



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
NEIGHBORHOOD PRESERVATION & SUSTAINABILITY DEPARTMENT**

STAFF REPORT

TO: Planning Commission

HEARING DATE: December 17, 2012

GENERAL INFORMATION	
REQUESTED ACTION:	Complete the Periodic Review of Surface Mining Permit and Reclamation Plan No. 23 ("SMP-23"), as required by Surface Mining Ordinance §6.80.190 and Condition No. 12 of SMP-23.
OWNER/APPLICANT:	Cemex, Inc. (Owner/Permittee)
SITE LOCATION:	Approximately 975.26 acres (±) between the Cities of Pleasanton and Livermore, south of Interstate 580 in the Livermore-Amador Valley, abutting the southern boundary of Stanley Blvd, abutting the northern boundary of Vineyard Ave., and adjacent to a segment of Isabel Ave./State Route 84. Assessor's Parcels Numbers 946-1350-9-19, 946-1350-9-12, 946-1350-10-5, 904-6-1-18, 904-6-2 (portion), 904-8-2-5, 904-8-1-3, 904-8-1-2, 950-6-1-5, 946-4598-19, 950-6-3-9, 99-290-11-7.
ZONING:	"A-100" (Agricultural - 100 Acre Minimum District)
GENERAL PLAN:	Large Parcel Agriculture and Water Management (East County Area Plan). Mines and Quarries are permitted a permitted use in A-100 Zoning Districts.
CEQA REVIEW:	Class 9 (Inspections) - Categorical Exemption (CEQA Guidelines §15309).

STAFF RECOMMENDATION

Recommend that the Planning Commission:

- Review this staff analysis, the documents submitted by the Permittee, and any new information presented at the public hearing;
- Take public testimony; and
- Barring any substantial new information presented that would require additional analysis or restrictions, approve the Periodic Review for SMP-23 subject to the existing and amended conditions of approval in the attached resolution (Attachment A – Draft Resolution).

PROJECT SITE LOCATION

The Project site consists of approximately 975.26 acres situated between the Cities of Pleasanton and Livermore, south of Interstate 580 and Stanley Boulevard in the Livermore-Amador Valley, north of Vineyard Avenue and both east and west of Isabel Avenue/State Route 84 (See **Figure 1 – Project Location** below).

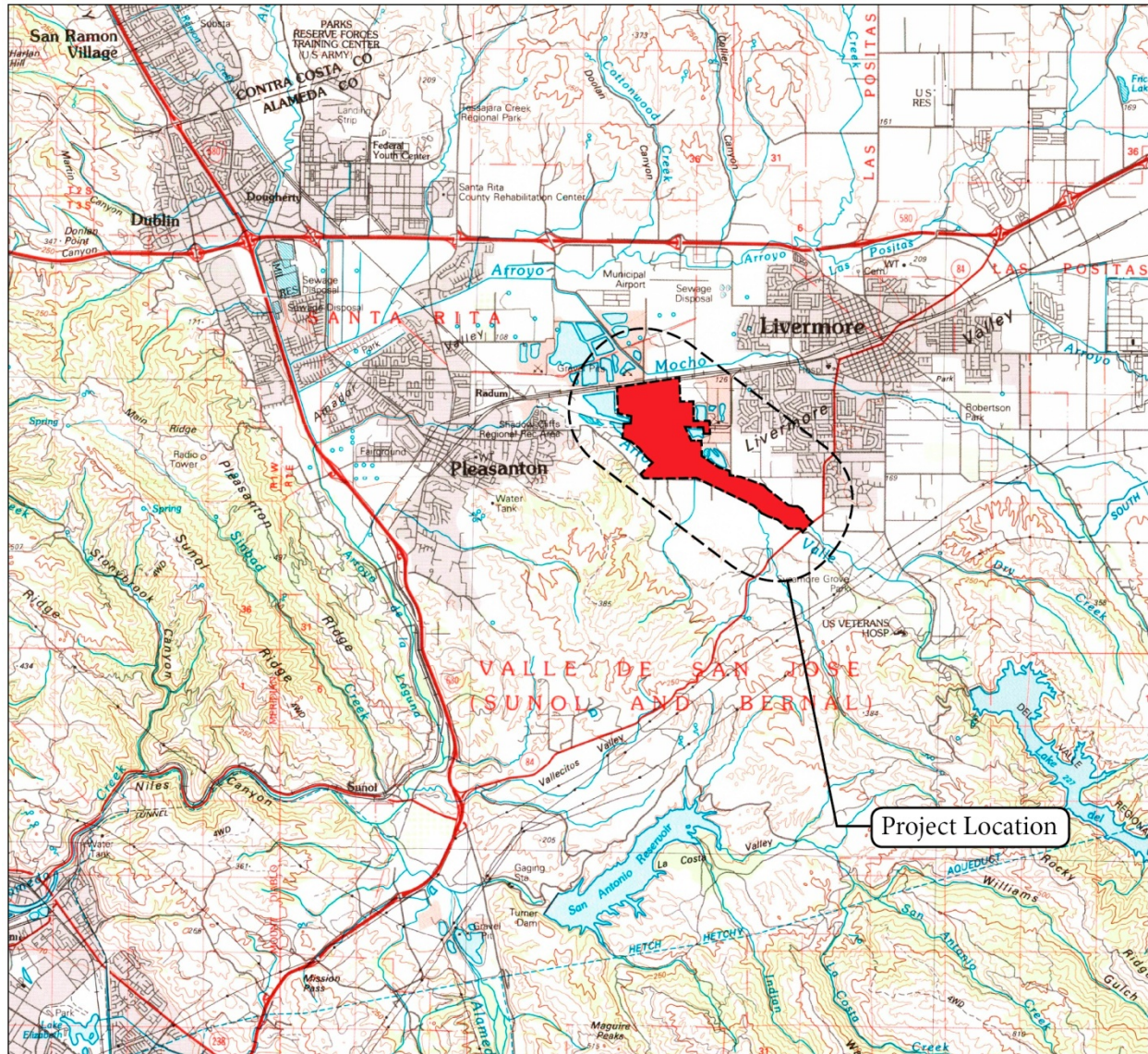


Figure 1 – Project Location

The Arroyo del Valle flows in a westerly direction through the Project site at its' southern boundary with Vineyard Avenue. A separate mining operation, subject to Surface Mining Permit and Reclamation Plan No. 16 ("SMP-16") abuts the Project site's eastern and northern border. The Shadow Cliffs Recreation Area, a reclaimed surface mine, abuts the Project Site's eastern border.

PURPOSE OF THE PERIODIC REVIEW

The purpose of this staff report is – an inspection to identify new or changed circumstances both internal and external to the Project Site and which have come about since 1992. If new or changed circumstances have occurred, the Alameda County Surface Mining Ordinance (“ACSMO”) requires that the Planning Commission consider them and determine whether modifications to SMP-23 are necessary. The ACSMO terms this process a “Periodic Review.”

Surface mining operations in Alameda County have historically occurred over many decades (i.e., since 1956 at the Project Site). As the physical environment and land uses change around a mine, the ACSMO recognizes the need to address them. Likewise, the same may be necessary for changes within the mine site. As will be detailed below, a number of changes, both internal and external to SMP-23, have occurred since the previous Periodic Review.

ACSMO §6.80.190 requires that, at the time of Surface Mining Permit and Reclamation Plan approval, the Planning Commission shall adopt a schedule for Periodic Review at an interval not exceeding five (5) years. For SMP-23, the Planning Commission fulfilled that requirement by setting a 5-year interval for Periodic Review under Condition No. 12. The previous Periodic Review was completed on November 2, 1992 (i.e., twenty (20) years ago).

When conducting a Periodic Review, ACSMO §6.80.190 directs the staff and Planning Commission to develop responses to one basic test:

Are there new or changed circumstances within the general area of the mining operations that should be accommodated by SMP-23?

After describing the regulatory setting, location and surrounding context of the Project Site, the staff report will provide a thorough description of the present mining operations and status of reclamation. After that, the staff report will identify and evaluate each new or changed circumstance before presenting recommendations on whether SMP-23 should be modified to accommodate them.

REGULATORY SETTING

SPECIFIC PLAN FOR LIVERMORE-AMADOR VALLEY QUARRY AREA RECLAMATION

The Project site is subject to the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation (“LAVQAR Specific Plan”). The LAVQAR Specific Plan was adopted by the Board of Supervisors in November 1981 around a key concept consisting of a master reclamation plan that would shape mined pit areas into a "Chain of Lakes" and return the remaining mined lands to productive uses after the removal of sand and gravel reserves. (See **Figure 2 – LAVQAR Specific Plan Chain of Lakes** below)

The general objectives of this LAVQAR Specific Plan are:

- a) To enable the competing resources of land, water, and sand and gravel to be utilized with a minimum of conflict and disruption;
- b) To plan for reclamation, productive reuse, and rehabilitation of the Quarry Area;
- c) To mitigate adverse effects of mining;
- d) To satisfy requirements of the State Surface Mining and Reclamation Act of 1975 and the Alameda County Surface Mining Ordinance;

- e) To provide a coordinated plan for arrangement of mining-produced land and water masses into a coherent, flexible form, reflecting interrelatedness of geology, hydrology, land use, and other factors throughout the Quarry Area.

Approved reclamation plans within the LAVQAR Specific Plan boundary provide each waterbody in the “Chain of Lakes” with an intended end use of water management. Upon completion of mining and fulfillment of reclamation, including the construction of related water conveyance facilities, each “lake” is to be dedicated to the Zone 7 Water Agency (“Zone 7”) for purposes of water management. Areas not intended for water management in the LAVQAR Specific Plan area are designated, within approved reclamation plans, for land uses of agriculture, recreation and open space, consistent with the East County Area Plan.

While each approved surface mining permit and reclamation plan in the LAVQAR Specific Plan area (i.e., SMP-23, SMP-16, SMP-31/36) includes requirements providing for fulfillment of the ‘Chain of Lakes,’ each mine operator also has a separate contract with Zone 7. Those contracts describe the details of property transfer, construction of facilities (e.g., levees, diversion structures), monitoring and maintenance requirements for constructed facilities, and use of groundwater. Also, those contracts are related in topic only to County-issued Surface Mining Permits and Reclamations. The County (i.e., staff, Planning Commission, Board of Supervisors) has no authority over them.

However, in light of the intertwined relationship between the Community Development Agency – Neighborhood Preservation Department’s lead agency responsibilities under SMARA and the ACSMO and Zone 7 Water Agency’s eventual ownership of lands and facilities within the LAVQAR Specific Plan, extensive coordination occurs between the two agencies on this Periodic Review.

HISTORIC REGULATORY CONTEXT

The LAVQAR Specific Plan provides the following narrative concerning the regulatory history of the Project site and nearby surface mines,

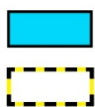
Mining of sand and gravel in the Livermore-Amador Valley began prior to 1900. As larger areas and volumes of sand and gravel were removed, the need for a permit system to regulate quarrying became apparent. In 1956 the County of Alameda adopted Ordinance 181 N.S. Early permits were issued in 1956-57 for large portions of the area. Reclamation was generally not provided for in that era. Ordinance 181 N.S. did prohibit pollution or contamination of usable water-bearing strata.

The early permits, as well as all later ones, limited mining to the uppermost aquifer (the gravel deposits serve as aquifers--storage and transmission areas for groundwater). More recent permits, beginning in 1965, contained more explicit language protecting water resources and reclamation plans were also required. Attempts by individual operators to produce viable reclamation plans failed because the water resources in the Quarry Area are interconnected and interdependent in terms of storage and flow and cannot be maintained satisfactorily within the artificial boundaries of quarry permits. Recognizing this, the quarry operators agreed to a joint effort to develop a master reclamation plan' to address all the problems within the entire 3,820 acre area designated for quarry use by the Alameda County General Plan.

The operators' master plan is, for the most part, intended to provide reclamation for past, present, and future mining. Without reclamation, mining in the Quarry Area has the potential to further block the flow of groundwater from southeast to northwest, to further interfere with storage and recharge of groundwater, and to create unusable and/or unsafe pits and land areas. The master reclamation plan prepared by the operators was intended to address these problems.



Legend - LAVQAR Specific Plan



LAVQAR 'Chain of Lakes'

Project Site



Natural Watercourse



Conduit Connecting Lake



Water Diversion Structure

Figure 2 – LAVQAR Specific Plan Chain of Lakes.

In 1975, the State of California adopted the State Surface Mining and Reclamation Act of 1975, requiring reclamation plans for all mining operations conducted after January 1, 1976. In 1977, Alameda County adopted a new Surface Mining Ordinance updating the 1956 Quarry Ordinance and incorporating reclamation requirements.

PROJECT SITE OVERVIEW

The proceeding description of mining and reclamation activities is derived from the September 2011 SMP-23 Periodic Review Report by the mine operator's consultant (Spinardi Associates), the 2011 annual Surface Mining and Reclamation Act (SMARA) Inspection Report by the County, interviews with employees of Cemex, Inc., and observations from field visits by County staff on multiple occasions.

SURFACE MINING OPERATIONS

The Project Site provides aggregate for construction projects throughout the greater Bay Area. This includes both aggregate derived from native on-site materials as well as recycled aggregate products from diverted waste materials (i.e., asphalt, concrete). Since the last Periodic Review in 1992, mining at the Project site has occurred in two general areas along the approximate southern half of the Project site within future Lakes A and B. The remaining northern half of the Project site (adjacent to Stanley Boulevard) includes the processing plant and silt ponds.

Aggregate Removal

Overburden has already been removed to expose aggregate deposits at the Project site. Shortly after completion of the last Periodic Review in 1992, mining activities ceased at the northern portion of the Project site and moved to the southern portion at future Lake A and B.

At Lake B, mining is presently occurring and consists of the removal of pit-run materials (i.e., silt, sand, gravel) using earthmoving equipment (dozers, scrapers, loaders and trucks) before they are deposited into a dozer trap which connects to an overland conveyor system. The overland conveyor system is extendable and retractable, and delivers pit-run materials to the processing plant adjacent to Stanley Boulevard.

Mining at Lake A has not been conducted since 2003. Between 2003 and 2006, an investigation into a potential geologic instability at Lake A was undertaken. That effort, spoken to in greater depth in the staff analysis below, resulted in the implementation of a Lakeside Circle Corrective Action Plan (approved by the Community Development Agency Director on February 27, 2007) to prevent slope instability along the northern shore of Lake A.

Processing Plant Operations

Aggregate (i.e., pit-run material), once delivered to the plant, is wetted, sorted and processed. Groundwater (derived on-site) is used in the washing process. The wash-out silt has, over time, been deposited in silt basins (i.e., formerly mined pits) surrounding the processing plant. As wash-out silt is deposited, each basin becomes increasingly filled with solid material enabling the gradual raising of its 'earthen' elevation.

The processing of pit-run material includes the use of wet scrubbers, blade mills, and vibrating screens to remove clay and fines. Washed fines are processed through cyclone separators, sand screws, and dewatering screws to produce concrete specification sand for use in ready-mix concrete. Oversize stone can also be reduced in size (to concrete specification sand) through a jaw crusher.

Coarse and oversize material (separated from the clay and fines) is processed by additional blade mills or

crushers before being sized into specification construction aggregates using a series of wet screens. Resulting materials are then stockpiled via conveyor. This material is transported by conveyor to stockpiles around the processing plant. Condition No. 18 of SMP-23 requires that stockpiles be located at least eighty (80) feet from Stanley Boulevard.

Aggregate is delivered to off-site destinations via trucks. All trucks with off-site destinations or origins utilize Stanley Boulevard to access regional roadways (e.g., Isabel Ave./State Route 82, US 580).

Operations Accessory to Plant

The Permittee operates a concrete ready mix facility within in the main plant area. Facilities supporting the ready mix plant include a concrete lined pond to decant the wash out, a reclaimer to recycle waste concrete aggregate, and a paved area for mixer trucks to stage.

The Permittee also intermittently accepts concrete and asphalt debris which is crushed for use in aggregate-related products. These recycled materials, which might otherwise be deposited in local landfills, are used to supplement the native aggregate materials produced by the Project site's processing plant. The primary end products of these recycling operations consist of "RAP" used in the production of asphalt at an on-site plant and recycled "AB" base material. The recycling operation is accessory use to the broader mining operations under SMP-23, as allowed by ACSMO §6.80.060.

The Permittee also leases land within the processing plant to Granite Construction for purposes of an asphalt batch plant. At the time of the last Periodic Review in 1992, the asphalt batch plant was operated at the southern portion of the Project site, near the (now present) Ruby Hill neighborhood. However, as will be discussed in greater detail in the staff analysis below, the asphalt batch plant was relocated to the northern portion of the processing plant in early 2009.

Accessory Land Uses

At the time of the prior Periodic Review in 1992, a pre-cast manufacturing and sales business (i.e., Associated Concrete) operated as an accessory land use to SMP-23 at the northern border of Lake B. However, the business is now closed and the building which it utilized is presently vacant.

In January 2012, staff discovered the presence of a commercial business at SMP-23, to the south of Lake B, between the Arroyo del Valle and Vineyard Avenue, that is operating without County-issued building or land use permits. After conducting on-site inspections in February and March 2012, it was revealed that heavy construction equipment (unrelated to mining operations) was being operated to demonstrate the use of global positioning system (GPS) hardware. As of the writing of this staff report, the mine operator and lessee are working with Planning Department staff on an application to consider the business as an accessory use.

RECLAMATION PLAN

While mining activities at the Project Site began in 1957 under Quarry Permit No. 1 ("Q-1") (including the later approved Q-76 approved in 1969), a reclamation plan was not approved for the Project site until 1987 vis-à-vis SMP-23. As shown in **Figure 3 – Approved Reclamation Plan**, that reclamation plan includes two (2) water impoundments (i.e., Lake A and B), conveyance and conduit facilities to transmit water, a levee separating Lake B and C, and remaining lands designated for agricultural land use(s).



Legend - Approved Reclamation Plan*



LAVQAR 'Chain of Lakes'



Reclamation Plan Boundary



Argiculture



Natural Waterway / Input to Chain of Lakes



Conduit Connecting Lake



Water Conveyance Structure



Levee



Erosion Protection

Figure 3 – Approved Reclamation Plan.

The Project Site includes the first “link” in the Chain of Lakes – Lake A. Once water is diverted into Lake A, it is then to be conveyed through an underground conduit to Lake C (at SMP-16). Note: the current reclamation plans provide a spillway from Lake A to Lake B should water level rise above the capacity of Lake A. Also, a separate conduit from Lake C to B is to facilitate spillover flows to the Arroyo del Valle should water levels at other ‘up-stream’ lakes (i.e., Lakes C through G) rise above their capacity. Lastly, of note in the circa-1987 reclamation plans is the removal of the natural channel of the Arroyo del Valle through SMP-23 and routing of its’ flows directly through Lakes A and B.

Status of Reclamation

Though Condition No. 4(b) requires the mine operator to submit, “a schedule for approval by the Planning Director, which ties timing of completion of reclamation components to specific stages in the mining plan,” it appears no schedule was prepared for SMP-23. Consequently, the following text simply describes whether reclamation has been completed to date; not whether it’s on schedule.

Since the last Periodic Review in 1992, mining activities have occurred at Lake A and B. As of today, Lake A has not been excavated to its’ planned depth due, in part, to a geologic instability which resulted in mining ceasing in 2004. However, while preparing this report, staff learned the mine operator has exceeded the approved depth of Lake B. Thus, with regard to the question of whether the reclamation act of creating a Lake A and B has been achieved, the short answer is no – neither lake presently resembles their approved horizontal and vertical extent.

Land around the excavated depths of Lake A and B has not been reclaimed. Plans associated with the circa-1987 approval of SMP-23 are general in nature and do not include detailed reclamation information (e.g., grading, landscaping). However, perhaps in recognition of this lack of specificity, the Planning Commission imposed new conditions through the last Periodic Review in 1992. Those conditions state, in summary:

- Within 60 days of the date of approval of this condition (i.e. January 2, 1993), Permittee shall submit a Precise Master Plan detailing reclamation of the Lake A area. (*Condition No. 16*)
- Permittee shall reclaim the south shore of Lake A no later than commencement of mining activity, and shall be completed within two (2) years. (*Condition No. 17*)
- The north shore of Lake A shall be reclaimed as wildlife habitat. (*Condition No. 18*)
- Permittee shall submit a Precise Master Plan detailing reclamation of the Lake B area prior to mining activity though incidental mining may occur north of the Arroyo del Valle and to an elevation above the high water level of the Arroyo del Valle. (*Condition No. 19*)

Plans for the area around Lake A were submitted by the Permittee in January 1993 and subsequently approved by the County in February 1994.¹ Those plans provide a high level of specificity and have become part of the “reclamation plan” for SMP-23. However, reclamation of the south shore of Lake A was not completed within the two-year timeframe required by Condition No. 17.

Based on a site inspection by staff, it appears portions of the reclamation plan for the south shore of Lake A (i.e., grading, fences, trail and landscaping) were installed by the operator but not maintained. Consequently, any reclamation that was completed here has fallen into a state of disrepair. Staff is

1 RMC Lonestar Lake “A” Reclamation Plan, East Isabel Avenue Property, Alameda County, California” prepared by David L. Gates Associates, dated August 12, 1993, approved by Planning Director on February 4, 1994.

presently evaluating the operator's proposed October 31, 2012 Financial Assurance Cost Estimate (FACE) which includes proposed costs for rehabilitating landscaping and completing implementation of the approved plans. The Financial Assurance resulting from that review process will include any and all costs necessary to rehabilitate and fully implement the reclamation plan for the south shore of Lake A.

Concerning the requirement for a Precise Master Plan for Lake B, the Permittee has not submitted the required plans despite mining having occurred below the Arroyo del Valle elevation benchmark set by Condition No. 19. Mining in Lake B continues to this day. Also, at Lake B, mining has exceeded the authorized maximum mining depth and extended outside the permitted footprint. This issue of nonconformance is addressed further in the staff analysis below.

STAFF ANALYSIS

As mentioned above, the Planning Commission is to evaluate whether there are new or changed circumstances which should be accommodated by SMP-23. Staff's research has revealed a number of new and changed circumstances since the last Periodic Review in 1992. The following text will address each new or changed circumstance in sequence and then conclude with a summary of staff's recommended response. To frame and organize a discussion of these new and changed circumstances, **Table 1 (Summary of New/Changed Circumstances)** is provided.

TABLE 1 – SUMMARY OF NEW/CHANGED CIRCUMSTANCES	
REQUIRING ACCOMMODATION BY SMP-23	
1.	Lakeside Circle Corrective Action Plan / Slope Stability at Lake A
2.	Changed Regulatory Setting Relative to Biological Resources
3.	Current Reclamation Plan Boundary Inconsistent with Approved Plans
4.	At Lake B, Excavation Depth Exceeded & Footprint Expanded
5.	Approval Documents Provide Inconsistent End Uses Plant Site
6.	Route 84 Expressway Widening Project
NOT REQUIRING ACCOMMODATION BY SMP-23	
7.	Encroachment of Residential and Vineyard Developments
8.	Asphalt Batch Plant Relocation
9.	Stanley Boulevard Landscaping
10.	Changes to Accessory Uses

1. LAKESIDE CIRCLE CORRECTIVE ACTION PLAN / SLOPE STABILITY AT LAKE A

Beginning in 2003, signs of pavement distress (i.e., cracks) were observed within a portion of Lakeside Circle potentially indicating signs of slope instability along the northern slope of Lake A. In response, the Permittee retained Cotton Shires and Associates to install slope inclinometers² and piezometers³ on the upper bench above the northeast slope of Lake A. Between 2004 and 2006, additional slope inclinometers and piezometers were installed on other slopes of Lake A and within the residential development abutting the northeast boundary of Lake A, particularly in the Lakeside Circle area. Information derived from these devices was used to develop of geologic model for Lake A and adjacent area to the northeast. Subsequent analyses characterized the site stratigraphy, geologic structure, hydrogeology, and confirmed that displacement was occurring.⁴

In light of the confirmed displacement, a Lakeside Circle Corrective Action Plan was developed by the Permittee under the oversight of the Community Development Agency. Its implementation began in September 2006 with the installation of forty (40) depressurization wells along the northeastern flank of Lake A to relieve pore pressures within a confined aquifer unit. Immediately upon installation, the depressurization wells flowed under artesian pressure and resulted in the lowering of the piezometric surface of the confined aquifer and its overlying unoxidized clay. After depressurization wells were deemed effective, a seven (7) stage construction program was begun in May of 2008; as summarized below:

1. Installation of submersible pumps in ten (10) vertical wells to further reduce piezometric surfaces prior to and during subsequent construction activities;
2. Between June and August 2008, the water surface elevation in Lake A was lowered by pumping water from the lake into percolation ponds;
3. Completed in October 2008, pea gravel fill was dropped through the water column of Lake A and onto the lake bottom to provide temporarily stability so the lake could be fully drained;
4. Completed in November 2008, the lake was completely drained and the pea gravel deposited in Stage 3 was dewatered;
5. Completed in December 2008, the pea gravel placed in Stage 3 was compacted;
6. Completed in January 2009, engineered fill material was placed on top of the compacted pea gravel and also compacted; and
7. Completed in April 2009, additional placement and compaction of engineered fill material took place, and pumping of water from Lake A ceased and the lake was allowed to slowly refill.

To summarize the Lakeside Circle Corrective Action Plan in simpler terms – a buttress was placed on the floor of Lake A to provide liquefaction resistance and shear strength for long term stability in both static and dynamic conditions; even if the groundwater surface rises (see **Figure 4 – Lakeside Circle Corrective Action Plan**). After completion of the Lakeside Circle Corrective Action Plan, semi-annual

2 A inclinometer or clinometer is an instrument for measuring angles of slope (or tilt), elevation or depression of an object with respect to gravity.

3 A piezometer is designed to measure the static pressure of groundwater.

4 See “As-Built Report and Summary of Construction Inspection and Testing, Lakeside Circle Corrective Action Plan, Alameda County, California, by Cotton, Shires and Associates, dated August 2009.

monitoring occurred for two (2) years (i.e., April 2010 through April 2011) though the approved plan also calls for annual monitoring through April 2014. Copies of monitoring documents have and continue to be provided to the Community Development Agency by the Permittee.

As a part of performing this Periodic Review, staff retained Treadwell & Rollo to complete a peer review of the Lakeside Circle Corrective Action Plan as-built documents and monitoring data prepared to date. The purpose of that review was to determine whether: (a) the Lakeside Circle Corrective Action Plan was carried out in substantial conformance with the approved plans; and (b) monitoring data substantiated the effectiveness of the Lakeside Circle Corrective Action Plan.

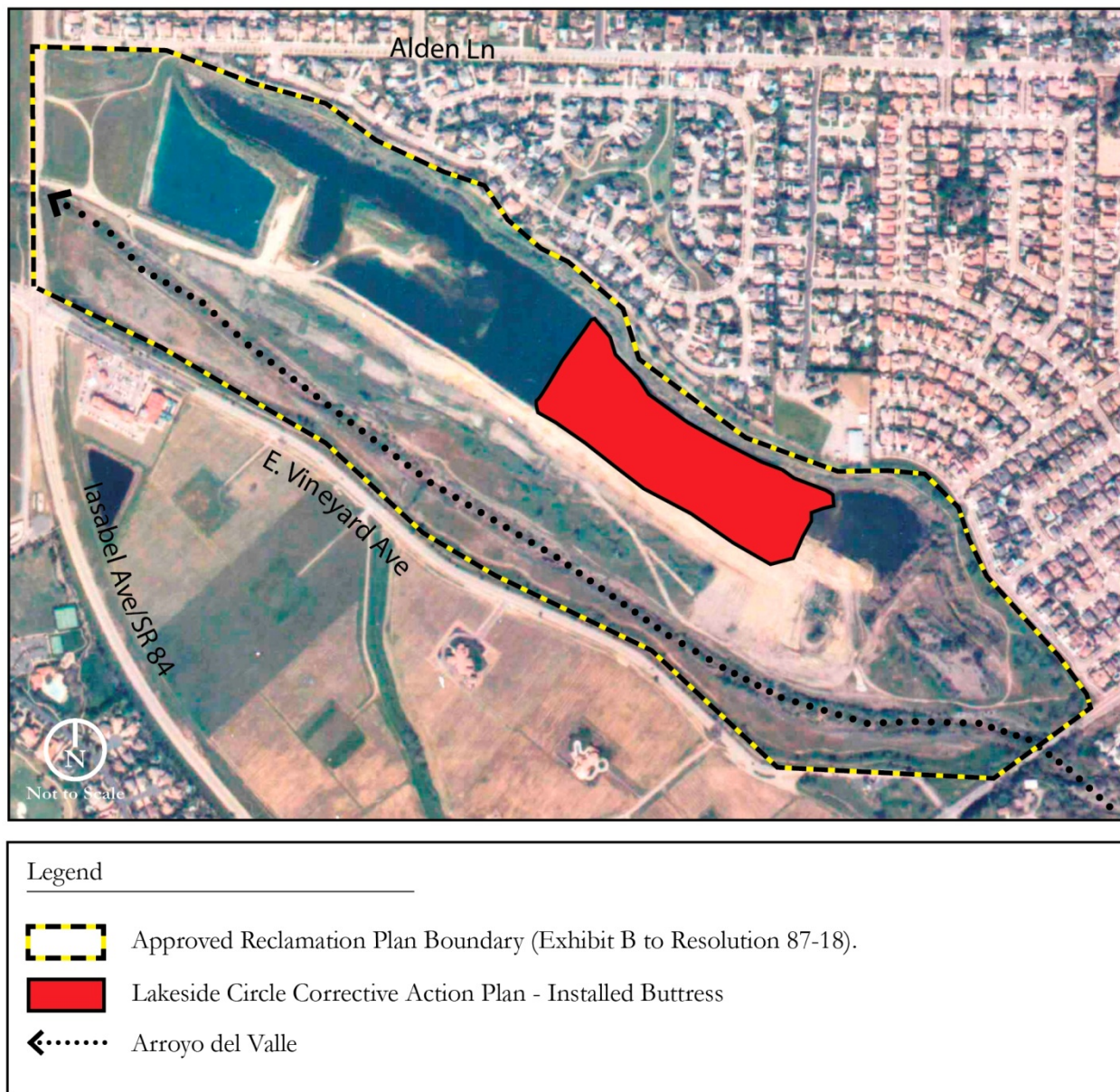


Figure 4 – Lakeside Circle Corrective Action Plan

The peer review by Treadwell & Rollo confirmed the Lakeside Circle Corrective Action Plan was completed in substantial conformance with the approved plans and that monitoring data to-date

substantiated its' effectiveness (i.e., no significant ground movement warranting responsive action). Additionally, the peer review also advanced the following recommendations and comments:

1. Crack extensometers in Lakeside Circle which were previously destroyed through a slurry coat placed approximately one year ago should be replaced;
2. An increase in water level above the pre-Lakeside Circle Corrective Action Plan level, has resulted in an increased factor of safety relative to as-built design values;
3. Though an increased water level increases the factor of safety, it adversely affects the ability of depressurization wells to discharge flows;
4. An evaluation of minimum and maximum Lake A water levels should occur to determine the maximum piezometric surface needed to maintain acceptable factors of safety for static and pseudostatic conditions;
5. If minimum or maximum Lake A water levels are exceeded, develop a response action plan if either event occurs; and
6. Continue monitoring of all piezometers through June 2014 since monitoring data indicates a recent rise in the piezometric surface of the confined aquifer unit below the sheared clay.

Staff concurs with the above-listed Treadwell & Rollo's recommendations as necessary measures to prevent the reemergence of an unsafe condition. Though ACSM §6.80.190 provides that changed (and changing) circumstances may be accommodated by revisions to SMP-23, ACSMO §6.80.250 and Condition No. 8 of SMP-23 also require the mine operator to correct any unsafe condition. Therefore, in accordance with those provisions, staff recommends the following revision to the conditions of approval for SMP-23.

New Condition No. 3

All aspects of the Lakeside Circle Corrective Action Plan, prepared by Cotton, Shires & Associates, dated August 31, 2007, including, but not limited to, the grading plan, depressurization wells, monitoring instruments and activities, reporting, and triggers for responsive action, shall remain in effect until:

a) June 30, 2014, including the continued monitoring of piezometers in Groups A, B and C; or

b) The revised mining and reclamation plans required by Condition No. 7 are established.

New Condition No. 14

Within one hundred and twenty (120) days of this resolution being approved and with regard to Lake A, the Permittee shall evaluate the minimum lake level and maximum piezometric surface elevation needed to maintain acceptable factors of safety for static and pseudostatic conditions. The results of that evaluation shall include a proposed monitoring program and operation plan to maintain said factors of safety and be submitted to the Community Development Agency Director or designee for review and approval. The Community Development Agency or designee shall obtain an independent third-party review of the Permittee's proposed evaluation.

In addition to ensuring, in the immediate sense, the continued stability of slopes around Lake A, staff also observes that the changed circumstance caused by implementation of Lakeside Corrective Action Plan has also necessitated the need for long-term precautionary measures relative to the question of whether mining may safely resume in Lake A.

The Lakeside Correction Action Plan was an appropriate and necessary intervention to prevent slope instability from causing harm to adjacent persons and property. However, no study has been prepared to demonstrate the feasibility and safety of resuming mining and reclamation in accordance with the presently approved plans. Therefore, staff recommends the following new Condition No. 12 which requires that no future mining shall occur in the Lake A area until the feasibility and safety of mining and reclamation can be confirmed.

New Condition No. 10

Irrespective of any language within Condition No. 2, mining shall not resume east of Isabel Avenue/State Route 84 (i.e., within Lake A) until it is demonstrated to the satisfaction of the Community Development Agency Director that it:

- a) Can occur without resulting in slope instability or other geologic instability resulting in harm to persons and property; and
- b) Will not conflict with the Specific Plan for Livermore-Amador Valley Area Reclamation including, in particular, those provisions relating to the Chain-of-Lakes; namely, Lake A and its' corresponding water conveyance facilities.

Should the Permittee seek approval in accordance with this condition, the Community Development Agency Director shall conduct at least one (1) community meeting prior to rendering a decision.

The Lakeside Circle Corrective Action Plan also has materially affected the approved mining and reclamation plans for Lake A through the installation of a buttress which rises to an elevation of 390 feet. The approved mining and reclamation plans depict a floor elevation of 330 feet, consistent with the LAVQAR Specific Plan. In short, the Lakeside Circle Corrective Action Plan has reduced the planned storage capacity of Lake A and also put in place a barrier to groundwater infiltration. A specific objective of the LAVQAR Specific Plan is to, “mitigate alteration/impedance of groundwater movement and storage due to mining operations.” The Lakeside Corrective Action Plan has compromised the ability of the approved reclamation plans to fulfill those objectives. Consequently, staff observes that SMARA Regulations §3502(e) requires the preparation of an amended reclamation plan since the surface mining operation within Lake A cannot be reclaimed in accordance with the approved plan.

Additionally, both the new information (i.e., identification of a geologic instability) and changed circumstance caused by implementation of a Lakeside Circle Corrective Action Plan have called into question the ability of the approved reclamation plans to fulfill the core objective of the LAVQAR Specific Plan – the creation of a ‘Chain of Lakes.’ As depicted in **Figure 2 (LAVQAR Specific Plan Chain of Lakes)**, Lake A is the first “link” in the Chain of Lakes. That first “link” stores and transmits water derived from a structure which diverts flows from the Arroyo del Valle.

Without a functioning Lake A, the ability to achieve the LAVQAR Specific Plan’s Chain of Lakes, as embodied in the currently approved reclamation plans for SMP-23, is fundamentally called into question. Moreover, since an amended reclamation plan is required by SMARA Regulations §3502(e), the LAVQAR Specific Plan requirements relative to the Chain of Lakes should be contemporaneously addressed by that amended plan. If the currently contemplated reclamation approach to implementing

SMP-23's components of the Chain of Lakes is found to be infeasible due to the Lakeside Circle Corrective Action Plan (or for other reasons), alternative feasible plans should be prepared.

Staff recommends that, in accordance with SMARA §3502(e), the mine operator should be required – via new Condition No. 7 below - to prepare and submit amended reclamation plans. Condition language conveying this requirement purposefully describes what the amended plans must accomplish in general terms so as to not unintentionally limit or prejudice future discretionary decision-making by the Planning Commission. The LAVQAR Specific Plan states, in part at Policy 2, that, “maximum flexibility in reclamation planning is desirable. That policy is reflected in the staff recommendation.

New Condition No. 7⁵

Permittee shall file an application to amend SMP-23, for review in accordance with ACSMO, Article II (Application Procedure), within six months of this action and which addresses the following issues and provides for their resolution, as well as any other issues applicant desires to address:

b) As to Lake A, the need for long-term mining, monitoring, operational plans, and reclamation plans to address geologic hazards associated with and remedied by the Lakeside Circle Corrective Action Plan.

d) The need for SMP-23 to include provisions for the management of water flows, during both the pre- and post-reclamation conditions, between the groundwater basin, the Arroyo del Valle, and Lakes A, B and C of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation.

e) The need for revised plans for all water conveyance facilities that: (i) reflect existing topographic conditions and desired future topographic conditions of the Permittee; (ii) fulfill the requirements and intent of the water management objectives of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation; and (iii) may be constructed in conformance with all laws and regulations.

f) The need to coordinate the planning, design, and construction of all water conveyance structures between Lakes A, B, and C with adjacent mine operator and property owners.

In addition to addressing the issues and topics identified above, the application shall be accompanied by the forms promulgated under ACSMO §6.80.090, as well as the information required under SMARA §§2772 and 2773.

2. CHANGED REGULATORY SETTING RELATIVE TO BIOLOGICAL RESOURCES

The Arroyo del Valle flows through SMP-23 within a natural channel presently separated from the excavated portions of Lake A and B. Though the LAVAR Specific Plan depicts the rerouting of the Arroyo del Valle along the southern boundaries of Lake A and B (see **Figure 2 - LAVQAR Specific**

5 Other subsections of recommended New Condition No. 7 (i.e., (a), (c), etc.) are provided below.

Plan Chain of Lakes), the approved reclamation plans (see **Figure 3 – Approved Reclamation Plan**) show its removal with flows re-routed directly into water impoundments (i.e., Lake A and B).

Subsequent to the approval of SMP-23 and in accordance with Condition No. 7, the mine operator prepared detailed plans for water conveyance facilities identified in the approved reclamation plans.⁶ Those plans were subsequently approved by the County but have not been implemented. Those plans illustrate the following:

- Concrete spillway collecting all flows from the Arroyo del Valle (under Vallecitos Road) before they descend fifty (50) feet at a slope of 2:1 into Lake A;
- Concrete spillway collecting overflows within Lake A before conveying them under Isabel Road/State Route 84 to Lake B;
- Underground concrete pipe between Lake A and C which terminates at a spillway dropping water up to seventy (70) feet down a 2:1 slope.
- Underground concrete pipe between Lake C and B; and
- Riprap apron along the western boundary of Lake B.

Construction of these water conveyance facilities cannot occur without prior authorization from the California Department of Fish & Game (“DFG”), U.S. Army Corps of Engineers (“ACOE”), and Regional Water Quality Control Board (“RWQCB”).⁷ The mine operator has not sought permits from those agencies. However, based on staff’s observations of these regulatory agencies recent actions on a similar water conveyance facility at SMP-31/36 (on the Arroyo Mocho) and within the LAVQAR Specific Plan area, it appears they would not look favorably upon the water conveyance structures previously approved by the County. In short, staff observes that a change in the regulatory setting may substantially affect the viability of previously contemplated actions under the LAVQAR Specific Plan and corresponding reclamation plans.

The presently approved reclamation plans (and water conveyance facilities approved via Condition No. 7 of SMP-23) would result in the complete removal of a natural stream and replace it with water impoundments (i.e., Lake A and B). Additionally, those plans would cause the transmission of water flows between the up/down stream portions of the Arroyo del Valle (and water impoundments) to be controlled by concrete barriers which are impassable and potentially harmful (due to their height and slope) to sensitive biological resources.

There are active planning efforts focused on providing Central Coast steelhead, a listed federally threatened species, access to all available spawning and rearing habitat areas, especially those in Niles Canyon, Upper Alameda Creek and Arroyo Mocho.⁸ Though an assessment by the Alameda Creek Fisheries Restoration Group in 2000 indicates the Arroyo del Valle (below Lake del Valle to its confluence with the Arroyo de la Laguna) offers little in the way of potential as spawning and rearing

6 “Water Conveyance Improvement Plans, Lone Star Industries, Inc., Pleasanton, California,” dated December 1987, prepared by Bissell & Karn, Inc. and signed on February 26, 1988 by Gary J. Mello.

7 Construction would occur within the Arroyo del Valle. As such, a Streambed Alteration Agreement from the DFG would be required. Also, it is probable the ACOE would consider the Arroyo del Valley to be “waters of the U.S.” and require action under Section 404 of the Clean Water Act.

8 The Arroyo del Valle and Arroyo Mocho are tributaries to the Arroyo de la Laguna. The Arroyo de la Laguna is a tributary to Alameda Creek.

habitat, no formal determination by controlling regulatory agencies has been made with regard to lands subject to SMP-23.

In addition to the potential effect Central Coast steelhead issues may have on SMP-23, both the DFG and ACOE have also pointed out the presence of the California red-legged frog (also a listed federally threatened species) and Tiger salamander (a State species of special concern) within the immediate watershed; namely within watercourses such as the Arroyo del Valle. Still other special status species such as the White-Tailed Kite, a fully protected bird in California, have been documented in the immediate area at the Shadow Cliffs Recreation Area.

The listing of the aforementioned species occurred subsequent to the approval of SMP-23 and water conveyance facilities plans approved via Condition No. 7. Additionally, as mentioned, those water conveyance facility plans have not been reviewed by the aforementioned resource agencies charged with protecting listed species. Because of the new circumstance concerning the changed regulatory setting, staff recommends that, under ACSMO §6.80.190, SMP-23 should be revised to ensure that reclamation may be feasibly carried out in harmony with all controlling regulatory requirements.

As mentioned above and elsewhere in this staff report, staff recommends SMARA Regulations §3502(e) compels the preparation of an amended reclamation plan. In conjunction with the preparation of those plans and with regard to this immediate discussion, staff recommends those plans should take into consideration the changed regulatory setting. More specifically, staff recommends the following revision to the conditions of approval for SMP-23 be included.

New Condition No. 7

Permittee shall file an application to amend SMP-23, for review in accordance with ACSMO, Article II (Application Procedure), within six months of this action and which addresses the following issues and provides for their resolution, as well as any other issues applicant desires to address:

d) The need for SMP-23 to include provisions for the management of water flows, during both the pre- and post-reclamation conditions, between the groundwater basin, the Arroyo del Valle, and Lakes A, B and C of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation.

e) The need for revised plans for all water conveyance facilities that: (i) reflect existing topographic conditions and desired future topographic conditions of the Permittee; (ii) fulfill the requirements and intent of the water management objectives of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation; and (iii) may be constructed in conformance with all laws and regulations.

f) The need to coordinate the planning, design, and construction of all water conveyance structures between Lakes A, B, and C with adjacent mine operator, property owners and the Zone 7 Water Agency.

3. CURRENT RECLAMATION PLAN BOUNDARY INCONSISTENT WITH APPROVED PLANS

After the last Periodic Review in 1992, the Permittee sold a triangular-shaped property (subject to SMP-23) to a housing developer. Between May 2006 and June 2007, a residential subdivision and vineyard were constructed on this property now bound by Old Vineyard Road, Safreno Way, and Vineyard Road.

According to the currently approved reclamation plans, this property was to be excavated and become part of Lake B (see **Figure 5 – Reclamation Boundary Changes by Mine Operator**). Prior approval of an amendment to the reclamation plan was not obtained, as required by SMARA and the SMO.

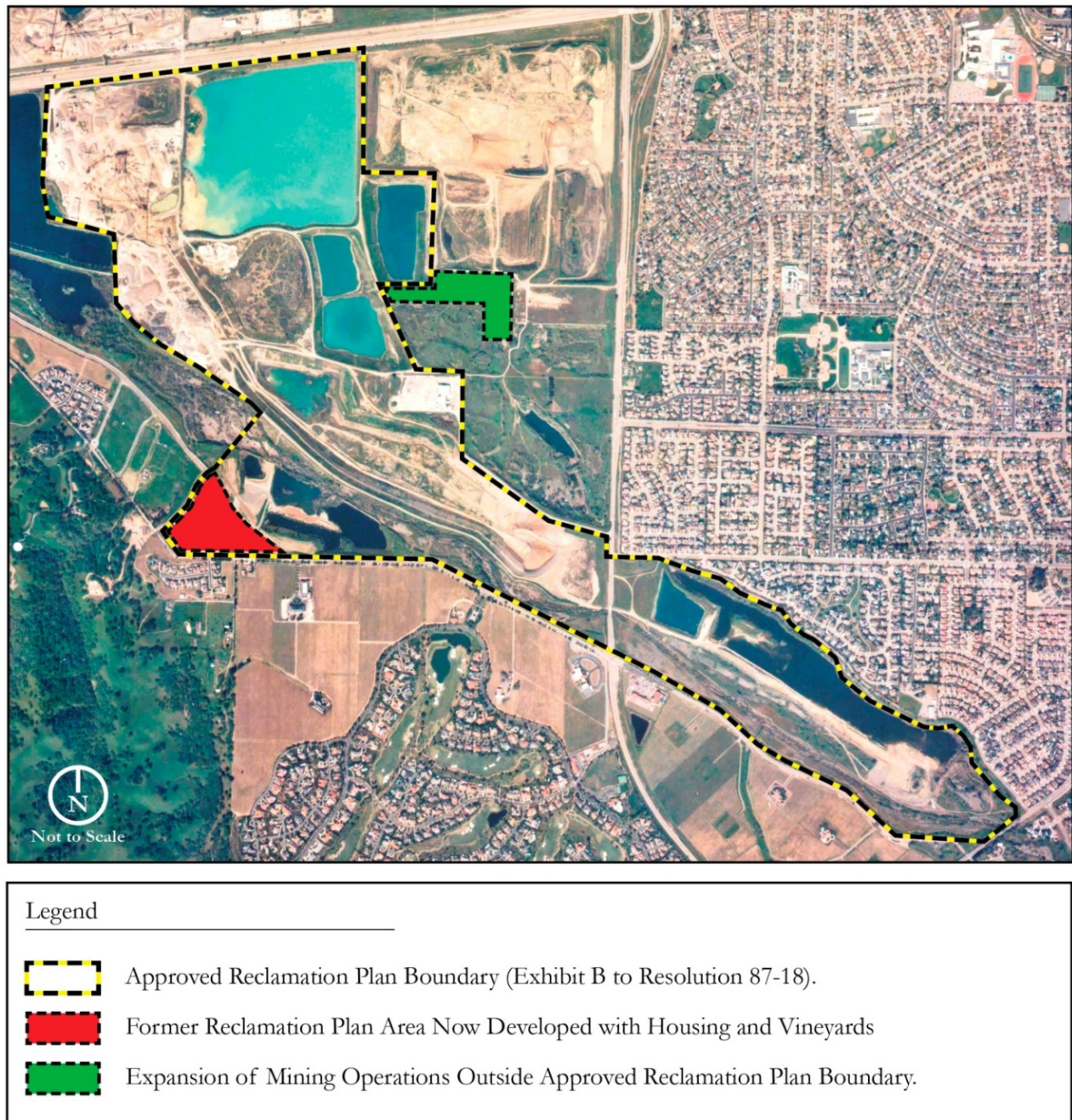


Figure 5 – Reclamation Plan Boundary Changes by Operator

The reduced reclamation boundary appears to have had the effect of reducing the storage capacity of Lake B. This is unconfirmed since, as discussed separately below, excavation at Lake B has also exceeded the maximum permitted depth and extended outside the approved footprint. As mentioned above, an objective of the LAVQAR Specific Plan contains is to, “mitigate alteration/impedance of groundwater

movement and storage due to mining operations.”⁹ The potential reduction in the planned storage capacity of Lake B appears to have reduced the ability of the approved reclamation plans to fulfill that objective.

In addition to the aforementioned “subtraction” of the reclamation plan boundary, mining at Lake B has also occurred outside of the approved reclamation plan boundary (to the southeast of the processing plant) sometime between 1993 and 2002. Though this expansion outside of the approved reclamation plan boundary resulted in a boundary consistent with the abutting SMP-16 reclamation plan, no evidence of prior approval can be found in County files. SMARA Regulations §3502(f) and ACSMO §6.80.120 require the approval of an amended reclamation plan prior to expanding mining activities outside an approved reclamation plan boundary.

Because of the reasons above, staff observes that SMARA Regulations §3502(e) compels the preparation of an amended reclamation plan since the surface mining operation cannot be reclaimed in accordance with its approved plan. Findings supporting these recommendations have been included in the draft resolution included as **Attachment A (Draft Resolution)**. Also, staff’s recommendation on this issue has been conveyed through the following revision to the conditions of approval for SMP-23.

New Condition No. 7

Permittee shall file an application to amend SMP-23, for review in accordance with ACSMO, Article II (Application Procedure), within six months of this action and which addresses the following issues and provides for their resolution, as well as any other issues applicant desires to address:

a) The need for mining and reclamation plans and corresponding documents to reflect the current boundaries of SMP-23 as referenced by lands both presently owned by the Permittee and previously authorized for mining operations and reclamation activities.

4. AT LAKE B, EXCAVATION DEPTH EXCEEDED & FOOTPRINT EXPANDED

On June 27, 2008, the Permittee responded to a February 27, 2007 request by staff for materials necessary to facilitate a (i.e., this) Periodic Review. That submittal was incomplete but also included revised mining and reclamation plans for both Lake A and B. One element of those proposed revisions was a substantial deepening of Lake B. On October 5, 2010, staff both requested the additional materials necessary to carry out the Periodic Review and stated the proposed revised mining and reclamation plans for Lake A and B require the filing of an amendment application pursuant to ACSMO §6.80.120, SMARA §2777, and SMARA Regulations §3502(f). No subsequent amendment application was submitted.

Later, while performing the annual SMARA inspection in December 2011, staff inquired about the then present depth of Lake B. When the Permittee’s staff indicated a depth potentially in violation of the approved surface mining and reclamation plans (i.e., both Q-1 and SMP-23), a follow-up letter was sent on January 12, 2012 requesting a topographical survey. A draft topographic survey was subsequently submitted and accompanied a February 13, 2012 letter from the Permittee. That letter claimed that a “performance standard” applied to Lake B, that no violation had occurred, and that an application to modify the mining and reclamation plans for Lake B was in preparation.

On April 17, 2012 (after receipt of a final topographic survey), staff pointed out that a “performance

⁹ See Page 2, LAVQAR Specific Plan.

standard” does not apply and that the depth of Lake B had, in fact, been exceeded. More specifically, the February 2012 depth of Lake B is between 35 feet (on the east) and 90 feet (on the west) deeper than presently approved. Additionally, after further review, staff discovered that mining has also occurred approximately 750 to 1,000 feet outside horizontally (to the north) of the authorized envelope for Lake B.

Rather than initiate enforcement and order the cessation of mining after discovering these issues of nonconformance, staff indicated a willingness to consider additional limited mining if it could occur safely and without harm to the groundwater basin. In response, on June 13, 2012, the mine operator submitted to the Community Development Agency Director for an administrative approval a proposed Lake B Corrective Action including: (a) proposed mining plan; (b) three year timeframe to mine; (c) a groundwater impact study; and (d) a slope stability study. County staff and the Zone 7 Water Agency provided feedback on those submittals. At present, the County staff awaits submittal of a revised Lake B Corrective Action plan.

Regardless of whether a Lake B Corrective Action is approved or not, the depth and footprint of Lake B has been substantially changed compared to the originally approved reclamation plans. Consequently, the area of Lake B can no longer be reclaimed in accordance with its presently approved reclamation plan. As such, SMARA §3502(e) requires the preparation of an amended reclamation plan. Staff recommends this issue be resolved conveyed through the following condition of approval for SMP-23.

<u>New Condition No. 7</u>	<u>Permittee shall file an application to amend SMP-23, for review in accordance with ACSMO, Article II (Application Procedure), within six months of this action and which addresses the following issues and provides for their resolution, as well as any other issues applicant desires to address:</u>
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<u>c)</u>	<u>As to Lake B, the need for long-term mining and reclamation plans to address a depth and configuration which, due to recent and ongoing mining activities, are inconsistent with the approved reclamation plans.</u>
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5. APPROVAL DOCUMENTS PROVIDE INCONSISTENT END USES PLANT SITE

The circa-1987 reclamation plans, depict a water body immediately east of the current processing plant.¹⁰ However, on December 4, 1995, the Planning Commission approved revised mining and reclamation plans for an area east of the processing plant and which assigned a planned end use of grazing land. While both water storage and agricultural land uses would be compatible with the East County General Plan and LAVQAR Specific Plan, the inconsistency between the approval documents does confuse what is required in order for the operator to achieve final reclamation. This inconsistency also frustrates the preparation of a complete Financial Assurance Cost Estimate (“FACE”) and subsequent establishment of an adequate Financial Assurance.

Because of the reasons cited above and since, as stated above, the drafting of new, revised reclamation plans is already compelled by SMARA Regulations §3502(e) for other reasons, staff recommends that the authorized end uses also be clarified through the following revision to the conditions of approval for SMP-23.

<u>New Condition No. 7</u>	<u>Permittee shall file an application to amend SMP-23, for review in</u>
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¹⁰ See Sheet 8 of 14 (Final Reclamation Plan) of Exhibit B to Resolution 87-18.

accordance with ACSMO, Article II (Application Procedure), within six months of this action and which addresses the following issues and provides for their resolution, as well as any other issues applicant desires to address:

g) The geographic locations of approved end uses over the entire site once reclaimed.

6. ROUTE 84 EXPRESSWAY PROJECT

Isabel Avenue/State Route 84 runs through the Project site (between Lake A and B). The Alameda County Transportation Commission (“ACTC”) is implementing a State Route 84 Expressway Widening Project from Ruby Hill Drive (south of the Project site) to Jack London Boulevard (north of the Project site). That transportation improvement project would, according to preliminary plans, result in changes to SMP-23’s reclamation plan boundary, vehicular access points and routes, pedestrian improvements, and grading and landscaping along the street frontage. The existing bridge over the Arroyo del Valle would also be widened.

Construction of this transportation improvement project has been phased into two segments. The portion concerning SMP-23 is presently in design with construction anticipated to begin in 2014. Despite the changes to SMP-23 indicated in preliminary plans, the ACTC indicates that it is still refining the design and that negotiations with property owners (including the mine operator) over right-of-way acquisition are on-going. It is unknown at this time whether widening project will impact the approved mining and reclamation plans. Insofar as the mine operator retains control over property subject to the widening project and if it modifies any aspect of SMP-23, ACSMO §6.80.120 requires prior approval. Therefore, in light of this potential changed circumstance resulting from a pending transportation improvement project, staff recommends the following new condition.

New Condition No. 11

In accordance with ACSMO § 6.80.120, Operator shall obtain approval from the County for any proposed amendments to Surface Mining Permit and Reclamation Plan No. 23 ("SMP-23") resulting from the Route 84 Expressway Project, including, but not limited to, the reclamation plan boundary, vehicular access points, setbacks required by ACSMO §6.80.210(C), haul routes, or access or routes required for future operations, maintenance, and inspections. The Operator shall seek approval from the County of any proposed amendments to SMP-23 before commencement of construction of any Route 84 Expressway Project improvements that are located within the current reclamation plan boundary if feasible, otherwise Operator shall seek approval within a reasonable time period. Prior to County approval of any amendment to SMP-23, the Community Development Agency Director or designee shall consult with the Zone 7 Water Agency.

7. RESIDENTIAL AND VINEYARD DEVELOPMENT ENCROACHMENT

Since the first Quarry Permit (i.e., Q-1) was issued for the Project site in 1957, residential and vineyard development has encroached incrementally closer over the years. More recently, since the previous Periodic Review in 1992, residential development and vineyards are now adjacent to the Project site (See **Figure 3 – Nearby Land Use Changes**).

The Ruby Hill development, in the City of Pleasanton, now abuts the Project site's southern boundary across Vineyard Avenue. Also, the Sandhurst residential development is now adjacent to the Project site, east of Isabel Avenue and south of Concannon Boulevard. To the west of the Project site, residential subdivisions, existing prior to last Periodic Review in 1992, are scattered throughout undulating hillsides.

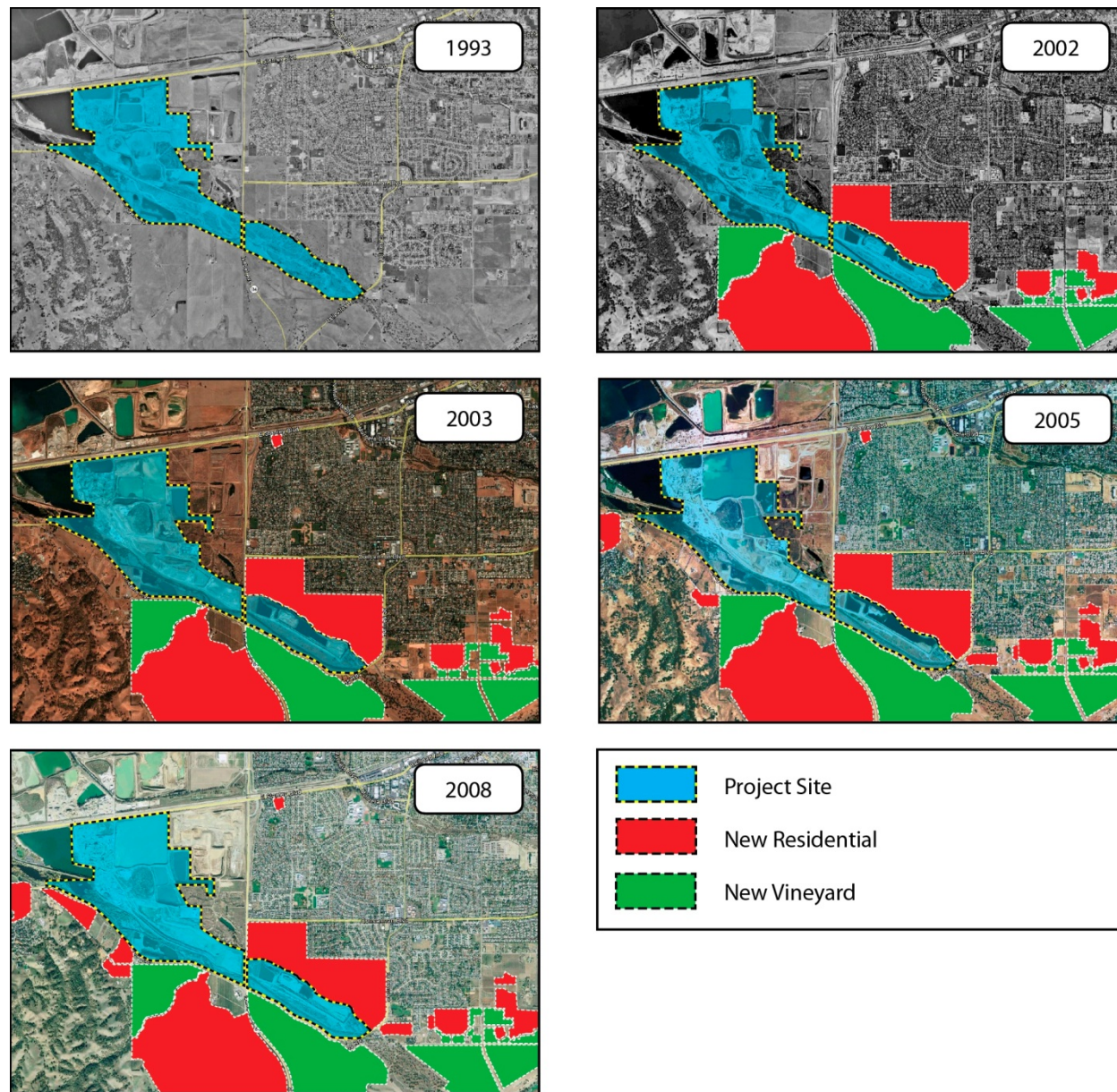


Figure 6 – Nearby Land Use Changes.

All the residential and vineyard development depicted in **Figure 6 (Nearby Land Use Changes)** occurred in the Cities of Pleasanton and Livermore after the surface mine had already been approved by the County (i.e., 1957). The encroachment of residential and vineyard land uses ever closer to the surface mine, however, has not resulted in a significant volume of complaints being voiced to the County. This may be due in part to the processing plant - which generates truck trips, noise, dust and odors - being located up at Stanley Boulevard, a significant distance away from the now adjacent homes.

Mining has not occurred in Lake A since May 2008 and it's unclear whether it will resume. If the mine operator desires to resume mining there, it is reasonable to assume significant interest from nearby property owners. However, aside from the aforementioned changed circumstances resulting from the Lakeside Circle Corrective Action Plan, there does not appear to be any reason to now modify SMP-23 in response to residential land use adjacencies at Lake A.

Though Lake B has been continually mined since the last Periodic Review in 1992, it is separated a significant distance, both horizontally and vertically, from the adjacent Rudy Hill neighborhood. Additionally, trucks and heavy equipment used in mining within Lake B do not utilize the interlining Old Vineyard Avenue. Aside from the aforementioned changed circumstances resulting from the changes to the reclamation boundary at Lake B, exceeded mining depth and expanded footprint to the north, there does not appear to be any reason to modify SMP-23 in response to residential and vineyard land use adjacencies at Lake B.

Despite the apparent harmonious relationship between mining and nearby homes and vineyards, in February 1996, the mine operator received approval to provide two informational signs depicting the before/after reclamation conditions of Lake A and B. Those signs subsequently fell into a state of disrepair and are no longer maintained by the Permittee. Given the absence of complaints regarding the mine operation, staff recommends the deletion of formerly imposed Condition Nos. 30, 31 and 32.

Former Condition No. 30 Permittee may erect informational signs at two places along Vineyard Avenue, with details as shown on Exhibit C except as noted in these conditions. The signs' frameworks shall be off-white, beige, or other color as approved by the Planning Director. The final artist's drafts of the signs, including renderings, text, layout, colors, size, height and locations shall be submitted to the Planning Director for review of accuracy and suitability prior to installation of the signs. The signs shall include a photograph or artist's rendering labeled "Current Site Conditions," a photo or rendering labeled "Final Site Reclamation," and the name of the Permittee and project at the bottom. The sign shall include a statement identifying the point from which the scene is being viewed, i.e., "As seen facing eastward from Isabel Avenue." During installation of the signs, no existing landscaping shall be disturbed. The signs may be removed at any time by Permittee with prior notice to the Planning Director.

Former Condition No. 31 The exact locations of the signs shall be approved by the Planning Director, and in no event shall either sign be placed within view of the front yard of an existing residence or within 100 yards, whichever is less.

Former Condition No. 32 Permittee shall maintain informational signs in overall good and attractive condition. The informational portion of the sign shall be redesigned and replaced whenever (a) as a result of quarry operations, the actual ground disturbance or change from the original conditions on the ground as represented on the sign affect 20 percent (40 acres) of the site or more, or (b) the sign itself becomes worn, faded, vandalized or otherwise appears unattractive during annual inspections. Prior to redesign and replacement, Permittee shall submit drafts of the new signs including renderings, text, layout, colors, size, height and location to the Planning Director for approval.

8. ASPHALT BATCH PLANT RELOCATION

After completion of the last Periodic Review in 1992, concerns were raised about the operation of an asphalt batch plant in proximity to the recently constructed Rudy Hill neighborhood. In response, relocation of the asphalt batch plant was negotiated between the Permittee, County of Alameda, and City of Pleasanton. The timeframe and terms of relocation were addressed under a Memorandum of Understanding between the County and City of Pleasanton. Relocation of the asphalt batch plant to the main processing plant area was completed in about July 2003.

The County has not received complaints about the operation of the asphalt batch plant in its new location, and contemporary field observations and inspections have not identified any issues of concern. Consequently, this does not appear to be a changed circumstance warranting accommodation by SMP-23. The asphalt batch plant is situated with other comparable equipment which, pursuant to Condition No. 10, must be removed upon completion of mining operations. Additionally, in the interim, as an accessory use the surface mine, the asphalt batch plant is consistent with ACSMO §6.80.060.

Given the above, the asphalt batch plant relocation subsequent to the previous Periodic Review does not warrant accommodation by SMP-23 via changes to the conditions of approval.

9. STANLEY BOULEVARD LANDSCAPING

Subsequent to the prior Periodic Review, on December 4, 1995, the Planning Commission authorized the incorporation of then expiring Quarry Permit No. 76 ("Q-76") into SMP-23. Through that action, the Planning Commission also imposed a new condition requiring the participation and funding for landscaping and visual attenuation along Stanley Boulevard. Later, on June 7, 2010, the Planning Commission modified the details of that requirement by requiring the Permittee to coordinate on the preparation and execution of an agreement to complete such landscaping and visual attention. On July 1, 2010, the Board of Supervisors authorized an agreement pursuant to the conditions of approval and which established the terms of a financial contribution by the Permittee.

At the time of drafting this staff report, the Public Works Agency was implementing the Permittee's former landscaping and visual attention requirements via the Stanley Boulevard Utility Undergrounding and Streetscape Improvement Project. Once completed, the project will improve pedestrian and bicycle access along Stanley Boulevard through installation of a new paved pathway. Also included in the project is the undergrounding of utilities as well as new lighting and landscaping. Since the project is in-construction but not yet complete, staff recommends retention of former Condition No. 35.

Former Condition No. 35 The Permittee shall coordinate with County Community Development Agency and Public Works Agency staff to develop and execute a mutually acceptable Agreement with the County, to be approved by the Board of Supervisors, to provide and maintain County-approved visual attenuation landscaping along Stanley Boulevard.

10. CHANGES TO ACCESSORY USES

As mentioned above, at the time of the prior Periodic Review in 1992, a pre-cast manufacturing and sales business (i.e., Associated Concrete) operated as an accessory land use to SMP-23 at the northern border of Lake B. However, the business is now closed and the building which it utilized is vacant. More recently, staff discovered a new commercial business operating at SMP-23 and which did not obtain prior approval. In light of these changed circumstances, staff recommends that SMP-23 should be modified to

accommodate a new condition expressly conveying existing requirements of the ACSMO to ensure prior approval of proposed accessory uses and monitoring over time to ensure compliance. More specifically, staff recommends the following new condition.

<u>New Condition No. 18</u>	<u>All accessory uses shall be established and operated in accordance with ACSMO §6.80.060. In the event an accessory use is established, the annual report required by Condition No. 15 shall address compliance with ACSMO §6.80.060.</u>
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OTHER REVISIONS TO SMP-23

Since, as recommended by staff, revisions to the conditions of approval are necessary and required by the ACSMO and SMARA, staff thought it prudent to take this opportunity to enact other additional revisions for reasons unrelated to the Periodic Review or SMARA Regulations §3502(e). Those revisions are explained below.

REORGANIZATION OF CONDITIONS ACCORDING TO TOPIC

Presently, the conditions of approval for SMP-23 are not listed in any logical order; either by topic or regulatory purpose. Staff recommends making the conditions of approval more user-friendly by placing like-conditions with like-conditions. In addition to being able to more readily identify requirements, it is staff's hope the reorganization reflected in Attachment A will also prevent potential future oversights.

ACTIONS AFTER SUBMITTAL OF AN AMENDED RECLAMATION PLAN APPLICATION

In light of the requirement for submittal of an amended reclamation plan, staff recommends additional conditions to clarify the expected process for evaluating that application. Recommended new Condition Nos. 10 and 11 state:

<u>New Condition No. 8</u>	<u>Once the application required by Condition No. 7 is filed, the Community Development Agency shall work diligently and be timely in its processing to completion. Similarly, in accordance with the requirements of SMARA Regulations §3502(e), the Permittee shall work diligently with the Community Development Agency in the processing of the application to completion, including fulfillment of all necessary and reasonable requests for information or tasks necessary to do so.</u>
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<u>New Condition No. 9</u>	<u>After the Community Development Agency determines the application required by Condition No. 7 as complete, in accordance with the Permit Streamlining Act (Public Resources Code §§65920 et seq), an environmental review shall be prepared pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000 et seq).</u>
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ACSMO REVISIONS

The current conditions of approval or SMP-23 include language inconsistent with the current ACSMO. For example, all references to the Planning Director or Public Works Director are no longer valid. More importantly, the conditions relating to financial assurances and fees are not consistent with both SMARA and the ACSMO. As such, staff recommends the following modifications to the conditions.

Deletion of former Condition No. 4 and replacement with new Condition No. 12 which reads,

The Permittee shall provide a financial assurance in accordance with ACSMO §6.80.241 and all applicable provisions of SMARA, including any regulations or guidelines promulgated thereunder.

Deletion of former Condition No. 20 and replacement with new Condition No. 13 which reads,

The Permittee shall annually pay the administrative fee required by ACSMO §6.80.242. Costs incurred by the County under Article 5 (Enforcement) of the ACSMO shall be borne by the Permittee. Additionally, the Community Development Director is expressly authorized to utilize his or her own employees, other agencies, and/or private consultants, as necessary, to conduct and carry out third-party review(s) of operator-generated technical reports (e.g., geotechnical, groundwater). Costs associated with such third-party reviews shall be borne by the Permittee. Should the Permittee cease mining activity and, as a result, not incur administrative fee debt in accordance with ACSMO §6.80.242, all costs associated with the County's Lead Agency responsibilities under SMARA, including those associated with the ACSMO, shall be borne the Permittee.

Deletion of former Condition No. 8 and replacement with new Condition No. 17 which reads,

In accordance with ACSMO §6.80.250, the Permittee, Operator, property owner and their authorized agents, and any other person in control of the property subject to SMP-23, individually or collectively, are responsible for the observation and compliance with all the provisions of the ACSMO and SMARA. Such responsibility shall include adherence to the conditions of approval applicable to SMP-23, the correction of any unsafe condition, and the construction and continued maintenance of all fences and other protective devices required.

New Condition No. 25 No explosives shall be used for mining.

New Condition No. 24 Dewatering activities shall not cause erosion or flooding, shall not result in the discharge of sediment, and shall, as required by ACSMO §6.80.210(M), be conducted using accurate record keeping and reporting methods.

EL CHARRO ROAD INTERCHANGE

The El Charro Road interchange with US 580 has been constructed since the previous Periodic Review in 1992. Consequently, former Condition Nos. 26 and 27 relating to the mine operator's funding for the improvement are no longer required and should be deleted.

Former Condition No. 26 In conjunction with other quarry operators and landowners who will benefit from interchange and intersection improvements on El Charro Road, Permittee shall contribute to the cost of improvements based on the operation's proportionate share of use. The method of calculating proportionate share should take into account Permittee's level of use of the El Charro Road corridor (vehicle-miles), the length of time Permittee will continue using El Charro Road as a quarry haul route, and future uses of reclaimed lands.

Former Condition No. 27 If Permittee can show at any time that El Charro Road is no longer used by vehicles traveling to and from the SMP-23 permit area, Permittee shall be released from responsibility for any effects to El Charro Road specified in Conditions 25 and 26 after the last date of use of El Charro Road by those vehicles.

OFFICE OF MINE RECLAMATION – LART REPORT FOLLOW-UP

On January 11, 2011, the Office of Mine Reclamation (“OMR”) released a Lead Agency Review Team (“LART”) Report detailing their findings of the County’s compliance with SMARA. In the following months, County staff communicated responses to the report, including attendance at a State Mining & Geology Board (“SMGB”) hearing on the LART Report. Finding No. 7 of the LART Report alleged that noxious and/or invasive species were present at three mine sites (including SMP-23) and that they should be addressed in accordance with SMARA Regulations §3711. In the County’s final response to the LART Report on September 2, 2011, the staff agreed to include new conditions for exotic, invasive plant removal when reclamation plan amendments were approved or when a Periodic Review was carried out in accordance with ACSMO §6.80.190. In accordance with that commitment to OMR, staff recommends a new Condition No. 25

New Condition No. 19 The Permittee shall routinely control exotic, invasive plants upon areas disturbed by mining activities, including vegetation which poses a fire hazard. The results of exotic, invasive plant removal shall be described in the annual report required by Condition No. 15.

PRESENT RECLAMATION PLANS

Because amended reclamation plans are required, including plans related to the water conveyance facilities, former Condition No. 7 is no longer necessary since it is predicated on the present reclamation plans which may not be carried out. Therefore, staff recommends deletion of former Condition No. 7 at this time.

Former Condition No. 7 Permittee shall submit conceptual or final plans to the Planning Director for all physical reclamation facilities conforming to performance standards of the County of Alameda and Zone 7 of Alameda County Flood Control and Water Conservation District within two years of the date of approval of this permit. It is expressly understood that conceptual or final plans may change with the mutual consent of Permittee, the County and Zone 7. Timing and level of detail for future submittals shall be specified by the Planning Director as needed based on actual mining plan/reclamation scheduling as determined pursuant to Condition #5. No later than eight months prior to scheduled start of construction of a physical facility, detailed engineering construction plans shall be submitted to the Planning Director for approval, based on consultation with Zone 7 and the Director of Public Works. Approved plans shall be incorporated by reference into and become a part of "Exhibit B, SMP-23".

Additionally, former conditions relating to submittal of “Precise Master Plans” for reclamation at and around Lake A and B are no longer relevant. Actions by the mine operator have substantially affected completion of already approved reclamation plans and new conditions are recommended to establish an amended reclamation plan. Hence, deletion of former Condition No. 16 and 17 is proposed.

- Former Condition No. 16 Within 60 days of the date of approval of this condition, Permittee shall submit to the Planning Director for approval a draft Precise Master Plan with proposals amending the "RMC Lonestar East Isabel Avenue Property, Alameda County, California," and the "Conceptual Final Master Plan, RMC Lonestar Lake 'A', East Isabel Avenue Property, Alameda County, California," dated October 5, 1992. The Plan shall include, but shall not be limited to, details of reclamation of the Lake "A" area, including phasing and timing of mining and reclamation, areas of various vegetation/habitat types, location of stream realignment with respect to quarry pits and new riparian/wetland habitat, grading details for the north and south lakeshore areas, accommodation of right-of-way for potential roadway and intersection improvements on Isabel Avenue and at the intersections of Vineyard Avenue with Vallecitos Road and Isabel Avenue, utility/recreational trail access, fencing, topography and drainage. The proposals shall be developed in coordination with Zone 7, the California Department of Fish and Game, the East Bay Regional Park District, the Livermore Area Recreation and Park District, and the cities of Livermore and Pleasanton with regard to future right-of-way needs along Vineyard and Isabel Avenues. The Planning Director shall refer the draft Precise Master Plan to the aforementioned agencies for their review and comments for a period of thirty (30) days, after which Permittee shall coordinate efforts with Planning Staff to incorporate the agency comments into the Precise Master Plan and resubmit the Plan and final proposals within thirty (30) days to the Planning Director for final approval. The Precise Master Plan shall be consistent with requirements of the applicable Streambed Alteration Permits issued by the Department of Fish and Game, and with requirements of Zone 7.
- Former Condition No. 17 Permittee shall begin to reclaim the south shoreline of Lake "A" no later than the commencement of quarry activity in the Lake "A" area. Substantial components of this reclamation, including grading, trail alignment, fencing and revegetation, including specifically planting of upland trees and preliminary preparation of slopes for establishment of nascent habitat zones, shall be completed by Permittee within two years of the start of reclamation. The two year period shall not include periods of severe weather or constraining environmental incidents beyond the control of Permittee. The period may be extended at the discretion of the Planning Director during the second year of the two year period at the request of the for adequate cause.

RESPONSIBLE OR AFFECTED AGENCIES

On October 12, 2011, staff distributed a courtesy notice to known interested parties well in advance of the Planning Commission meeting. As of the writing of this staff report, the following recipients submitted written comments.

- a) State of California, Division of Mines and Geology, State Mining and Geology Board ("SMGB") - The SMGB oversees mining in the State of California, and is given broad powers by the State Surface Mining and Reclamation Act ("SMARA") and amendments thereto. Reclamation plans and amendments thereto approved by the County of Alameda must first be submitted to the SMGB for comment. When the SMGB provides comments, the County must respond. Since this Periodic

Review would not, as recommended by staff, result in a material change to either the approved reclamation plans or their approval period, staff did not circulate documents to the SMGB for review. However, the amended reclamation plans required by staff's recommendation would be submitted to the SMGB for comment.

- b) State of California, Regional Water Quality Control Board (RWQCB) - The discharge of wash water from settling ponds must adhere to specific water quality standards as provided for under National Pollutant Discharge Elimination System (NPDES) Permit No. CA 0006289, Order No. 91-035 issued by the RWQCB for the Project site. No comments were received from the RWQCB.
- c) State of California, Department of Transportation (Caltrans) – The eastern border of the Project site abuts State Route 84 (i.e., Isabel Avenue). Caltrans is working with the Alameda County Transportation Improvement Authority (ACTIA) and City of Livermore on the Route 84 Expressway Project. Comments received by Caltrans on November 14, 2011 incorrectly assumed the Periodic Review would alter mining operations or reclamation.
- d) Alameda County Transportation Commission (ACTA) – ACTA is managing the design and land acquisition portions of the Route 84 Expressway Project. Though staff has verbally communicated with ACTA staff, no written comments were received.
- e) Bay Area Air Quality Management District (BAAQMD) - According to BAAQMD, all quarry operations in the Livermore-Amador Valley are subject to air quality regulations, including the equipment involved in processing and transport of material. No comments were received from the BAAQMD.
- f) Park Districts - The East Bay Regional Park District (EBRPD) and the Livermore Area Recreation and Park District (LARPD), have expressed interest in the development of recreational opportunities around the Chain of Lakes. A November 14, 2011 letter received from the EBRPD states that future revisions to the approved reclamation plans should take into consideration recreational uses. Absent from the EBRPD letter was mention their planned regional trail along the southern border of both Lake A and B. That trail is already incorporated in approved reclamation plans for Lake A. As discussed above, the mine operator did not prepare detailed reclamation plans for Lake B in accordance with Condition No. 19 of SMP-23. The LAVQAR Specific Plan requires the inclusion of the trail in detailed plans for Lake B. No comments were received from the LARPD.
- g) City of Livermore – While the City of Livermore has no permitting authority over the Project site, its incorporated lands border the eastern portion of the Project site. A November 14, 2011 letter from the City of Livermore states the following comments: (a) the City recommends that due to the previous slope instability at Lakeside Circle associated with mining of Lake A, prior to any new mining activity geotechnical investigation and dynamic slope stability analysis be performed to verify the integrity of the slopes during and after mining; (b) reclamation plan should be consistent with local and regional trail plans; (c) reclamation plan should be consistent with the current and future State Route 84 development; and (d) reclamation plan should address Federal Aviation Administration Issues regarding wildlife attractants within 5 miles of an operating airport.
- h) City of Pleasanton – Like the City of Livermore, the City of Pleasanton also has no permit authority over the Project. However, the City of Pleasanton has incorporated boundaries in the vicinity of the Project site. No written comments were received from the City of Pleasanton.

CONFORMANCE WITH GENERAL PLAN

Passed by the voters of the County in November 2000, Measure D places strict limits on where new mine excavations may be conducted. The text of Measure D, Policy 144, so far as it applies to quarries, reads as follows, “Except to the extent required by State law, no new quarry or other open-pit mine may be approved by the County outside the Urban Growth Boundary, unless approved by the voters of Alameda County. Excavation not adjacent to an existing quarry site and on the same or an adjoining parcel shall be regarded as a new quarry.” This Periodic Review request is mandated by the County Code and the State Surface Mining and Reclamation Act. No new or expanded mining operations are proposed. Therefore, Measure D neither prohibits, nor requires voter approval for this review

FINANCIAL ASSURANCE

The Permittee presently holds a financial assurance in the amount of a \$1,708,566 surety bond. However, that amount is deficient by a presently estimated amount of \$6.88 million dollars. Staff requested, on October 5, 2010 and again on February 14, 2011, that the Permittee submit a current Financial Assurance Cost Estimate (“FACE”). On April 7, 2011, the mine operator submitted the required FACE. On February 27, 2012, the County deemed the submitted FACE not in substantial conformance SMARA §2772, 2773 and 2773.1. Subsequently, the operator submitted a revised FACE on April 26, 2012. However, the submittal was also deemed deficient on June 4, 2012. More recently, on October 31, 2012, the Permittee submitted another 3rd revised FACE which is presently being evaluated by staff. Staff will continue to work with the mine operator towards establishment of an accurate FACE consistent with SMARA and the subsequent upward revision to the required financial assurance.

ENVIRONMENTAL REVIEW

This Periodic Review is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15039 which states that, “activities limited entirely to inspections to check for performance of an operation, or quality check or safety of a project,” do not have a significant effect on the environment and are, therefore, exempt from the provisions of CEQA. However, the amended reclamation plan required by SMARA would be subject to review under CEQA and not qualify for a Categorical Exemption.

PERMIT HISTORY

The Project site is situated in the Livermore-Amador Valley; an area which has been used for sand and gravel extraction since prior to the year 1900. The earliest issued County permit for mining at the Project site dates to the year 1957. Consequently, the Project site has a lengthy regulatory history, predating the State Surface Mining and Reclamation Act (SMARA). As a result, the following text will summarize County actions over the mine’s five plus decade history.

- January 31, 1957 – the Board of Supervisors approves Quarry Permit No. 1 (Q-1), the first approval authorizing the mining of sand and gravel at the Project site.
- April 17, 1969 – the Board of Supervisors Quarry Permit No. 76 (Q-76) via Resolution No. 129465. Q-76 is now expired but was superseded by Surface Mining Permit and Reclamation Plan No. 23 (SMP-23). Before expiring, Q-76 was amended numerous times via Board of Supervisors Resolution Nos. 137759 (in May 1971), 140629 (in October 1971), 143499 (in April 1972), 145524 (in October 1972), 149569 (in June 1973), 164401 (in December 1975), and also via Planning Commission Resolutions 11145 (in December 1975), 167510 (in June 1976), 80-107

(in December 1980, and 82-32 (in September 1982).

- November 5, 1981 – the Board of Supervisors approve the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation (LAVQAR). The key component to the LAVQAR Specific Plan is a coordinated reclamation outcome consisting of a chain of lakes spanning across 3,820 acres in multiple property ownership, including that subject to SMP-23.
- April 6, 1987 - Surface Mining Permit and Reclamation Plan No. 23 (SMP-23) is approved by the Planning Commission via Resolution No. 87-18. The permit provides for aggregate mining operations and associated processing plant as well as a reclamation plan; all consistent with the LAVQAR Specific Plan.
- November 2, 1992 - the Planning Commission completes a 5-Year Periodic Review of SMP-23 via Resolution No. 92-29.
- February 4, 1994 - the Planning Director approves precise reclamation plans for Lake “A” of SMP-23, in accordance with Condition No. 16.
- December 4, 1995 - the Planning Commission approves the incorporation of Q-76 into SMP-23 due to its impending expiration.
- February 20, 1996 – the Planning Commission approves an amendment to SMP-23 which requires the installation of community information signs.
- February 3, 1997 – the Planning Commission completes a 6-month review of the community information signs approved in February 1996.
- June 7, 2010 – the Planning Commission approves an amendment to Condition No. 29 of SMP-23 and, in doing so, modified visual attention (i.e., landscaping) requirements.

CONCLUSION

As established by the analysis above, the substantial changes which have occurred at the Project Site compel, in accordance with Surface Mining and Reclamation Act (“SMARA”) Regulations §3502(e), the preparation of an amended reclamation plan. In fact, the Permittee has communicated to staff an interest to pursue such an amended reclamation plan since 2008 though no application has been formally submitted.

As recommended by staff, the Permittee would be required to submit an amended reclamation plan which addresses the issues raised herein. Upon receipt, that plan would then be evaluated for conformance with applicable laws and regulations (e.g., County General Plan, Specific Plan for Livermore-Amador Valley Quarry Area Reclamation (“LAVQAR Specific Plan”), and SMARA) including an environmental review pursuant to the California Environmental Quality Act (“CEQA”).

Staff recommends the Planning Commission adopt the attached draft Resolution (Attachment A).

ATTACHMENTS

a) Draft Planning Commission Resolution

PREPARED BY:	Kevin Colin, Contract Planner
REVIEWED BY:	James Gilford, Director

Attachment A

Draft Planning Commission Resolution

**THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY
HAYWARD, CALIFORNIA**

RESOLUTION NO. 12-__ - AT MEETING HELD DECEMBER 17 , 2012

SURFACE MINING PERMIT AND RECLAMATION PLAN

CASE NO. SMP-23

Introduced by Commissioner ____
Seconded by Commissioner ____

WHEREAS Surface Mining Permit and Reclamation Plan No. SMP-23 (“SMP-23”) was approved by the Planning Commission on April 6, 1987 by Resolution 87-18, and that same permit was subsequently amended by the Planning Commission on many occasions; and

WHEREAS SMP-23 concerns land located south of Stanley Boulevard, including lands both west and east of Isabel Avenue/State Route 84 and including the Arroyo del Valle, in unincorporated Alameda County between the Cities of Pleasanton and Livermore, at Assessor’s Parcel Numbers (“APNs”) 946-1350-9-19, 946-1350-9-12, 946-1350-10-5, 904-6-1-18, 904-6-2 (part), 904-8-1-2, 904-8-1-3, 950-6-1-5, 950-6-3-9, 946-4598-19 and 99-290-11-7.

WHEREAS Quarry Permit No. 1 (“Q-1”), approved by the Board of Supervisors on January 31, 1957, concerns the same land which is subject to SMP-23; and

WHEREAS Cemex Construction Materials Pacific, LLC (“Permittee”) has filed with the Alameda County Neighborhood Preservation and Sustainability Department a Periodic Review Report dated September 2011 and which is intended to facilitate the completion of a Periodic Review of SMP-23 in conformance with Alameda County Surface Mining Ordinance (“ACSMO”) §6.80.190 and Condition No. 12 of SMP-23; and

WHEREAS Condition No. 12 of SMP-23 requires the Planning Commission to review compliance with conditions of the Surface Mining Permit and Reclamation Plan, considering any new or changed circumstances within the general area of mining operations that should be accommodated by the plan, as stipulated by ACSMO §6.80.190; and

WHEREAS the Planning Commission is designated as the decision-making body for Surface Mining Permits and Reclamation Plans, including the periodic review requirements of ACSMO §6.80.190, subject to appeal to the Board of Supervisors; and

WHEREAS this Planning Commission accepted and reviewed the Periodic Review Report by Permittee, dated September 2011, the 2011 SMARA Inspection Report by County staff, with an inspection date of April 21, 2011, and the Planning Commission staff report dated December 17, 2012, all of which are collectively referred to herein as the “Review Documents;” and

WHEREAS this Planning Commission held a duly noticed public hearing to conduct a Five Year Review of SMP -23 at the hour of 4:00 p.m. on Monday, the 17th day of December 17, 2012, in the Auditorium of the Alameda County Building, 224 Winton Avenue, Hayward, California. Said public hearing was preceded by a site visit to SMP-23 by the Planning Commission, including any interested members of the public; and

WHEREAS the action resulting from the Periodic Review of SMP-23, as reflected by the conditions of approval attached hereto as Exhibit A, has been reviewed in accordance with the provisions of the California Environmental Quality Act, and found to be Categorically Exempt pursuant to California Environmental Quality Act Guidelines Section 15309 (Inspections) since it consists of an activity limited entirely to the inspection of the subject mining operation; and

WHEREAS the Review Documents, testimony submitted in writing and at the public hearing and other items in the public record have been considered by the Planning Commission prior to this action; and

WHEREAS this Planning Commission does find that under the conditions of approval listed in Exhibit A attached hereto, the Surface Mining Permit and Reclamation Plan SMP-23, as modified below, conforms to requirements of:

- (a) the Surface Mining and Reclamation Act, including its companion regulations;
- (b) the Alameda County Surface Mining Ordinance;
- (b) the Livermore-Amador Valley Quarry Area Reclamation Specific Plan;
- (b) the Alameda County General Plan;
- (c) the public health, safety, and welfare; and

WHEREAS it is the finding of this Commission, based upon said review, that, for the reasons stated in the Planning Commission staff report dated December 17, 2012, that Surface Mining and Reclamation Act ("SMARA") Regulations §3502(e) requires the Permittee to submit to the County of Alameda proposed amended reclamation plans since mining activities have resulted in physical conditions at the mine site which preclude the ability of the mine site to be reclaimed in conformance with the presently approved reclamation plans; and

WHEREAS it is the finding of the Planning Commission that time is of the essence and that an amended reclamation plan should be prepared with all due haste, within six (6) months, so that the requirements of SMARA Regulations §3502(e) are properly and timely adhered to; and

WHEREAS there are a number of conditions of approval that require revision, some due to conditions previously fulfilled by the Permittee, some to reflect requirements consistent with the current ACSMO, and some which result in new requirements to fulfill the requirements of ACSMO §6.80.190 by addressing changed circumstances as well as the requirements of SMARA Regulations §3502(e); and

WHEREAS it is the finding of this Commission that the continuation of SMP-23, with amended conditions, is in the public interest for the reason that it is consistent with County plans, policies and ordinances for surface mines in Alameda County; and

WHEREAS this Planning Commission finds it appropriate and necessary to modify several conditions of approval, in light of the above, as enumerated in Exhibit A and identified as follows: ~~strike through~~ text denotes deletions, underline text denotes additions; and

WHEREAS that this Planning Commission does hereby approve the conditions of approval for SMP-23, as set forth in Exhibit A to this Resolution; and

WHEREAS this resolution and its accompanying Exhibit A supersede and shall replace all prior resolutions relating to SMP-23; and

WHEREAS the Planning Commission finds that, should the Permittee not to adhere to the conditions of approval of Exhibit A including, in particular, Condition No. 7 requiring the submittal of an amended reclamation plan in conformance with SMARA Regulations §3502(e), the Community Development Agency Director or designee should initiate enforcement proceedings in accordance with the California Surface Mining and Reclamation Act (“SMARA”) and County of Alameda Surface Mining Ordinance (“SMO”); and

WHEREAS the documents and other materials which constitute the record of proceedings upon which this decision is based are located at the Alameda County Neighborhood Preservation and Sustainability Department, 224 W. Winton Avenue, Room 205, Hayward, California, 94544, under the supervision of the Neighborhood Preservation and Sustainability Director; and

NOW, THEREFORE,

BE IT RESOLVED that this Planning Commission does hereby approve the conditions of approval for SMP-23, as set forth in Exhibit A; and

BE IT FURTHER RESOLVED that this Planning Commission accepts and approves the Section 15309 Categorical Exemption as the valid environmental review documentation for the Periodic Review of SMP-23; and

BE IT FURTHER RESOLVED that this Planning Commission does hereby direct County staff to promptly file an appropriate Notice of Determination with the County Clerk.

EXHIBIT A

ALAMEDA COUNTY PLANNING COMMISSION RESOLUTION NO. __-__

COMPLETE CONDITIONS OF APPROVAL

SURFACE MINING PERMIT & RECLAMATION PLAN No. 23 ("SMP-23")

CEMEX, INC.

Administration

1. The Permittee and Operator of Surface Mining Permit & Reclamation Plan No. 23 ("SMP-23") is Cemex Construction Materials Pacific, LLC ("Cemex").

[New Condition]

- ~~± 2.~~ Until the requirements of Condition No. 7 are fulfilled and revised reclamation plans are approved, surface mining operations and reclamation shall be in substantial conformance with the conditions contained herein as well as the following various maps, information, and reports recommendations labeled "Exhibit B, SMP-23," as approved by the Planning Commission on April 6, 1987 or, as is the case with item 2(e) and 2(f) below, the Community Development Agency Director, unless otherwise modified in conditions which follow or under the procedures of Condition #12, and

- a) "Exhibit B (including Figure 2, Mining Plan and Figure 3, Reclamation Plan, Former Q-76)" dated October, 1994. ~~"Exhibit B, SMP-23"~~ includes the application form, dated October 15, 1986;
- b) Reclamation Plan sheets, prepared by Bissell and Karn, Inc., dated October 13, 1986;
- c) Slope Stability Analyses, Lone Star Industries, Inc. Sand and Gravel Pits, Pleasanton, California," by Shannon and Wilson, Inc., dated January 14, 1987;
- d) Letter from Peter H. Cotter, Regional Resources Manager of Lone Star Industries, Inc., amending SMP-23 application, dated March 10, 1987.
- e) RMC Lonestar Lake 'A' Reclamation Plan, East Isabel Avenue Property, Alameda County, California, nineteen (19) sheets (1-title, 6-layout and grading, 6-irrigation, 6-planting), prepared by David L. Gates & Associates and dated August 1993.

Surface mining operations and rReclamation for the quarrying of the Lake A and Lake A water management areas shall additionally be in substantial conformance with:

- a) the Cotton Shires Corrective Action Plan dated August 8, 2007 until the requirements of Condition No. 3 are fulfilled; and
- b) the various maps and information labeled "Conceptual Final Master Plan, RMC Lonestar, Lakes A and B, East Isabel Avenue Property, Alameda County, CA, 13 sheets, dated October 5, 1992. various maps and information labeled "Conceptual Final Master Plan, RMC Lonestar,

Planning Commission Resolution No. __-__ dated December 17, 2012

Case No. SMP-23

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~~Lakes A and B, East Isabel Avenue Property, Alameda County, California," 13 sheets, dated October 5, 1992.~~

~~Design and installation of Lake A informational reclamation signs along Vineyard Avenue shall be in accordance with Exhibit C, "Monument signs for mining and reclamation site," containing Attachment A (memorandum from Tri Valley Instant Signs to James Van Nest, RMC Lonestar, dated August 4, 1994); Attachment B, Draft Sign Design; and Attachment C, Proposed Sign Locations 1 and 2, except as noted below.~~

[Former Condition #1]

3. All aspects of the Lakeside Circle Corrective Action Plan prepared by Cotton, Shires & Associates and dated August 31, 2007, and approved by the Planning Director on November 9, 2007, including, but not limited to, the grading plan, depressurization wells, monitoring instruments and activities, reporting, and triggers for responsive action, shall remain in effect until the earlier of:
 - a) June 30, 2014, including the continued monitoring of piezometers in Groups A, B and C; or
 - b) The revised mining and reclamation plans required by Condition No. 7 are established.

[New Condition]

- ~~2.~~ 4. Mining and reclamation shall additionally conform to the:
 - a) Specific Plan for Livermore-Amador Valley Quarry Area Reclamation, as adopted by the County of Alameda on November 5, 1981, and as may be amended from time to time.
 - b) Alameda County Surface Mining Ordinance (ACSMO) ~~except as hereinafter more specifically provided; and~~
 - c) State Surface Mining and Reclamation Act (SMARA).

[Former Condition #2]

3. ~~The reclamation plan shall conform to the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation, as adopted by the County of Alameda, November 5, 1981, and as may be amended. Within two years after expiration of SMP 23, all stockpiles and equipment shall have been removed and the site shall have been brought into conformance with the reclamation plan.~~

[Former Condition #3]

- ~~14.~~ 5. Permittee shall defend, indemnify and hold harmless Alameda County or its agents, officers or employees from any claim, action or proceeding against Alameda County, or its agents, officers or employees to attach, set aside, void, or annul this Surface Mining Permit, including any amendments thereto, or underlying environmental documents and actions taken pursuant to the California Environmental Quality Act, Alameda County Surface Mining Ordinance, the California Surface Mining and Reclamation Act, other County ordinance requirements and any combination thereof. Such indemnification shall include but not be limited to any such proceeding. If Permittee shall fail to adequately defend the County of Alameda, the County may provide its own legal defense and Permittee

shall be responsible for the County's reasonable attorneys' fees. This indemnity provision shall not apply to litigation directly between Alameda County and Operator.

[Former Condition #14]

6. Within sixty (60) days of this resolution being approved, the Permittee shall provide evidence that a notice required by SMARA §2772.7 has been recorded. If no notice was previously recorded, the Permittee shall provide a draft notice to the Community Development Agency within sixty (60) days of this resolution being approved and shall subsequently assist the Community Development Agency with recordation of the notice, including the payment all fees associated with recordation. ~~a written statement that they accept responsibility for reclaiming the site as indicated on the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation and this mining and reclamation plan, and shall guarantee all reclamation in accordance with said plans. Said responsibility shall run with the land under permit as a covenant thereupon until release of the covenant is recorded by Alameda County.~~

[Former Condition #6]

Requirements Resulting from Current Periodic Review (ACSMO §6.80.190)

7. Permittee shall file an application to amend SMP-23, for review in accordance with ACSMO, Article II (Application Procedure), within six months of this action and which addresses the following issues and provides for their resolution, as well as any other issues applicant desires to address:
- a) The need for mining and reclamation plans and corresponding documents to reflect the current boundaries of SMP-23 as referenced by lands both presently owned by the Permittee and previously authorized for mining operations and reclamation activities.
 - b) As to Lake A, the need for long-term mining and reclamation plans to address geologic hazards associated with and remedied by the Lakeside Circle Corrective Action Plan.
 - c) As to Lake B, the need for long-term mining and reclamation plans to address a depth and configuration which, due to recent and ongoing mining activities, are inconsistent with the approved reclamation plans.
 - d) The need for SMP-23 to include provisions for the management of water flows, during both the pre- and post-reclamation conditions, between the groundwater basin, the Arroyo del Valle, and Lakes A, B and C of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation.
 - e) The need for revised plans for all water conveyance facilities that: (i) reflect existing topographic conditions and desired future topographic conditions of the Permittee; (ii) fulfill the requirements and intent of the water management objectives of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation; and (iii) may be constructed in conformance with all laws and regulations.
 - f) The need to coordinate the planning, design, and construction of all water conveyance structures between Lakes A, B, and C with adjacent mine operator, property owners and the Zone 7 Water Agency.
 - g) The geographic locations of approved end uses over the entire site once reclaimed.

- h) Relative to public roadways, the need to specify, in plan and text format, authorized vehicular access points and haul routes.
- i) The need to establish an estimated schedule which correlates the timing of completion for reclamation components to specific stages in the mining plan.
- j) The need to establish reclamation plans that accommodate a trail, as depicted in the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation, along the entire southern boundary of SMP-23 in the vicinity of Vineyard Avenue.

In addition to addressing the issues and topics identified above, the application shall be accompanied by the forms promulgated under ACSMO §6.80.090, as well as the information required under SMARA §§2772 and 2773.

[New Condition]

- 8. Once the application required by Condition No. 7 is filed, the Community Development Agency shall work diligently and be timely in its processing to completion. Similarly, in accordance with the requirements of SMARA Regulations §3502(e), the Permittee shall work diligently with the Community Development Agency in the processing of the application to completion, including fulfillment of all necessary and reasonable requests for information or tasks necessary to do so.

[New Condition]

- 9. After the Community Development Agency determines the application required by Condition No. 7 as complete, in accordance with the Permit Streamlining Act (Public Resources Code §§65920 et seq), an environmental review shall be prepared pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000 et seq).

[New Condition]

- 10. Irrespective of any language within Condition No. 2, mining shall not resume east of Isabel Avenue/State Route 84 (i.e., within Lake A) until it is demonstrated to the satisfaction of the Community Development Agency Director that it:
 - a) Can occur without resulting in slope instability or other geologic instability resulting in harm to persons and property; and
 - b) Will not conflict with the Specific Plan for Livermore-Amador Valley Area Reclamation including, in particular, those provisions relating to the Chain-of-Lakes; namely, Lake A and its' corresponding water conveyance facilities.

Should the Permittee seek approval in accordance with this condition, the Community Development Agency Director shall conduct at least one (1) community meeting prior to rendering a decision.

[New Condition]

- 11. In accordance with ACSMO § 6.80.120, Operator shall obtain approval from the County for any proposed amendments to Surface Mining Permit and Reclamation Plan No. 23 ("SMP-23") resulting

from the Route 84 Expressway Project, including, but not limited to, the reclamation plan boundary, vehicular access points, setbacks required by ACSMO §6.80.210(C), haul routes, or access or routes required for future operations, maintenance, and inspections. The Operator shall seek approval from the County of any proposed amendments to SMP-23 before commencement of construction of any Route 84 Expressway Project improvements that are located within the current reclamation plan boundary if feasible, otherwise Operator shall seek approval within a reasonable time period. Prior to County approval of any amendment to SMP-23, the Community Development Agency Director or designee shall consult with the Zone 7 Water Agency.

[New Condition]

Financial Assurances and Fees

12. The Permittee shall provide a financial assurance in accordance with ACSMO §6.80.241 and all applicable provisions of SMARA, including any regulations or guidelines promulgated thereunder.

[New Condition]

- ~~4. (a) Permittee shall guarantee timely performance of reclamation requirements of the ACSMO, the Surface Mining and Reclamation Act, the Specific Plan for the Livermore Amador Valley Quarry Area Reclamation and these conditions. Permittee shall provide financial assurances in the form of performance bonds and a cash escrow account in the maximum combined amount of 150 percent of the total of (i) the estimated cost of completing reclamation currently in progress or the estimated cost of final reclamation required upon closure to leave the disturbed area in a safe, stable, and revegetated condition, whichever is greater, plus (ii) the estimated cost of constructing major water conveyance structures incident to the chain-of-lakes concept, as set forth in the Livermore Amador Valley Quarry Area Reclamation Specific Plan, yet to be constructed in the next year (or if within five years of final reclamation, during the following five years of operation).~~

~~Permittee may submit any combination of bond and escrow to satisfy the financial assurance requirement, except that the cash escrow account must at all times contain not less than \$50,000.00 or ten percent of the combined amount of the total financial assurances calculated in the first paragraph of Condition 4(a), whichever is greater. If Permittee desires to increase the percentage of cash escrow, the combined amount required will be reduced according to a directly proportional sliding scale; therefore, in the event that the cash escrow is increased to cover the entire cost of reclamation, the account shall be required to equal not more than 100 percent of the total of (i) plus (ii) as described in the first paragraph.~~

~~(b) Within three months from the date of approval of this permit, Permittee shall submit a schedule, for approval by the Planning Director, which ties timing of completion of reclamation components to specific stages in the mining plan. This schedule will become incorporated into the reclamation plan, and shall form the basis for determination by the County of Alameda whether particular reclamation work is on schedule, and whether using the reclamation escrow account or portion thereof is needed to perform said reclamation work.~~

~~(c) Upon expiration or revocation of the permit and completion of the reclamation plan, any funds remaining under guarantee shall be released to Permittee upon the satisfactory determination by the Director of Public Works that the conditions of the permit have been met and that the site has been reclaimed in accordance with the approved reclamation plan. Otherwise, said guarantee shall be used~~

by the County to bring the quarry into conformance and to reclaim the site.

~~(d) An estimate report of the cost of reclamation for closure during the current year, and of all reclamation components yet to be accomplished in the next five years, shall be prepared annually by a registered engineer and submitted for approval by the Planning Director before July 1 of each year. The report shall estimate (i) the costs of final reclamation of the disturbed land at the time of the report to leave the land in a safe, stable and revegetated condition, or if within five years prior to completion of mining, to completely reclaim the land under permit according to the approved reclamation plan, plus (ii) the cost of constructing major water conveyance structures incident to the chain-of-lakes concept, as set forth in the Livermore-Amador Valley Quarry Area Reclamation Specific Plan, to be constructed in the next year (or if within five years prior to final reclamation, during the following five years of operation). This report, when approved, shall be used to calculate necessary modifications to the value of the combined amount of financial assurances for the following year.~~

~~(e) Permittee shall pay to the Planning Department a surcharge of \$ 0.02 per ton of material sold to help cover the Department's costs in administering Alameda County's surface mining and reclamation program. This surcharge shall be paid into a Planning Department account at the time that the annual escrow account deposit for reclamation is paid in accordance with Condition No. 4(a), except that the surcharge account shall not require a specific initial balance, and the surcharge shall be calculated on materials sold beginning December 1, 1995 and shall be paid beginning on February 1, 1996. Otherwise, the tonnage on which the surcharge is based shall be the total tonnage of material sold from January 1 through December 31 of the previous year. The amount of the surcharge shall be considered at each Five Year Review for SMP 23, and in any event may be adjusted annually by the Planning Commission to reflect inflation.~~

~~(f) Permittee shall pay to the Public Works Agency a surcharge of \$0.01 per ton of material sold to help cover the Agency's costs in administering Alameda County's surface mining and reclamation program. This surcharge shall be calculated on materials sold beginning December 1, 1995 and shall be paid into a Public Works Agency account on February 1 of each year, beginning February 1, 1996, and no specific initial balance shall be required. Otherwise, the tonnage on which the surcharge is based shall be the total tonnage of material sold from January 1 through December 31 of the previous year. The amount of the surcharge shall be considered at each Five Year Review for SMP 23, and in any event may be adjusted annually by the Planning Commission to reflect inflation.~~

[Former Condition # 4]

13. The Permittee shall annually pay the administrative fee required by ACSMO §6.80.242. Costs incurred by the County under Article 5 (Enforcement) of the ACSMO shall be borne by the Permittee. Additionally, the Community Development Director is expressly authorized to utilize his or her own employees, other agencies, and/or private consultants, as necessary, to conduct and carry out third-party review(s) of operator-generated technical reports (e.g., geotechnical, groundwater). Costs associated with such third-party reviews shall be borne by the Permittee. Should the Permittee cease mining activity and, as a result, not incur administrative fee debt in accordance with ACSMO §6.80.242, all costs associated with the County's Lead Agency responsibilities under SMARA, including those associated with the ACSMO, shall be borne the Permittee.

[New Condition]

20. ~~Permittee shall pay to the County of Alameda reasonable and actual costs incurred by the County for review, approval, administration and monitoring of all programs, including inspections required pursuant to these Conditions. This may require the hiring of additional personnel on either a part time or full time basis. The Planning Director and/or Director of Public Works are hereby expressly authorized to utilize their own employees, other agencies and/or private consultants, as necessary, to conduct such reviews, inspections and administration and to make necessary approval determinations. Permittee shall be notified prior to any unusual or extraordinary expenditure of funds.~~

[Former Condition #20]

Monitoring of Surface Mining and Reclamation Activities

14. Within one hundred and twenty (120) days of this resolution being approved and with regard to Lake A, the Permittee shall evaluate the minimum lake level and maximum piezometric surface elevation needed to maintain acceptable factors of safety for static and pseudostatic conditions. The results of that evaluation shall include a proposed monitoring program and operation plan to maintain said factors of safety and be submitted to the Community Development Agency Director or designee for review and approval. The Community Development Agency or designee shall obtain an independent third-party review of the Permittee's proposed evaluation.

[New Condition]

- 5- 15. Permittee shall furnish the Community Development Agency Director or designee and Zone 7 Water Agency, by July 1 of each year, of Public Works with a report describing: (a) compliance with these conditions; (b) changed circumstances over the reporting period; and, where applicable, (c) efforts to address issues of non-compliance with these conditions, the ACSMO, or SMARA - in a format prescribed by the Community Development Agency Director or designee, by July 1 of each year, ~~Beginning July 1, 2013 1993,~~ the report shall be submitted and Reports shall cover the period between January 1 and December 31 of the previous year. With each report, Permittee shall provide a map at the same scale as the approved mining and reclamation plans, showing current progress of mining and reclamation, drainage, erosion, and sedimentation control facilities to be provided and those in place, and as built landscaping status of all prior landscaping.

The Community Development Agency Director or designee of Public Works shall review the report and inspect the mining operations, reclamation activities, and condition of Stanley Boulevard east to Isabel Avenue/Highway 84, all to determine and assure continuing compliance with the regulations of the ACSMO and policies of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation. The Community Development Agency Director or designee shall invite staff from the Zone 7 Water Agency to attend said inspections.

~~Permittee shall pay the County the actual cost of conducting the periodic inspection of operations and shall make available to the Community Development Agency Director or designee of Public Works such information as necessary for determination of compliance. The Community Development Agency Director or designee of Public Works shall state the findings of the inspection in a final report which shall be made available to the public. One copy of said report shall be sent to the and the Planning Commission for information purposes only Director within 45 days after the inspection. The Planning Department shall receive a copy of the report and present a summary to the Planning Commission for its~~

~~approval.~~

[Former Condition #5]

- ~~12.~~ 16. Within five years from the date of ~~approval of this surface mining permit~~ completing this periodic review in accordance with ACSMO §6.80.190, and at five year intervals thereafter, the Planning Commission shall review again SMP-23 in accordance with ACSMO §6.80.190. ~~compliance with the permit and reclamation plan, and consider any new or changed circumstances which should be accommodated by the plans. The review shall include a public hearing. Permittee shall pay actual cost of reviews. As a result of this process, the Planning Commission may modify the reclamation plan or guarantees thereof to conform with the ACSMO and Specific Plan for Livermore-Amador Valley Quarry Area Reclamation.~~

[Former Condition #12]

17. In accordance with ACSMO §6.80.250, the Permittee, Operator, property owner and their authorized agents, and any other person in control of the property subject to SMP-23, individually or collectively, are responsible for the observation and compliance with all the provisions of the ACSMO and SMARA. Such responsibility shall include adherence to the conditions of approval applicable to SMP-23, the correction of any unsafe condition, and the construction and continued maintenance of all fences and other protective devices required.

[New Condition]

- ~~8. If problems develop regarding mining or reclamation as may be determined by the Planning Director, Permittee shall take corrective action with all due haste, in good faith. Permittee shall implement solutions as approved by the Planning Director.~~

[Former Condition No. 8]

Surface Mining Activities

18. All accessory uses shall be established and operated in accordance with ACSMO §6.80.060. In the event an accessory use is established, the annual report required by Condition No. 15 shall address compliance with ACSMO §6.80.060.

[New Condition]

19. The Permittee shall routinely control exotic, invasive plants upon areas disturbed by mining activities, including vegetation which poses a fire hazard. The results of exotic, invasive plant removal shall be described in the annual report required by Condition No. 15.

[New Condition]

- ~~22.~~ 20. No stockpiling of overburden or aggregate material ~~on or from the Nienburg Parcel~~ shall occur within 80' of Stanley Boulevard.

[Former Condition #22]

- ~~23~~ 21. Except as otherwise approved by the Planning Community Development Agency Director or designee for boundaries common with lands of other gravel companies or otherwise provided in Quarry Permit Q-1, Permittee shall maintain standard quarry permit fencing along all boundaries of the area covered by SMP-23 with adjacent lands not owned by Permittee.

[Former Condition #23]

- ~~24~~ 22. Permittee shall operate trucks to and from the quarry operation only along public truck haulage routes approved under Quarry Permits Q-1 and Surface Mining Permit SMP-23, and which are already in use for Permittee's operations in the area.

[Former Condition #24]

- ~~25~~ 23. Mining and hauling operations shall not impose public maintenance burdens on county roads. As part of the regular inspections of the quarry required under the Surface Mining Permit, the ~~Public Works Community Development Agency~~ will annually inspect the pavement or surface condition of Stanley Boulevard, Isabel Avenue ~~(including segments existing at the date of approval of this condition, as well as as used segments constructed after that date)~~ and El Charro Road between the quarry access and Interstate 580 ~~or State Highway 84~~, and will identify required repairs. Permittee shall contribute to the cost of maintaining, repairing, strengthening or reconstructing the subject segments of these roadways, if the County inspection shows a need for pavement or surface improvements. Participation by Permittee in the cost of the improvements shall be in proportion to the percentage of heavy truck traffic volumes on the identified roadway segment(s) contributed by the quarry operation and 100 percent toward any road damage directly attributable to the SMP-23 operations, which shall be repaired promptly. The method of calculating proportionate share shall take into account the level of use (vehicle-miles) and the length of time the Permittee will continue using the routes for operations of the quarry or reclamation.

[Former Condition 25]

24. Dewatering activities shall not cause erosion or flooding, shall not result in the discharge of sediment, and shall, as required by ACSMO §6.80.210(M), be conducted using accurate record keeping and reporting methods.

[New Condition]

25. No explosives shall be used for mining.

[New Condition]

- ~~26.~~ ~~In conjunction with other quarry operators and landowners who will benefit from interchange and intersection improvements on El Charro Road, Permittee shall contribute to the cost of improvements based on the operation's proportionate share of use. The method of calculating proportionate share should take into account Permittee's level of use of the El Charro Road corridor (vehicle miles), the length of time Permittee will continue using El Charro Road as a quarry haul route, and future uses of reclaimed lands.~~

[Former Condition #26]

27. ~~If Permittee can show at any time that El Charro Road is no longer used by vehicles traveling to and from the SMP-23 permit area, Permittee shall be released from responsibility for any effects to El Charro Road specified in Conditions 25 and 26 after the last date of use of El Charro Road by those vehicles.~~

[Former Condition #27]

Reclamation Activities

- ~~11.~~ 26. All overburden shall be retained on site for use in reclamation. Overburden shall be considered as the natural material which lies above natural mineral deposits routinely processed through the plant to obtain aggregate.

[Former Condition #11]

- ~~9.~~ 27. The end use of the site upon complete reclamation is hereby assumed to be for water management, wildlife habitat, and/or recreation (pits and surrounding support areas dedicated to Zone 7) and agriculture (land areas not to be dedicated to Zone 7). Any other use must be approved by the County of Alameda. Uses permitted shall be compatible with water management and quality.

[Former Condition #9]

- ~~10.~~ 28. Upon completion of mining operations, all sand and gravel processing equipment and the gravel plant shall be removed from the site, including any previously authorized accessory uses. As mining-related auxiliary operations cease, batch plants, asphalt plants, maintenance buildings, and other structures and equipment shall also be removed, including any structures and equipment associated with a previously authorized accessory land use. However, mining related equipment and structures in direct support of reclamation activities may remain on site up to three (3) months after reclamation activities have been completed.

[Former Condition #10]

- ~~3.~~ 29. Within two (2) years after expiration of SMP-23, all stockpiles and equipment shall have been removed and the site shall have been brought into conformance with the reclamation plan, except any stockpiles of saleable materials that are not needed for reclamation activities may remain on site, along with any mechanical equipment necessary for the movement of such saleable materials.

[Former Condition #3, part]

- ~~7.~~ ~~Permittee shall submit conceptual or final plans to the Planning Director for all physical reclamation water conveyance facilities conforming to performance standards of the County of Alameda and Zone 7 Water Agency of Alameda County Flood Control and Water Conservation District within two years of the date of approval of this permit. It is expressly understood that conceptual or final plans may change with the mutual consent of Permittee, the County and Zone 7. Timing and level of detail for future submittals shall be specified by the Planning Director as needed based on actual mining plan/reclamation scheduling as determined pursuant to Condition #5. No later than eight months prior~~

~~to scheduled start of construction of a physical facility, detailed engineering construction plans shall be submitted to the Planning Director for approval, based on consultation with Zone 7 and the Director of Public Works. Approved plans shall be incorporated by reference into and become a part of "Exhibit B, SMP 23".~~

[Former Condition #7]

- 45 30. This reclamation plan shall be in effect as long as underlying quarry permit Q-1 remains active.

[Former Condition #15]

16. ~~Within 60 days of the date of approval of this condition, Permittee shall submit to the Planning Director for approval a draft Precise Master Plan with proposals amending the "RMC Lonestar East Isabel Avenue Property, Alameda County, California," and the "Conceptual Final Master Plan, RMC Lonestar Lake 'A', East Isabel Avenue Property, Alameda County, California," dated October 5, 1992. The Plan shall include, but shall not be limited to, details of reclamation of the Lake "A" area, including phasing and timing of mining and reclamation, areas of various vegetation/habitat types, location of stream realignment with respect to quarry pits and new riparian/wetland habitat, grading details for the north and south lakeshore areas, accommodation of right of way for potential roadway and intersection improvements on Isabel Avenue and at the intersections of Vineyard Avenue with Vallecitos Road and Isabel Avenue, utility/recreational trail access, fencing, topography and drainage. The proposals shall be developed in coordination with Zone 7, the California Department of Fish and Game, the East Bay Regional Park District, the Livermore Area Recreation and Park District, and the cities of Livermore and Pleasanton with regard to future right of way needs along Vineyard and Isabel Avenues. The Planning Director shall refer the draft Precise Master Plan to the aforementioned agencies for their review and comments for a period of thirty (30) days, after which Permittee shall coordinate efforts with Planning Staff to incorporate the agency comments into the Precise Master Plan and resubmit the Plan and final proposals within thirty (30) days to the Planning Director for final approval. The Precise Master Plan shall be consistent with requirements of the applicable Streambed Alteration Permits issued by the Department of Fish and Game, and with requirements of Zone 7.~~

[Former Condition #16]

17. ~~Permittee shall begin to reclaim the south shoreline of Lake "A" no later than the commencement of quarry activity in the Lake "A" area. Substantial components of this reclamation, including grading, trail alignment, fencing and revegetation, including specifically planting of upland trees and preliminary preparation of slopes for establishment of nascent habitat zones, shall be completed by Permittee within two years of the start of reclamation. The two year period shall not include periods of severe weather or constraining environmental incidents beyond the control of Permittee. The period may be extended at the discretion of the Planning Director during the second year of the two year period at the request of the for adequate cause.~~

[Former Condition #17]

18. 31. ~~Permittee shall, as required, reclaim, restore or maintain the north shoreline of Lake "A" as wildlife habitat. in accordance with the conditions and scheduling requirements of the Department of Fish and Game Streambed Alteration Permit, reissued annually. Reclamation performed on the north shore of~~

~~Lake A shall be performed progressively as mining disturbance occurs. The south shoreline of Lake "A" shall be reclaimed for purposes of recreation.~~

[Former Condition #18]

19. ~~A Precise Master Plan for the future Lake "B" quarry area west of Isabel Avenue, similar in scope and content to the precise master plan required for Lake A pursuant to Condition No. 16, shall be submitted to the Planning Director for approval prior to commencement of quarry activities in the Lake B area. Incidental limited quarry operations within the upland area north of the creekbed above the mean annual high water level of the creek shall be exempt from, and shall not trigger, this requirement.~~

[Former Condition #19]

29. ~~This condition has been superseded by new Condition 35. Permittee shall participate in, in consultation and cooperation with Alameda County, the East Bay Regional Park District, other agencies and other quarry permittees using or adjacent to the Stanley Boulevard Corridor, development and implementation of complete landscaping and visual attenuation treatment of industrial or artificial views along Stanley Boulevard and Isabel Avenue as specified in the Precise Landscaping and Visual Treatment Plan (PLVTP) developed in conjunction with Surface Mining Permit SMP 16. Planning Director shall consult with Permittee and other affected operators to determine the extent of Permittee's reasonable participation as to costs and installation of physical improvements, as well as ongoing irrigation and maintenance of installed landscaping features, with a goal of participation at the proportional or fair share level.~~

[Former Condition #29]

30. ~~Permittee may erect informational signs at two places along Vineyard Avenue, with details as shown on Exhibit C except as noted in these conditions. The signs' frameworks shall be off white, beige, or other color as approved by the Planning Director. The final artist's drafts of the signs, including renderings, text, layout, colors, size, height and locations shall be submitted to the Planning Director for review of accuracy and suitability prior to installation of the signs. The signs shall include a photograph or artist's rendering labeled "Current Site Conditions," a photo or rendering labeled "Final Site Reclamation," and the name of the Permittee and project at the bottom. The sign shall include a statement identifying the point from which the scene is being viewed, i.e., "As seen facing eastward from Isabel Avenue." During installation of the signs, no existing landscaping shall be disturbed. The signs may be removed at any time by Permittee with prior notice to the Planning Director.~~

[Former Condition #30]

31. ~~The exact locations of the signs shall be approved by the Planning Director, and in no event shall either sign be placed within view of the front yard of an existing residence or within 100 yards, whichever is less.~~

[Former Condition #31]

32. ~~Permittee shall maintain informational signs in overall good and attractive condition. The informational portion of the sign shall be redesigned and replaced whenever (a) as a result of quarry operations, the~~

~~actual ground disturbance or change from the original conditions on the ground as represented on the sign affect 20 percent (40 acres) of the site or more, or (b) the sign itself becomes worn, faded, vandalized or otherwise appears unattractive during annual inspections. Prior to redesign and replacement, Permittee shall submit drafts of the new signs including renderings, text, layout, colors, size, height and location to the Planning Director for approval.~~

[Former Condition #32]

- ~~33. If the sign(s) are vandalized so as to be unattractive or offensive, the sign(s) shall be covered until repaired, replaced or removed.~~

[Former Condition #33]

- ~~34. Six months from the date of informational sign installation, the Planning Commission shall at its discretion review the installed signs on matters of aesthetics, function and public acceptance. If the Planning Commission finds concerns over any of these matters, the Commission may require alteration or removal of the signs as it finds appropriate. If at any other time the Planning Commission finds that the signs are unsatisfactory for any reason, it may direct that the signs be altered or removed, and may revoke any or all conditions regarding the signs.~~

[Former Condition #34]

32. The Permittee shall coordinate with County Community Development Agency and Public Works Agency staff to develop and execute a mutually acceptable Agreement with the County, to be approved by the Board of Supervisors, to provide and maintain County-approved visual attenuation landscaping along Stanley Boulevard.

[Former Condition #35]

California Environmental Quality Act Mitigation Measures

- ~~28.~~ 33. If the Army Corps of Engineers identifies jurisdictional wetlands at the project site, regulatory requirements for wetland mitigation shall be incorporated into the proposed quarry and reclamation activities. Feasibility of long-term wetlands shall be based on a comparison of competing benefits to be derived from limited water and land resources. Any wetland management plan proposed and adopted shall, to the extent possible, incorporate or complement features of the Specific Plan for Livermore-Amador Valley Quarry Area Reclamation Plan.

[Former Condition #28]

- ~~13.~~ 34. Operations shall cease in the vicinity of any suspected archaeological resource until an archaeologist is consulted and his or her recommendations followed, subject to approval by the ~~Planning Director~~ Community Development Agency Director or designee.

[Former Condition #13]

- ~~21.~~ 35. Permittee shall conduct quarrying operations in a manner that shall not cause or result in pollution of the ground water basin or surface water bodies. Permittee shall conform to all requirements of the San

Francisco Bay Regional Water Quality Control Board with respect to discharge of silt-laden water and waste materials.

[Former Condition #21]