going through the intersection.

Investigation and Findings

Environmental

According to the Preliminary Environmental Assessment Report (PEAR) developed as part of the Feasibility Study, no significant impacts are identified and no special permits are required. An Initial Study (IS) leading to a Mitigated

Negative Declaration (MND) is therefore recommended as the appropriate environmental document under California Environmental Quality Act (CEQA) guidelines.

Right-of-Way

Approximately 93 acres of right-of-way (R/W) are required for this project, and four residential properties are impacted by the proposed alignment.

A portion of the R/W has already been dedicated on the west end of the parkway. Developers of the land adjacent to North Hills Parkway would be required to dedicate the remaining R/W. This study assumes that those R/Ws would be contributed by the developers at no cost. Right-of-way acquisition of the four residential properties would require the standard acquisition process, including an approved Environmental Document and the possibility of going through the condemnation process if the properties could not be obtained cooperatively.

Railroad

Two railroad crossings and their pertinent improvements are proposed and identified below:

1. Construct an underpass structure (UP) where North Hills Parkway N/S crosses Union Pacific Railroad (UPRR)/Metrolink (SCRRA) track.
2. Modify the existing at-grade crossing where the realigned Gabbert Road crosses UPRR/Metrolink (SCRRA) track.

Utilities

Most of the project area encompasses undeveloped land; therefore, minimal underground utility conflicts are anticipated. However, overhead high-voltage power lines are found in the project area. As part of the underpass, retaining walls are required to protect an existing SCE electrical tower located on the side slope of North Hills Parkway N/S and to provide access for maintenance.

Existing utilities lines along the rail road property will have to be accommodated in the new underpass.

Hydraulics

The profile of North Hills Parkway N/S at the railroad crossing is approximately 22 ft below the existing ground. A pumping system is needed for the sag locations underneath the UP structure.

The footprint of the North Hills Parkway impacts some natural channels within the project limits and would encroach on some detention basins proposed by the developers. A post-development hydrology analysis is recommended in the next design phase to verify the adequacy of the capacity of those basins and associated storm drain systems to properly determine the proposed culvert types and sizes to satisfy the City's requirement to contain all stormwater runoff on site.

Traffic

A detailed traffic study would be required for the next phase of design to analyze how the intersections along North Hills Parkway and SR-118 would operate in a 20-year horizon period.

Geotechnical

The soil along the alignment of the North Hills Parkway is mainly sandy alluvium; to prevent settlement, it requires 3 to 10 ft of overexcavation for most of the project area. The overexcavated soil should be recompacted and reused as embankment material in order to balance earthwork on site. The existing soil condition also requires deep pile foundations for the North Hills Parkway N/S underpass structure. However, the abutments of the North Hills Parkway OC at SR-23 are located on bedrock, and spread footings can be used there.

Cost Estimate

The total cost for construction, engineering support, and R/W for the project is approximately $84.9 million. Because of the high degree of similarity between the two build alternatives presented in this report, the costs differences between the Preferred Alternative and Alternative 1 are considered negligible. The details of the cost estimates are listed in Attachment I.

Tabulated below is the cost summary of construction (R/W cost included) and engineering support for each roadway segment and construction phase. Phase 1 costs are for the immediate roadway improvements and Phase 2 costs are the additional costs to improve the roadway for the ultimate buildout.

		Phase 1			Phase 2		
		North Hills Parkway N/S	North Hills Parkway	Gabbert Road	North Hills Parkway N/S	North Hills Parkway	Gabbert Road
Construction	Roadway	$8,286,000	$33,307,000	$3,292,000	$1,208,000	$5,280,000	$691,000
	Structure	$1,430,000	$10,660,000	$0	$0	$0	$0
	Right-Of-Way	$0	$2,000,000	$0	$0	$0	$0
	RR Shoofly	$2,066,000	$0	$0	$0	$0	$0
	Subtotal	$11,782,000	$45,967,000	$3,292,000	$1,208,000	$5,280,000	$691,000
	Subtotal	$61,041,000			$7,179,000		
Engineering Support	Environmental	$1,200,000			$359,000		
	Design	$6,105,000			$718,000		
	CM	$7,325,000			$862,000		
	Subtotal	$14,630,000			$1,939,000		
Phase Total		$75,671,000			$9,118,000		
Use		$75,700,000			$9,200,000		
Grand Total		$84,900,000					

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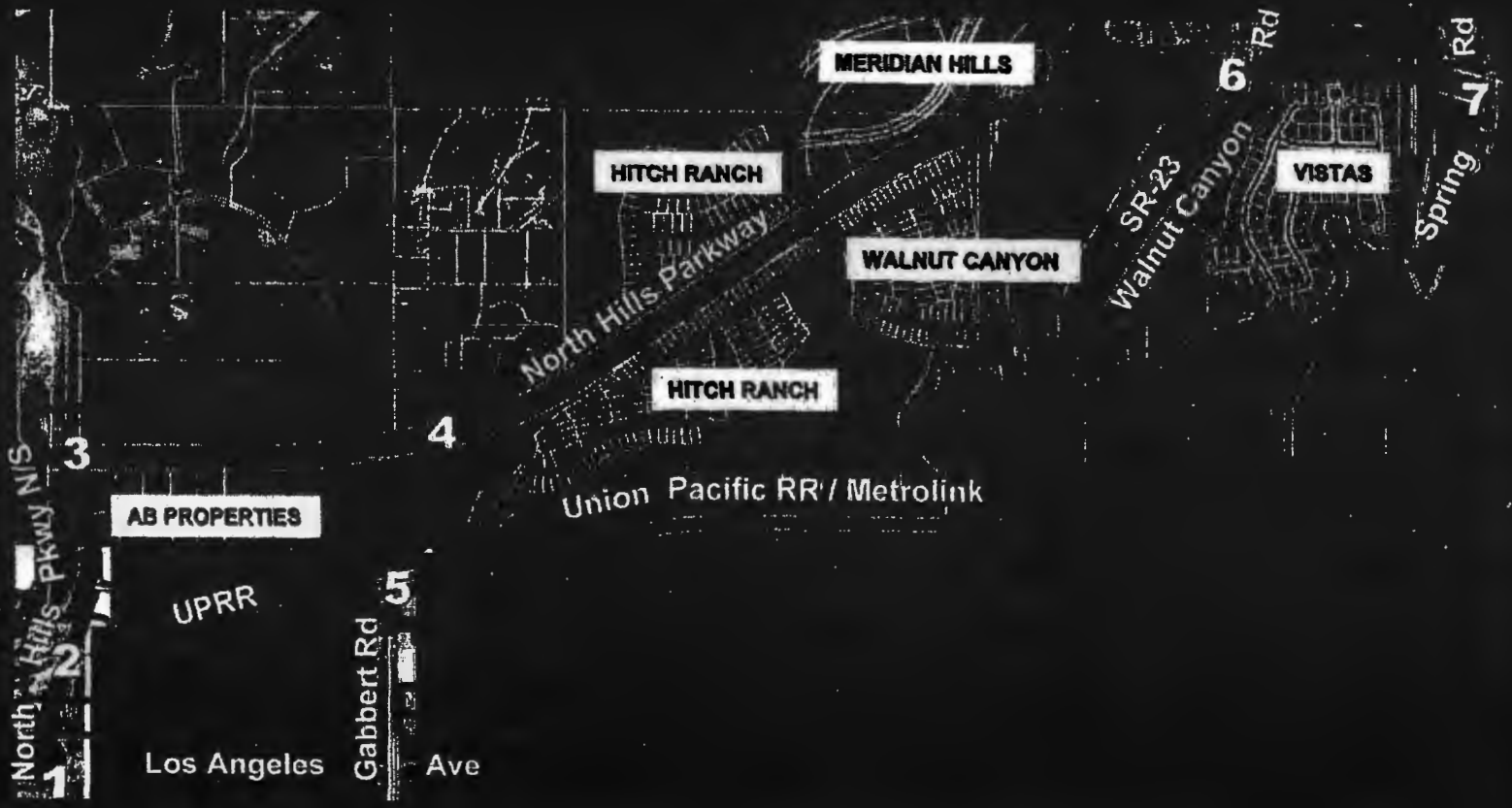
Conclusions and Recommendations

- Based on the engineering analyses and environmental evaluations while preparing this report, no fatal flaws were identified for any alternative.
- At locations where the proposed alignments intersect or approach a state facility, such as over the existing SR-23 and where it connects to the existing SR-118 (Los Angeles Avenue), coordination with Caltrans is required to obtain formal conceptual approval and to determine the pertinent type of document to prepare for the next design phase, which could be a project study report (PSR), project report (PR), or encroachment permit, depending on the nature and cost of the improvements.

Next Steps

- Conduct an informal meeting with Caltrans to discuss the proposed alternatives.
- Develop a project study report (PSR) to obtain conceptual approval and seek project funding for improvements within and outside of state right-of-way.
- After conceptual approval is obtained, proceed with the formal environmental clearance and the final design of the parkway.
- Work with developers to reserve the necessary right-of-way to complete Phases 1 and 2 of the North Hills Parkway as detailed in this Feasibility Study.

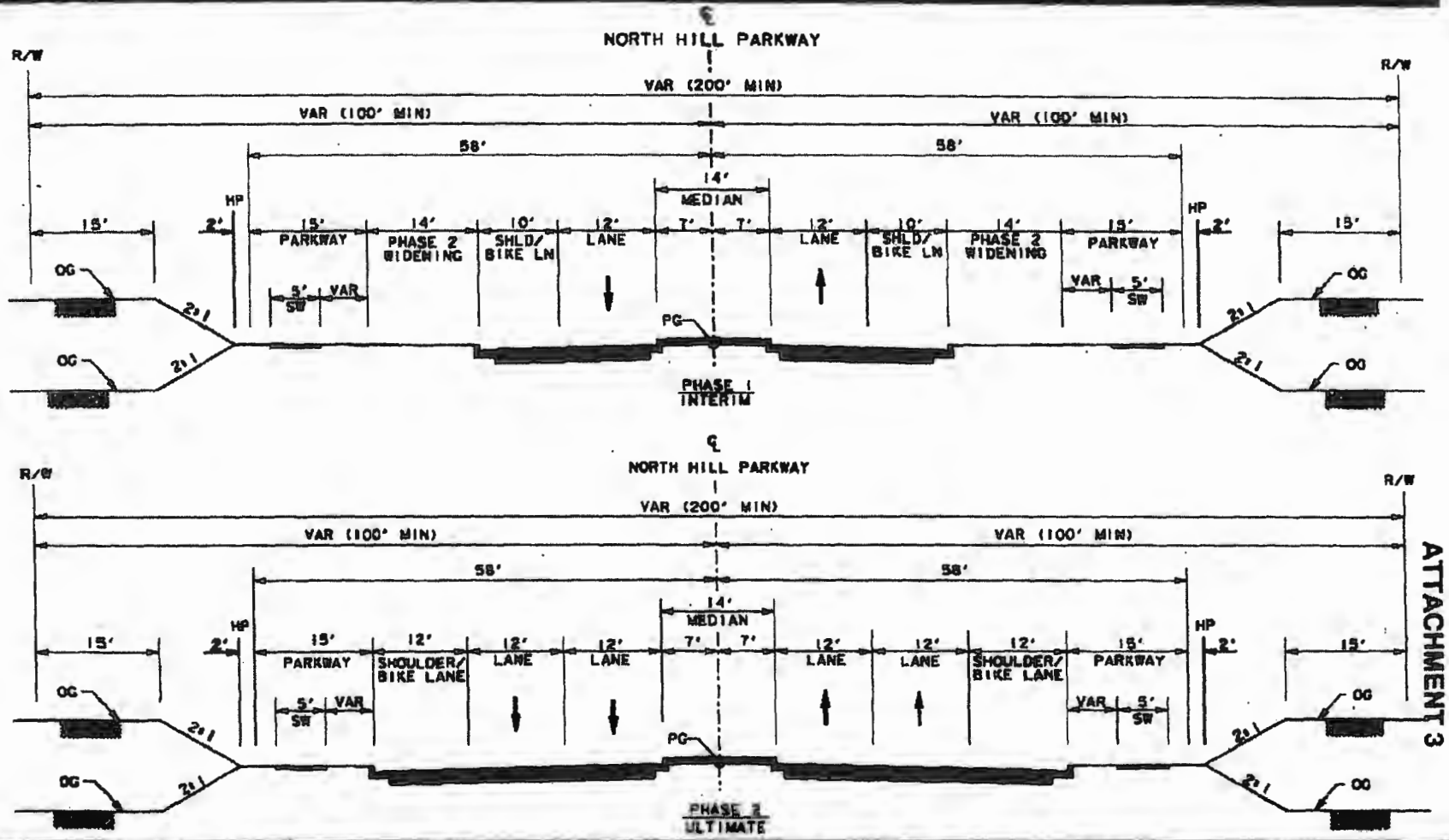
City of Moorpark
Feasibility Study



April, 2008

ATTACHMENT 3

North Hill Parkway



Typical Sections – Interim & Ultimate

CC ATTACHMENT 4

MEMORANDUM

To: The Honorable Planning Commission

From: Brian R. Baca, Planning Manager BRB
PG 4571, CEG 1922, CHG 398
Commercial and Industrial Permits Section
Ventura County Planning Division

Date: June 27, 2013

Re: **Grimes Rock Mining Expansion Project:**
Response to 6-26-13 letter from Margaret M. Sohagi
Case No. CUP 4874-2; Reclamation Plan RP12-0001
File No. PL13-0159

INTRODUCTION

This memorandum is provided to your Commission to document Planning staff's analysis of the letter submitted by attorney Margaret M. Sohagi on behalf of the City of Moorpark at 4:16 pm on June 26, 2013. This letter (hereinafter the "Moorpark" letter) comments on the adequacy of the Final Environmental Impact Report (FEIR) prepared for the Grimes Rock project to be considered at the June 27, 2013 meeting of the Planning Commission.

DISCUSSION

Each of the issues raised in the Moorpark letter are addressed in the following table. The table is numbered in correspondence with the arrangement of comments in the Moorpark letter.

Section	Sub-sec.	Moorpark comment	Staff comment
I	A	The FEIR fails to analyze the impacts of 600 Saturday truck trips.	The KOA Traffic Study (Appendix B, Volume 2 of the FEIR describes the proposed change from a 5-day per week to a 6-day per week hauling schedule (Table 2, page 4). This change is also described in Table 2-4 on page 2-19 of the FEIR. KOA Traffic Engineers specifically selected weekday peak hour periods for analysis as these represent the worst case traffic circulation periods. Also, traffic impacts are assessed by changes in peak hour traffic. There are no peak hours on Saturday. Thus, any impacts described in the

County of Ventura
Planning Commission Hearing
Exhibit 11 CUP 4874-2

			FEIR for a weekday will be less on Saturday. Also refer to pages 4.1-3 to 4.1-8 in Volume 1 of the FEIR. This comment does not include any evidence or analysis of a significant traffic impact due to Saturday operations. Similarly, the 6-25-13 Memorandum by *Linscott, Law, & Greenspan Engineers* (Exhibit C of the Moorparl letter) provides no evidence of a potentially significant traffic impact due to Saturday operations. Refer also to Response to Comment B.27 (Section B, FEIR Volume 3). Thus, no change in the FEIR is required.
	B	The FEIR fails to include the SR 23 Bypass as an alternative or Mitigation Measure in Violation of CEQA.	This issue is adequately addressed in Response to Comment A.3.a (Section B, FEIR Volume 3). The "SR 23 Bypass" is a speculative project with no firm timelines or established funding source or mechanism. It does not constitute feasible mitigation under CEQA.
	C	The Significance Thresholds Utilized in the Analysis of City Traffic Impacts are Inconsistent with CEQA's requirements.	In this comment, the Moorpark letter (i.e. the *Linscott, Law, & Greenspan Engineers* memorandun; Exhibit C) incorrectly compares the CEQA Threshold utilized for determining project impacts in the FEIR with a City of Moorpark General Plan policy. The City "Level of Service Policy 2.1" sets a performance objective for the maintenance of levels of service on City roadways. This "performance objective" is not a CEQA Threshold for determining the level of significance of a proposed increase in traffic volume. The Moorpark letter appears to assert that any increase in traffic volume is significant no matter how small. In any case, the CEQA Threshold utilized by the County in the FEIR is the appropriate and adequate standard to assess impacts.
	D	The County's failure to enforce the southern haul route restrictions leads to an significant understatement of traffic impacts.	Refer to Responses to comment D.22 and D.24 (Section B, FEIR Volume 3). The haul route restrictions in the current permit for the Grimes Rock facility have not been enforceable and do not reflect the actual physical baseline. Based on the 2013 updated traffic counts alone, impacts in the FEIR are overestimated rather than understated. Refer

			to Response to Comment D.14. Recent events have resulted in the traffic volumes disclosed in the FEIR to be further overstated. On June 20, 2013, the permit for the Best Rock Products mining facility was revoked by the Ventura County Planning Commission. This action terminated the Best Rock mining operation and the associated mine expansion application. Thus, an existing 460 ADT and proposed 656 ADT of truck traffic volume has been eliminated from area roadways. In addition, the Wayne J Sand and Gravel application for a mine expansion has been clarified by the applicant to involve a proposed increase in truck trips to 240 ADT rather that the previous 460 ADT. With these actions, the proposed total traffic volume for the three mines under review (plus CEMEX) is now 1,680 ADT rather that the 2,556 ADT cited in the FEIR. Thus, the FEIR substantially overestimates traffic in all time frames and in all directions leading from the Grimes Canyon mining facilities. Furthermore, Vehicle Code Section 21 states that Cities and Counties have very limited authority over vehicle traffic control on State highways.
	E	The FEIR's traffic baseline is inaccurate.	The FEIR does include new traffic counts and recognizes the new configuration of the Broadway/Walnut Canyon Road intersection. Refer to the KOA Traffic Memorandum in Section C of FEIR Volume 3. This new traffic study verified the adequacy of the 2007 KOA Traffic Study for use in the FEIR. Refer to Response to Comment D.14 (Section B, FEIR Volume 3). This comment does not provide evidence of any new potentially significant impact. Thus, no change in the FEIR is required.
	F	The FEIR's analysis of cumulative impacts is legally inadequate.	Based on the 2013 updated traffic counts alone, cumulative impacts in the FEIR are overestimated rather than understated. Refer to Response to Comment D.14 (Section B,

			FEIR Volume 3). Recent events have resulted in the traffic volumes disclosed in the FEIR to be further overstated. On June 20, 2013, the permit for the Best Rock Products mining facility was revoked by the Ventura County Planning Commission. This action terminated the Best Rock mining operation and the associated mine expansion application. Thus, an existing 460 ADT and proposed 656 ADT of truck traffic volume has been eliminated from area roadways. In addition, the Wayne J Sand and Gravel application for a mine expansion has been clarified by the applicant to involve a proposed increase in truck trips to 240 ADT rather that the previous 460 ADT. With these actions, the proposed total traffic volume for the three mines under review (plus CEMEX) is now 1,680 ADT rather that the 2,556 ADT cited in the FEIR. Thus, the FEIR substantially overestimates traffic in all time frames and in all directions leading from the remaining Grimes Canyon mining facilities. Refer also to Responses to Comment B.22 and B.23.
	G	The FEIR's traffic mitigation measures are inadequate.	This issue is adequately addressed in Responses to Comment B.8 and B.9, and in Table A-2 on pages i through xi of the FEIR. The mitigation measures in the FEIR are feasible and adequate.
	H	The FEIR does not remedy the deficiencies of the RDEIR's traffic analysis or adequately respond to traffic-related comments.	The responses to traffic-related cited in the Moorpark letter adequately respond to the comments received on this topic. Refer to the Topical Responses to Comment and specific Responses to Comments A.3.a, A.3.b, A.4, A.5, B.ii, B.8, B.9, B.13, B.14, B.15, B.16, B.18, B.19, B.22, B.23, B.28, B.31, B.32, B.38, D.24, D.28, D.31, and D.72. This comment does not provide any evidence of a deficiency in the RDEIR or FEIR traffic analysis or the responses provided to public comment.
II	**A**	The FEIR fails to include a SB 610 water supply assessment in	The proposed mine expansion project is not subject to the SB 610 requirement for a water supply assessment. The mining facility does fall into any of the categories of discretionary

		violation of the Water Code and CEQA.	projects that require such an assessment. (See Section 10912 of the Water Code.) For example, an area of excavation does not constitute a "industrial facility" or "plant" that encompasses more than 40 acres. The "processing" equipment currently on the site is not proposed to be expanded or changed as part of the project. No new processing facilities are proposed. Also, the water demand of the facility would be less than that of a 500-unit residential development. Refer to Topical Response to Comment #5. The Moorpark comment does not identify any deficiency in the analysis of water demand in the FEIR.
	B	The FEIR lacks an adequate and informative description of the environmental setting for analysis of impacts to hydrology and water resources.	The water quality data provided in the FEIR (Tables 4.5-12) indicates that surface runoff at the Grimes Rock facility is of high quality with a very low electrical conductivity value. Total Dissolved Solids for the Grimes Rock runoff water would be less than 250 mg/l. Oil and grease and Total Suspended Solids were also measured to be very low. All of the measured values are below the RWQCB discharge limits for the Santa Clara River. Thus, the ambient surface water that runs off of the Grimes Rock site does not have the potential to contaminate downstream runoff in Grimes Canyon Wash. Thus, additional water quality data for the downstream reach of Grimes Canyon Wash is not necessary to reach this conclusion. The FEIR recognizes and identifies mitigation for the potential of mining-related surface water contamination. The Comment in the Moorpark letter does not provide evidence of any impact on water quality.
	C	The analysis of impacts to hydrology and water resources is inadequate.	Specific quantitative thresholds are not possible or necessary in some issue areas. The discussion of impacts W4 and W5 in the FEIR are adequate to identify potentially significant impacts of the proposed project. In both cases, adequate mitigation is also identified. It is unclear how specific thresholds

			for animal waste deposition or erosion would be structured. In any case, the only change that specific thresholds could make from the current analysis would be to reduce the identified level of impact. The mitigation measures would remain the same and be adequate to address these impacts.
	D	The hydrology and water resource mitigation measures are inadequate.	Drainage basins for runoff and sedimentation control are routinely constructed engineering facilities that are effective and feasible. Mitigation measure WR5-1 serves to refine the design of a routine engineering work that feasibly mitigates the identified impact. Studies to refine the design of a mitigation measure known to be feasible are allowed under CEQA. Refer to Response to Comment R.2 and R.3.
	E	The FEIR does not remedy the deficiencies of the RDEIR or adequately respond to comments regarding hydrology and water resources.	Response to Comment S.1 adequately addresses the issue identified in the Moorpark letter. No evidence of a potentially significant impact is included in the Moorpark comment.
III	**A**	The FEIR fails to disclose and analyze the significant and unavoidable noise impacts of project-related truck traffic.	Chapter 4.3 of the FEIR adequately addresses the issue of noise generation by project-related truck traffic. Refer also to Response to Comment D.43. Vehicle noise on State or Federal highways, or on roads in the Regional Road Network are not subject to the County Noise Thresholds or Noise policies. Refer to Topical Response to Comment #3.
	B	The FEIR's analysis of operational noise impacts is inadequate.	The comment does not identify any new evidence that there will be a potentially significant noise impact at the nearest sensitive receptor. No sensitive receptors, other than the homes located 2,400 feet from the mining site, are identified in this comment. Thus, no change in the FEIR is warranted. Refer to Topical Response to Comment #3.
	C	The cumulative noise analysis is deficient.	Chapter 4.3 of the FEIR adequately addresses the issue of noise generation by project-related truck traffic. Refer also to Response to

			Comment D.43. Refer also to Response to Comment #3. Vehicle noise on State or Federal highways, or on roads in the Regional Road Network are not subject to the County Noise Thresholds or Noise policies.
	D	The FEIR does not remedy the deficiencies of the RDEIR's noise analysis or adequately respond to noise-related comments.	Chapter 4.3 of the FEIR adequately addresses the issue of noise generation by project-related truck traffic. Refer also to Response to Comment D.43. Vehicle noise on State or Federal highways, or on roads in the Regional Road Network are not subject to the County Noise Thresholds or Noise policies. The comment does not identify any new evidence that there will be a potentially significant noise impact from onsite operations at the nearest sensitive receptor. No sensitive receptors, other than the homes located 2,400 feet from the mining site, are identified in this comment. Thus, no change in the FEIR is warranted on this issue.
IV	**A**	The FEIR is legally inadequate for its failure to provide analysis of criteria pollutant $PM_{2.5}$ impacts.	As acknowledged in the comment, the FEIR discloses the air quality standards and health effects of $PM_{2.5}$ in Tables 4.2-1 and 4.2-2 of the FEIR. The non-attainment status of Ventura County in regard to this pollutant is acknowledged in Table 4.2-3 of the FEIR. Table 4.2-4 provides an air quality monitoring summary that lists the levels of $PM_{2.5}$ measured at the nearest monitoring station to the project site. As explained on page 4.2-12 of the FEIR, *"fugitive dust during aggregate activities therefore primary can cause a soiling nuisance, or add to locally elevated PM-10 levels, but typically not to PM-2.5."* Thus, the analysis in the FEIR is focused on PM10 emissions. Refer to Response to Comment D.49.D of the FEIR (Volume 3).
	B	The air quality analysis utilizes outdated air quality models and Year 1991 meteorological data.	Refer to Response to Comment B.39. The VCAPCD has found that the analysis of emissions in the FEIR is adequate to disclose impacts of the project. Note that all of the truck traffic-related cumulative impacts are substantially overestimated in the FEIR because of new information now available.

			(See Response to Comment D.49. The 2013 traffic counts (FEIR, Volume 3) indicate that the projections of traffic volumes included in the FEIR are higher than what would be projected based on the 2013 data. Also, the 6-20-13 revocation of the permit for the Best Rock mine has eliminated 656 ADT in potential future truck traffic in the project area. Finally, the applicant for the Wayne J Sand and Gravel project has reduced the requested truck trips from 460 ADT to 240 ADT. In summary, the FEIR describes the air quality effects for 2,556 ADT of truck trips when the actual total proposed truck traffic volume is currently only 1,680 ADT. The example air quality analysis sheets included in Appendix C of FEIR Volume 2 reflect the analysis performed for the 2006 Draft EIR. This analysis was updated in 2009 with the current information in the FEIR. In any case, the commenter does not identify why any of the data used is inadequate to disclose impacts.
	C	The FEIR's health analysis is incomplete and does not include all receptors.	Refer to the response to comment IV.B above.
	D	The FEIR's statements that emission reduction will occur based on future cleaner diesel-powered equipment is speculative.	This issue is adequately addressed in Response to Comment D.49.A (FEIR Volume 3). No change in the FEIR is required.
	E	The FEIR's baseline discussion and impact analysis are contradictory.	The net increase in emissions over existing conditions (i.e. from existing mining operations) is the impact that is analyzed and disclosed in the CEQA document. Project air pollution was not measured at the Simi Valley station.
	F	The FEIR does not remedy the deficiencies of the RDEIR or adequately	Response to Comment B.39 adequately addresses the issue raised in the Moorpark letter. Responses to Comments B.39, D.49.A, D.49.C, D.49.D, D.49.E, D.49.G, D.49.I,

		respond to comments regarding air quality.	D.49.J, D.49.K, D.49.L, D.49.M, D.50.A, D.50.B and D.50.C adequately respond to public comments on air quality issues.
V	**A**	The FEIR's climate change analysis utilizes outdated air quality models and 1991 meteorological data.	Refer to Response to Comment B.39. The analysis of climate change was provided by the VCAPCD and utilizes the EMFAC7 computer model. VCAPCD has found that the analysis of climate change in the FEIR is adequate to disclose impacts of the project. Note that all of the truck traffic-related cumulative impacts are substantially overestimated in the FEIR because of new information now available. The 2013 traffic counts (FEIR, Volume 3) indicate that the projections of traffic volumes included in the FEIR are higher than what would be projected based on the 2013 data. Also, the 6-20-13 revocation of the permit for the Best Rock mine has eliminated 656 ADT in potential future truck traffic in the project area. Finally, the applicant for the Wayne J Sand and Gravel project has reduced the requested truck trips from 460 ADT to 240 ADT. In summary, the FEIR describes the air quality effects for 2,556 ADT of truck trips when the actual total proposed truck traffic volume is currently only 1,680 ADT. The example air quality analysis sheets included in Appendix C of FEIR Volume 2 reflect the analysis performed for the 2006 Draft EIR. This analysis was updated in 2009 with the current information in the FEIR. In any case, the commenter does not identify why any of the data used is inadequate to disclose impacts.
	B	The FEIR contains no substantial evidence in support of its climate change conclusions.	The estimate of greenhouse gas emissions is derived from the analysis in the air quality section of the FEIR. The VCAPCD considers the Climate Change section of the FEIR adequate to disclose climate change impacts. Note that the Grimes Rock project involves only 160 ADT of new truck trips. This level of trips will not have a significant impact on greenhouse gas emission levels.

VI	**A**	The FEIR relies on outdated studies which do not accurately characterize the project's impacts on biological resources.	Responses to Comments Q.1 through Q.22 adequately addressed the issues raised in the 10-31-12 letter from the California Department of Fish and Wildlife. Refer also to Responses to Comments D.1 through D.13. A qualified County biologist inspected the project site to ensure that the description of biological resources included in the FEIR is accurate.
	B	The FEIR does not remedy the deficiencies of the RDEIR's analysis of biological resources or adequately respond to biological resources-related comments.	Responses to Comments Q.1 through Q.22 adequately addressed the issues raised in the 10-31-12 letter from the California Department of Fish and Wildlife. Refer also to Responses to Comments D.1 through D.13.

VII	**A**	The FEIR's cumulative impact analysis uses flawed methodology.	The comment appears to imply that there is no existing setting of development from which impacts are measured. The FEIR lists current and reasonable foreseeable future projects but recognizes an existing setting that does not contribute to cumulative impacts. It is a judgment of the Lead Agency as to the establishment of the baseline (existing setting) condition. In any case, the primary offsite concern of the project is truck trips. In measuring cumulative impacts, the isolated nature of the Grime Rock site makes it reasonable to evaluate some cumulative impacts by considering just the mining operations (i.e. Best Rock, Wayne J, Grimes Rock). In the case of traffic, projects in the cities of Fillmore and Moorpark are considered in the cumulative analysis. Based on the 2013 updated traffic counts alone, cumulative impacts in the FEIR are overestimated rather than understated. Refer to Response to Comment D.14 (Section B, FEIR Volume 3). Recent events have resulted in the traffic volumes disclosed in the FEIR to be further overstated. On June 20, 2013, the permit for the Best Rock Products mining facility was revoked by the Ventura County Planning Commission. This action terminated the Best Rock mining operation and the associated mine expansion application. Thus, an existing 460 ADT and proposed 656 ADT of truck traffic volume has been eliminated from area roadways. In addition, the Wayne J Sand and Gravel application for a mine expansion has been clarified by the applicant to involve a proposed increase in truck trips to 240 ADT rather that the previous 460 ADT. With these actions, the proposed total traffic volume for the three mines under review (plus CEMEX) is now 1,680 ADT rather that the 2,556 ADT cited in the FEIR. Thus, the FEIR substantially

			overestimates traffic in all time frames and in all directions leading from the remaining Grimes Canyon mining facilities. Refer also to Responses to Comment B.22 and B.23.
	B-1	The cumulative impact analysis for air quality is inadequate.	Refer to Response to Comment B.39. The VCAPCD has found that the analysis of emissions in the FEIR is adequate to disclose impacts of the project. Note that all of the truck traffic-related cumulative impacts are

			substantially overestimated in the FEIR because of new information now available. The 2013 traffic counts (FEIR, Volume 3) indicate that the projections of traffic volumes included in the FEIR are higher than what would be projected based on the 2013 data. Also, the 6-20-13 revocation of the permit for the Best Rock mine has eliminated 656 ADT in potential future truck traffic in the project area. Finally, the applicant for the Wayne J Sand and Gravel project has reduced the requested truck trips from 460 ADT to 240 ADT. In summary, the FEIR describes the air quality effects for 2,556 ADT of truck trips when the actual total proposed truck traffic volume is currently only 1,680 ADT.
	B-2	The cumulative impact analysis for hydrology and water resources is inadequate.	Refer to responses to comments II.a, II.B, II.C, II.d, and II.E in the Moorpark letter above.
	B-3	The cumulative impact analysis for visual resources is inadequate.	Project-specific and cumulative impacts on visual resources have been determined to be significant and unavoidable (Class I). Given the isolated location of the Grimes Rock facility, there are no other non-mining projects which would contribute to the degradation of the public view from SR 23. Thus, the visual resource analysis is adequate. In any case, the Moorpark letter does not identify any project that should have been considered and was not.
	B-4	The cumulative impact analysis for noise is inadequate.	Given the isolated location of the Grimes Canyon mining facilities (Grimes Rock, Best Rock and Wayne J), there are no other non-mining projects which would contribute to the onsite noise generated at these facilities. Thus, the cumulative noise analysis is adequate. Note that the permit for the Best Rock facility has been revoked. Thus, this facility will only generate noise temporarily as part of reclamation activities.

			Refer to Topical 5.
VIII	**A**	The project description is legally inadequate because it fails to include project objectives as required by CEQA.	The County believes that the statement of project objectives included in Chapter 5.0 of the FEIR is adequate. The volume of material to be produced and the rate of production are fundamental aspects of a mining facility.
	B	The project description is legally inadequate because it fails to include all components of a project.	Condition of Approval 67 is a standard Public Works Agency condition that merely states that non-mining grading activities require a permit. If it is determined that any grading proposed by the landowner/mine operator constitutes a changes in the permitted mining facility, a modification of the conditional use permit and an amended to the Reclamation Plan will be required. Condition 67 is a statement of applicable law.
	C	The FEIR does not remedy the deficiencies of the RDEIR's project description or adequately respond to comments.	The County believes that the statement of project objectives included in Chapter 5.0 of the FEIR is adequate. The volume of material to be produced and the rate of production are fundamental aspects of a mining facility.
IX	**A**	The FEIR fails to present a reasonable range of alternatives.	The County believes that a reasonable range of alternatives has been evaluated as described on page 5.2 of the FEIR. The alternatives considered include a range of operational intensities. The FEIR does not, however, consider an off-site alternative. In Section 15126.6(f)(2)(B) of the CEQA Guidelines specifically identifies mining projects as an example where there may be no feasible offsite alternatives. Given the factors discussed on page 5-2 of the FEIR, it was determined that there are no feasible off-site location for an alternative mining site.
	A-1	The FEIR fails to evaluate alternatives that meet most of the basic project objectives.	The comment is incorrect. Alternative 4 meets most of the project objectives. It was not found to be the environmentally superior alternative for the reasons discussed on page 5-10 of the FEIR.
	A-2	The FEIR ignores alternatives that could reduce or	County staff disagree that the FEIR ignores alternatives. A reasonable range of alternatives are evaluated.

		avoid the significant effects of the project.	
	A-3	The FEIR improperly rejects offsite alternatives.	The County believes that a reasonable range of alternatives has been evaluated as described on page 5.2 of the FEIR. The alternatives considered include a range of operational intensities. The FEIR does not, however, consider an off-site alternative. In Section 15126.6(f)(2)(B) of the CEQA Guidelines specifically identifies mining projects as an example where there may be no feasible offsite alternatives. Given the factors discussed on page 5-2 of the FEIR, it was determined that there are no feasible off-site location for an alternative mining site.
	A-4	The FEIR fails to include a mine reclamation plan alternative.	This comment is not correct. Alternative 2 involves continued mining under the existing approved Reclamation Plan. Alternative 5 involves mining under a reduced Reclamation Plan.
	B	The FEIR does not remedy the deficiencies of the RDEIR or adequately respond to comments.	Refer to response to Comment B.46. There was no requirement to look at alternative based on traffic considerations. There are no new peak hour trips (and associated impacts) included in the project.
X	**A**	The Initial Study fails to meet the requirements of CEQA.	There is no need to prepare a new I.S. once the decision to prepare an EIR is made. An Initial Study is not required to prepare an EIR nor does an Initial Study mandate that certain conclusions be reached in an EIR. Thus, an Initial Study cannot "fail to meet" the requirements of CEQA.
	B	The FEIR's analysis of the modified reclamation plan is legally inadequate.	Reclamation activities are part of "surface mining activities" as defined by the Surface Mining and Reclamation Act. The creation of the final reclaimed surface during mining excavation is a reclamation activity. The impacts of the creation of this surface, and its treatment at the end of mining, are addressed in the FEIR. See State OMR letter dated 7-13-12 that finds the Rec. Plan adequate to meet the requirements of SMARA.

			With regard to biological resources, the revegetation provisions of the proposed Reclamation Plan are incorporated into the biological mitigation measures for the project. The comment in the Moorpark letter does not provide any evidence of an impact associated with site reclamation. The County believes that the analysis of the Reclamation Plan is legally adequate.
	C	The textual and analytical changes made to the 2012 RDEIR are impossible to distinguish and review.	The changes made to the 2012 RDEIR are presented in ~~strikeout~~ and <u>underline</u> format in the FEIR. This includes Table A-2 in the Table of Contents section of the FEIR.
XI		The County has not prepared a mitigation monitoring and reporting program as required by CEQA.	Condition #30 reflects ordinance requirements that apply to the proposed project independent of CEQA. With this ordinance provisions in place, no specific or additional CEQA mitigation measure is required. Condition 33 and Condition 34 involve activities at final reclamation of the site. To ensure that all conditions of approval are monitored, the following will be added to each of the 3 conditions cited in the Moorpark letter: *"Compliance with this condition will be assured by County staff through review of site operations and reclamation during the annual inspection process required by the Surface Mining and Reclamation Act (SMARA)."*
XII		Conclusion: Request for recirculation.	It is up to the County decision-makers to determine the adequacy of the FEIR and whether recirculation is required. Based on the comments reviewed herein, County staff does not recognize a basis for recirculation of the FEIR.

SUMMARY

The Moorpark letter does not identify any substantial deficiencies in the FEIR provided to your Commission for consideration. The staff recommendations included in the Staff Report for the June 27, 2013 hearing remain unchanged.