

Reclamation Plan Amendment Conditions of Approval

EXHIBIT A

FILE NUMBER 1253-16-62-07P
NAME (Applicant): Stevens Creek Quarry
MEETING DATE: May 14, 2009

APPLICATION APPROVED SUBJECT TO CONDITIONS STATED BELOW IN ACCORDANCE WITH PLANS AS SUBMITTED AS IT PERTAINS TO THE RECLAMATION PLAN AMENDMENT OF THE STEVENS CREEK QUARRY.

GENERAL REQUIREMENTS:

1. Development and maintenance of the project site shall take place in accordance with approved plans. The approved plan includes maps, drawings, tables and a narrative description identified as the Stevens Creek Quarry Reclamation Plan Amendment (California Mine ID No.: 91-43-0007), dated January 2008.
2. The project shall comply with the reclamation requirements stipulated in the Mediated Agreement, which was recognized by the Board of Supervisors in a resolution passed and adopted on October 8, 2002, and which was signed by the mine operator and adjacent residents.
3. The mine operator shall be responsible for paying all reasonable costs associated with work by the County Planning Office, or with work conducted under the supervision of the County Planning Office, in conjunction with, or in any way related to the conditions of approval identified in this reclamation plan and the mitigations contained in the Mitigated Negative Declaration. This includes but is not limited to costs for staff time, consultant fees, and direct costs associated with report production and distribution.
4. All previous conditions of approval related to reclamation contained in the conditions modified by the Santa Clara County Board of Supervisors on September 10, 1996, remain in effect.
5. Reclamation of slopes shall commence once the final slopes are established.
6. The mine operator shall provide evidence of legal access into the 9.5-acre wedge of land on the east side of Parcel B to the County Planning Office prior to entering the land for reclamation activities. Legal access shall be obtained by one of the means that follows:
 - A. A letter providing permission to Stevens Creek Quarry signed by the property owner of the adjacent land shall be submitted to the County Planning Office.

- B. Obtain and record an easement over the subject land that allows access onto the property for reclamation purposes. A copy of the easement shall be submitted to the County Planning Office for review prior to recording the instrument. This review shall include the Santa Clara County Counsel's Office to ensure the document is legally binding.
- C. Obtain a lot-line adjustment of the property line(s) along the extent of the subject property and obtain ownership of the land in fee title.

7. Re-vegetation shall include only plant materials identified in the re-vegetation palette contained in the approved amended reclamation plan.

8. The Secretary of Architecture and Site Approval, or the Secretary's designee, shall have authority to review and approve revisions to the re-vegetation palette contained in the approved reclamation plan.

9. Fill materials imported and used for reclamation purposes shall be limited to earth. No construction or demolition waste regulated under 14CCR§17388.3 shall be used. Fill shall be compacted, tested, and documented to demonstrate it will support post-mining uses.

10. The mine operator shall test the effectiveness of the soils installed as part of reclamation and demonstrate that the soil will support the vegetation. This testing may include, but is not limited to, establishing test plots and reporting their effectiveness through the annual SMARA inspection process.

Conditions to Implement the Mitigation Measures contained in the Mitigated Negative Declaration:

Air Quality

11. During any day when reclamation of the 9.5-acre amendment area or the stockpile area outside the western boundary of Parcel B will occur, the quarry operator shall not operate more than two pieces of equipment simultaneously anywhere within these two areas. During project-related sediment removal by the excavator, no more than one additional piece of equipment shall be operated simultaneously with the 9.5-acre amendment area or the stockpile area. (Mitigation Measure AQ-1)

Biological Resources

12. Prior to disturbance of the amendment areas, a focused botanical survey for Western Leatherwood shall be conducted during the blooming season (January–April) by a qualified plant biologist in order to ascertain the presence or absence of this species on the project site. If any individuals of this plant species are detected, its occurrence shall be mapped and individuals enumerated in a technical report, to be submitted to the County of Santa Clara, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. The biologist shall complete California native species survey forms and submit them to the California Natural Diversity Database (CNDDB), and shall develop appropriate mitigation in

consultation with the California Department of Fish and Game (CDFG) to reduce the project's impact on Western Leatherwood to a less-than-significant level. Suitable mitigation measures would include, in order of preference, 1) avoidance; 2) plant and seed salvage, cultivation, and reintroduction onto suitable soils in similar habitat, preservation in perpetuity, monitoring for no less than five years, and submittal of monitoring reports to the appropriate agencies. (Mitigation Measure BR-1)

13. Prior to disturbance of the amendment areas, a focused botanical survey for robust monardella shall be conducted during the blooming season (June-July) by a qualified plant biologist in order to ascertain the presence or absence of this species on the project site. If any individuals of this plant species are detected, its occurrence shall be mapped and individuals enumerated in a technical report, to be submitted to the County of Santa Clara, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. The biologist shall complete California native species survey forms and submit them to the California Natural Diversity Database (CNDDDB), and shall develop appropriate mitigation in consultation with the California Department of Fish and Game (CDFG) to reduce the project's impact on robust monardella to a less-than-significant level. Suitable mitigation measures would include, in order of preference, 1) avoidance; 2) plant and seed salvage, cultivation, and reintroduction onto suitable soils in similar habitat, preservation in perpetuity, monitoring for no less than five years, and submittal of monitoring reports to the appropriate agencies. (Mitigation Measure BR-2)
14. Any trees that need to be removed to facilitate future development shall be felled outside of the general bird breeding season (January 1st through August 1st, or as determined by the California Department of Fish and Game), or a pre-construction bird nesting survey shall be conducted prior to tree and other vegetation removal by a qualified raptor biologist, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. If conducted during the early part of the breeding season (January to April), the survey shall be conducted no more than 14 days prior to initiation of tree/vegetation removal activities; if conducted during the late part of the breeding season (May to August), the survey shall be performed no more than 30 days prior to initiation of these activities. If active nests are identified, a 150-foot fenced buffer (or an appropriate buffer zone determined in consultation with the California Department of Fish and Game) shall be established around the nest tree and the site shall be protected until September 1st or until the young have fledged. A biological monitor shall be present during earth-moving activity near the buffer zone to make sure that grading does not enter the buffer area. (Mitigation Measure BR-3)
15. Within 72 hours prior to the initiation of ground disturbance in either the stockpile or amendment areas, as identified in Figure 6 of the initial study and mitigated negative declaration of the reclamation plan amendment, a qualified biologist shall perform a survey of the area. A copy of the results of this survey shall be submitted to the County Planning Office, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area.

- A) If California red-legged frogs (CRLF) are identified on the property, they shall be rescued and moved to a new location, to be determined through consultation with the U.S. Fish and Wildlife Service (USFWS).
- B) In addition, if CRLF are encountered in the project area and are relocated, construction fencing shall be installed to prevent migration of red-legged frogs back into the development area. Perimeter fencing to exclude CRLF may include buried silt fencing or other such fencing that red-legged frogs cannot crawl under or over, or as otherwise specified by USFWS guidelines. (Mitigation Measure BR-4)
16. No more than 30 days prior to the initiation of any site disturbance, a qualified biologist shall perform a protocol-level survey of the area to be disturbed to identify the potential presence of western pond turtles and/or southwestern pond turtles, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. If any turtles are identified on the property, they shall be rescued and moved to a new location, to be determined through consultation with the U.S. Fish and Wildlife Service (USFWS). In addition, if pond turtles are encountered in the project area and are relocated, construction fencing shall be installed to prevent migration of turtles back into the development area. Perimeter fencing to exclude western pond turtles may include buried silt fencing or other such fencing that pond turtles cannot crawl under or over, or as otherwise specified by USFWS guidelines. (Mitigation Measure BR-5)
17. No more than 30 days prior to the initiation of vegetation removal or other site disturbance within the amendment area, a bat survey shall be conducted by a qualified wildlife biologist to identify potential maternal bat roosts, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. If bat roosts are identified, the biologist shall initiate consultation with the California Department of Fish and Game (CDFG) to develop and implement an appropriate mitigation program to the satisfaction of CDFG. (Mitigation Measure BR-6)
18. Prior new disturbance or removal of any oak trees within the amendment area, the woodland shall be surveyed by a registered arborist, or other professional deemed acceptable to the County Planning Office, who shall survey and tabulate the amount of oak tree canopy to be removed within the amended reclamation plan area. The owner shall provide an amendment to the existing planting pallet for the reclamation plan demonstrating the creation of oak woodland equal to 1.5 acres created for every acre removed. This amendment shall be prepared by a qualified plant biologist, or other professional deemed acceptable to the County Planning Office, and the survey must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. As an alternative to creating oak woodland, the applicant may instead replace every removed oak tree at a 4:1 ratio, or may propose a combination of oak woodland creation and oak replacement. (Mitigation Measure BR-7)
19. Prior new disturbance or removal of any oak trees within the amendment area, the quarry owner shall record an on-site conservation easement, which protects in perpetuity 1.5

acres of oak woodland on the project site for every acre of oak woodland removed, as determined under mitigation BR-7. The owner shall submit a report by a registered professional forester, arborist, or other professional deemed acceptable by the County Planning Office demonstrating that the area within the proposed easement is oak woodland habitat, and the report must be reviewed and approved by the County Planning Office prior to initiation of any new disturbance to the project area. If suitable on-site oak woodland does not exist the owner may record an easement to protect suitable off-site oak woodlands. (Mitigation Measure BR-8)

Cultural Resources

20. If any prehistoric cultural artifacts (including chert, obsidian flakes, projectile points, mortars and pestles, shell, bone, heat-affected rock, or human burials) or historic cultural artifacts (including stone or adobe foundations or walls, structures or remains with square nails, refuse deposits, or bottle dumps) are encountered during site excavation or reclamation activities, ground disturbance shall be halted until the services of a qualified archaeologist can be retained to identify and evaluate the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). The applicant shall implement the mitigation in accordance with Section 15064.5(c)-(f) of the CEQA Guidelines and Public Resources Code Section 21083.2. (Mitigation Measure CR-1)
21. In the event that any human remains are encountered during site disturbance, all ground-disturbing work shall cease immediately and the Santa Clara County Coroner shall be notified immediately. If the coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. The NAHC will then appoint a "Most Likely Descendant" (MLD). The MLD, in consultation with a qualified archaeological consultant and the project sponsor, will advise and help formulate an appropriate plan for treatment of the remains, which might include recordation, removal, and scientific study of the remains and any associated artifacts. After completion of analysis and preparation of the report of findings, the remains and associated grave goods shall be returned to the MLD for reburial. (Mitigation Measure CR-2)
22. If any paleontological resources are encountered during site grading or other construction activities, all ground disturbance shall be halted until the services of a qualified paleontologist can be retained to identify and evaluate the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). (Mitigation Measure CR-3)

Geology and Soils

23. Once removal of surface soils commences in the northeast and southeast areas of the 9.5-acre amendment area, the Applicant shall retain the services of a qualified engineering geologist to confirm the width and extent of the shear zone of the Berrocal fault in these areas, and the Berrocal fault report shall be submitted to the County Planning Office and County Geologist for review and approval. If the extent of the shear zone exceeds that

addresses in Norfleet Consultant's slope stability report, then the engineering geologist shall determine whether the shear zone warrants the placement of additional fill cover to serve as a buffer on top of the shear zone. The engineering geologist shall present the recommended final fill and slope design specifications in a supplemental report to be reviewed and approved by the Santa Clara County Department of Planning and Development. Final slope construction within the amendment area shall be performed in accordance with the approved supplemental report and with the January 22, 2008 and May 19, 2008 slope stability reports prepared by Norfleet Consultants. (Mitigation Measure G-1)

* 24.

Within forty-five (45) days of approval applicant shall submit revised engineering plans that have the following notes added to them:

- A) "Final slope construction within the amendment area shall be performed in accordance with the approved supplemental report and with the January 22, 2008 and May 19, 2008 slope stability reports prepared by Norfleet Consultants."
- B) "The operator shall backfill excavations within the amendment area with engineered fill as soon as feasible following excavation."
- C) "If significant wedge failures or incipient ground failures are observed in the western cut rock slope of Parcel B, the quarry operator shall restrict movement of stockpiled material within 100 feet of the cut slope beneath and adjacent to the failures until a civil engineer or certified engineering geologist has evaluated the overall stability of the slope and provided repair/stabilization recommendations, and appropriate recommendations are considered and implemented."

* 25.

The post-reclamation use of Parcel B, including the 9.5-acre amendment area, shall be limited to open space. If another use is proposed in the future, a new slope stability analysis shall be performed by a qualified geotechnical professional to evaluate slope stability for the intended use and identify appropriate site preparation and design features necessary to maintain slope and structure stability throughout the life of the proposed use. The recommendations shall be subject to review and approval by the Santa Clara County Department of Planning and Development, and all approved recommendations shall be implemented. (Mitigation Measure G-2)

26.

Because a wide variety of materials (which could affect slope stability) may be encountered during mining and reclamation within the 9.5-acre amendment area, the operator shall backfill excavations within the amendment area with engineered fill as soon as feasible following excavation. (Mitigation Measure G-3)

27.

If significant wedge failures or incipient ground failures are observed in the western cut rock slope of Parcel B, the quarry operator shall restrict movement of stockpiled material within 100 feet of the cut slope beneath and adjacent to the failures until a civil engineer or certified engineering geologist has evaluated the overall stability of the slope and provided repair/stabilization recommendations, and appropriate recommendations are considered and implemented. (Mitigation Measure G-4)

Hydrology and Water Quality

28. Prior to construction of the final storm water detention basin in the 9.5-acre amendment area, the Applicant shall complete a supplemental hydrological study that evaluates the size of the final detention basin to fully contain runoff from the amendment area following reclamation and allow it to infiltrate and/or evaporate, and prior to construction of the final stormwater detention basin, the hydrology study and a final stormwater detention basin plan shall be submitted to the County Planning Office for review and approval. Because the actual final grading conditions at reclamation cannot be accurately predicted at this time, the study shall be based on reasonably anticipated final grading conditions (e.g., the final grades shown on Figure 2 of the Applicant's Technical Stormwater Memorandum). This study shall demonstrate the feasibility of constructing a final settling basin to fully contain runoff from the amendment area following reclamation and allow it to infiltrate and/or evaporate without offsite discharge. If this evaluation indicates the potential for some runoff from the amendment area, the supplemental study shall be expanded to include: (i) evaluation of the capacity of the existing storm water settling ponds; (ii) evaluation of the incremental runoff associated with the reclaimed amendment area; and (iii) evaluation of the ability of the existing storm water settling ponds to accommodate the additional flow associated with the amendment area and prevent any discharge that would violate water quality protection standards. When reclamation is completed, the Applicant shall prepare final as-built drawings of the storm water management system for the amendment area and provide a set of full-size plans to the Santa Clara County Planning Office. (Mitigation Measure WQ-1)

Noise

29. No more than one bulldozer shall operate within the 9.5-acre amendment area, located at the north side of Parcel B, at any given time. This restriction shall apply whether aggregate is being extracted and/or slope reclamation is occurring. Two bulldozers may operate simultaneously within the amendment area only if professional noise monitoring demonstrates that noise levels with two dozers operating simultaneously would not exceed the Noise Ordinance limit at the nearest residence. Noise monitoring records shall be kept demonstrating compliance with County noise ordinance whenever more than one bulldozer is operating. (Mitigation Measure N-1)

