



Staff Report to the Planning Commission

Application Number: 78-0674

Applicant: CEMEX
Owner: CEMEX dba Lonestar
California LLC
Miles Olympia LLC
Nicolas & Lena Dumas
APN: 070-231-22, 070-341-01
071-111-22, 071-141-06
071-212-10, 071-231-07 & -08

Agenda Date: July 22, 2009
Agenda Item #: 12
Time: After 1:30 p.m.

Project Description: Review of Mining Approval and Certificate of Compliance 78-0674 (as amended) for the Olympia Quarry for compliance with Conditions of Approval.

Location: 7450 E. Zayante Road, Felton

Supervisor District: Fifth District (District Supervisor: Mark Stone)

Permits Required: None (Permit Review only)

Staff Recommendation:

- Accept and File this report for the CEMEX Olympia Quarry;
- Add the 1994 Mining Plans and the 1995 Revegetation Plan to the list of Exhibits in the Conditions of Approval;
- Approve the CEQA Notice of Exemption for this report.

Exhibits

- | | |
|---|-------------------------------|
| A. Review of Conditions of Approval | D. Assessor's Parcel Map |
| B. Categorical Exemption (CEQA determination) | E. Zoning & General Plan Maps |
| C. Quarry Map | F. Comments & Correspondence |

Introduction

Condition II.F of Mining Approval 78-0674 for Olympia Quarry requires that the Planning Commission periodically review this permit for compliance with Conditions of Approval. Section 16.54.074 of the Santa Cruz County Mining Regulations states that new conditions shall not be imposed as part of a review process unless there is a:

- a) Threat to public health and safety;
- b) Significant injurious threat to the environment;
- c) Nuisance;
- d) Violation of approval conditions;
- e) Change in the scope of operations; or,
- f) The ordinance in effect at the time of the Mining Approval, Certificate of Compliance or Reclamation Plan Approval being reviewed was originally approved, or the Approval itself, authorized imposition of new conditions by the County.

The following analysis and discussion address the compliance review and includes a brief history of the permit process and issues currently affecting the Quarry.

History

The Olympia Quarry encompasses approximately 210 acres and is located in the Felton area, approximately one mile west of the City of Scotts Valley.

Olympia Quarry started as an unregulated operation in the late 1920's and continued operation until required to obtain a Use Permit (2131-U) in 1964. In the 1970's, as a result of new County Mining Regulations and new State Law (Surface Mining and Reclamation Act – SMARA) the operation was required to obtain approval to continue operations in compliance with the new regulation, which placed additional emphasis on reclamation of mined lands. Throughout the late 1970's and early 1980's the Quarry and County struggled to resolve differences, culminating in 1986 in approval of a Planned Quarry Permit. The Planning Commission has conducted additional public hearings to review compliance with Conditions of Approval in 1994 and 2000. On each occasion additional Conditions of Approval have been enacted to address specific issues at the time.

The existing Conditions of Approval outline standards for operations and reclamation specific to this Quarry operation to ensure compliance with County Mining Regulations and SMARA.

Mining and processing of sand on the site ceased in 2002. With the exception of a small maintenance shop, all facilities (plant, office, scales and loading facility) used for the operations have been removed from the site.

Prior to the cessation of mining operations, sand was mined and used for construction related products. Mining operations began with the stripping of vegetation and removal of a thin layer of topsoil. After the stripping, a scraper-type excavator removed and transferred the underlying sands and gravels to a collection transfer point (grizzly or pit hopper) where it was transferred by conveyor belt to the processing plant for washing, screening and loading.

Mining of the Quarry was subdivided or phased into the following areas: Area "A", Area "B", Area "C" West and Area "C" East, and Area "D" (see Exhibit C). Area "A" is the only area that was not mined due to the cost being greater than the economic benefit.

Current Quarry Conditions

The entity currently responsible for reclamation of the site is CEMEX, which assumed this responsibility as a result of their acquisition of the previous operator, RMC Pacific Materials Inc. The official mine name is Olympia and the site is also known by longtime local residents as the Lonestar Quarry after a previous corporate owner name. In this report the generic term "Quarry operator" is typically used to refer to these entities.

After the sand processing plant was removed approximately five years ago, small-scale extraction of sand by a local company occurred intermittently. This activity has ceased and the only current ongoing activities at the site consist generally of revegetation, minimal maintenance and security. With the cessation of mining activities many of the permit conditions have become obsolete. Since mining operations have ceased on the property, the permit review will focus on reclamation and revegetation activities. However, other conditions that remain applicable are addressed in the following sections as well. A complete review of all of the permit conditions is attached as Exhibit A.

Reclamation Activities

Following removal of the sand processing plant in 2004 reclamation activities remaining to be completed include grading of the Quarry floor, slope stabilization and revegetation, including long-term maintenance and monitoring to ensure that revegetation success criteria are met. However, in 2006 the federally listed Zayante band-winged grasshopper and the Mount Hermon June beetle were discovered on the site. In order for CEMEX to complete reclamation activities, the United States Fish and Wildlife Service (USFWS) must review and approve a Habitat Conservation Plan (HCP) for the Quarry site. An approved HCP would allow CEMEX to obtain an Incidental Take Permit from the USFWS, which recognizes that some of the reclamation activities may, in the short-term harm sensitive species. However, in the long term, the reclamation activities would provide habitat for the species.

CEMEX is responsible to prepare the draft HCP and submit it to the USFWS and has been aware of the need to prepare an HCP for four years, but had failed to do so. The Planning Department therefore issued a Notice of Non-Compliance to CEMEX on August 27, 2008 indicating that CEMEX must prepare an HCP and submit it to the USFWS. On December 31, 2008, CEMEX submitted their draft HCP to the USFWS. The USFWS has thus far not formally or informally responded to the draft HCP.

Despite the delays associated with the need for an HCP and Incidental Take Permit (ITP), revegetation activities have continued on final Quarry slopes because these activities are compatible with sensitive habitat protection. However, significant ground-disturbance associated with grading and slope stabilization must wait until the issuance of an ITP.

Erosion Control

The current mining permit conditions provide adequate regulation to control erosion, but implementation of these conditions is complicated by the need for an HCP.

As with all sand quarries, erosion continues to be a problem. Olympia Quarry has steep excavated slopes that are composed of friable sandstone. To reclaim these slopes, the Quarry operator has successfully developed techniques to reinforce these slopes so that they may be effectively re-vegetated to reduce erosion. With the recognition that these slopes may contain habitat for listed species, these erosion control efforts require an HCP, and have ceased. This cessation of erosion control activities has allowed some additional erosion to occur, but most of this erosion has occurred in areas that will ultimately be re-graded as part of final reclamation. Adequate sediment control has been established within the Quarry, which prevents elevated levels of sediment from leaving the Quarry site.

County staff has inspected the completed final slopes with CEMEX to identify areas of erosion that will require correction and have mutually identified areas needing additional erosion control. Correcting the erosion on final slopes will require minor re-grading and the placing of a few new down drains. In some cases retaining walls or other methods may be necessary to stabilized areas of high erosion hazard. Similar treatments have been successful in controlling erosion on Quarry slopes; therefore staff believes that erosion control issues can be successfully addressed once the HCP has been approved.

Revegetation

Revegetation efforts have focused on the mined slopes on the Northeast and Southeast sides of the site. Nearly all of these slopes have been planted. Planting of the Quarry floor is delayed until reclamation grading on the Quarry floor is completed following approval of an HCP. Revegetation efforts have been challenging due to a number of factors related to the legacy of mining and sensitive nature of the plant species appropriate for revegetation of the site. Nonetheless, success criteria are being achieved and this success is increasingly noticeable on some of the slope sections. Much work remains to monitor and maintain existing plantings, and perform remedial plantings, as needed.

For the purpose of ongoing monitoring of revegetation efforts the slopes are divided into 21 roughly equal size sub-areas for purposes of measuring success on various timelines based on planting date. Plantings have either met or nearly met success criteria in terms of vegetative cover and weed control in 15 of these sub-areas. Planting is incomplete in 4 areas. Success criteria is not being met in just 2 areas and remedial measures, including erosion control and supplemental planting, will be implemented in these areas.

Revegetation of final slopes has met most of the coverage goals, although some issues continue with species diversity. Resolving the lack of species diversity has proven to be a challenge. The revegetation consultant tried several different tactics to increase diversity.

Recently, they have proposed the addition of similar native species to the revegetation efforts to substitute for original species that have not been successfully reestablished. A series of additional test species have been planted or broadcasted as seeds to identify species that can be used to augment diversity. County staff believes that CEMEX consultants are taking appropriate steps to resolve the diversity concerns.

Revegetation activities continue on final slopes even though an HCP has not been approved, as these efforts are compatible with protection of habitat for listed species. These efforts have been made part of the draft HCP, and therefore are likely to be consistent with the final approved plan.

Air Quality Issues

No air quality compliance complaints have been received, but some minor wind erosion is evident. Air quality has been a significant public concern in the past. With the cessation of the Quarry activities the potential for further air quality issues has been greatly reduced, and will be eliminated when final revegetation is completed. We believe that the intent of the air pollution conditions has been met, and will continue to be monitored during subsequent Quarry inspections.

During re-grading we expect that tens of thousands of cubic yards of earth will be moved within a matter of weeks. This type of re-grading has been anticipated since the start of the Quarry and will include the achieving of final grades so that the Quarry will properly drain, and also the placing of stockpiled soil on disturbed final surfaces so that they can be readily revegetated. Staff believes that if adequate moisture content is maintained within the sands during this re-grading, dust can be controlled so that there is little off site impact. Similar re-grading has occurred at the nearby Hanson Quarry with little off site impact.

Ground Water and Surface Water Concerns

As allowed by the conditions, ground water monitoring has ceased with the cessation of extraction activities. No ground water concerns or permit issues were noted in our review. Groundwater levels have probably declined due to recent dry winters, and correspondingly the separation between the mine floor and groundwater has possibly increased. The contribution of Total Dissolved Solids (TDS) will have also declined due to the less site disturbance. After final reclamation grading, the Quarry should not have any significant affect on ground water quality.

Most surface waters within the Quarry drain towards a basin within the Quarry floor at the northeastern edge of the Quarry. During most winters the drainage is contained within the Quarry itself and dissipates by evaporation or infiltration. During extreme weather conditions the water within the Quarry can overflow into the adjacent 'No-name' settling pond and from this location into the Zayante Creek. 'No name' pond is adequate to handle the design overflow from the Quarry and has an adequately sized outflow pipe. Runoff and spring flow from a small area of the site (former processing plant, silos and scalehouse) is

diverted into the culvert system downstream of No-name Pond beneath the railroad tracks and East Zayante Road and into Zayante Creek.

During Quarry activities, water discharges were monitored pursuant to a Waste Discharge Requirements Order from the Regional Water Quality Control Board (RWQCB). This Order required monitoring of pond effluent and spring flow from the site prior to entering Zayante Creek. As a result of this monitoring no significant violations of the water quality standards outlined in the Order occurred during normal Quarry operations. However, there has been several significant incidents involving discharge of process water to Zayante Creek as a result of failure of drainage system components (1982, 1992, 1993 and 2001). The 2001 violation was resolved with the Quarry operator paying a \$100,000 fine, which was used for environmental restoration and enhancement projects within the watershed. Following cessation of Quarry operations the RWQCB has rescinded the Waste Discharge Requirements Order, however, the Quarry operator remains enrolled in the National Pollutant Discharge Elimination System (NPDES) under a General Permit for Stormwater Discharges Associated with Construction Activity. This General Permit allows for construction activities such as the re-grading and other reclamation actions under the supervision of a Stormwater Pollution Prevention Plan (SWPPP). In 2006 CEMEX terminated the SWPPP because of the temporary cessation of grading activities. The NPDES requires a new SWPPP before the start of the re-grading and large-scale reclamation activities. With this new SWPPP, new surface monitoring standards will be established to confirm that no sediment leaves the Quarry site.

Enforcement

On August 27, 2008 staff sent a Notice of Non-Compliance to CEMEX indicating that they had failed to timely commence final reclamation of Olympia Quarry and therefore were in violation of County Code. Of particular concern was the appearance that CEMEX had no specific schedule for reclamation in violation of the operating permit for the Olympia Quarry and Santa Cruz County Code Mining Regulations. The notice and order to correct a violation indicated that CEMEX is subject to enforcement proceedings pursuant to Mining Regulations Section 16.54.090 (b), which can result in administrative penalties of \$5,000 per day assessed from the original date of non-compliance. Before actual fines can be assessed, a public hearing is required before the Planning Commission to review the actions taken by staff.

The Notice of Non-Compliance also mentioned that fact that the current required Annual Report for the Quarry was late.

CEMEX complied with the Notice of Non-Compliance and has submitted the HCP to both the County and USFWS, and has submitted the required Annual Report to the Planning Department. After receiving the Notice of Non-Compliance, CEMEX immediately took steps to comply with the Notice. Based upon the willingness of CEMEX to comply no additional actions are necessary at this time.

Conditions attached to the Last Quarry Review

During the last Quarry review, two new conditions were attached. These are:

- I. Within 4 months of the completion of the five-year review, the Quarry's California Registered Civil Engineer(s) must examine, map and provide a written report of the completion and function of the existing drainage system. The report must document the existing conditions and will include recommendations for improvements and repairs, if necessary. In consultation with the Quarry's California Registered Civil Engineer(s), and with the written approval of the County, the Quarry will implement the findings of the Quarry's California Registered Civil Engineer's during the next 12 months. During the 6 months after implementation, the Quarry's California Registered Civil Engineer will evaluate performance of the improvements and if necessary for further modifying the Quarry's drainage plans and slopes.
- II. The Quarry revegetation specialist must provide a report by the fourth quarterly inspection of 2001 summarizing the schemes proposed to reach the revegetation diversity goals.

The Quarry has hired Kane Engineering and they have recommended several discreet slope stabilization and drainage control projects, which were implemented before the need for an HCP forced cessation of major ground-disturbing activities. Kane Engineering has also prepared revised plans that address the final drainage system and final grading contours. An Amendment to the Quarry's permit is required to approve changes to the final drainage system and final contours. The revised plans are under review by the Planning Department concurrent with the HCP process and final Planning Commission approval of these plans will be considered as soon as the outcome of the HCP process is more certain. Full implementation of the remaining aspects of the plan will need to wait for the approval of the HCP.

With regards to the second condition concerning revegetation experts report concerning diversity, the initial and several follow up reports have been submitted, which adequately address this issue. Efforts have continued to meet diversity goals and diversity has improved. Based on recent monitoring results, alternative native species have been included in the revegetation efforts to substitute for original species that have not been successfully reestablished.

The Quarry operator has made adequate and reasonable efforts to comply with these conditions. The Final Grading and Drainage Plan cannot be completed until the HCP is approved by the USFWS and some additional information regarding erosion control and slope stability are included in the proposed Final Grading and Drainage Plan. However, the improvements that were installed have already helped reduce erosion. The revegetation efforts have also reflected a continuing need to improve diversity goals.

Summary and Conclusions

The Quarry operation is in substantial compliance with Conditions of Approval. Since the last report to the Planning Commission mining has ceased, structures and equipment have been removed from the site and revegetation efforts have continued on the mined slopes. The discovery of habitat for listed species along with the delay in CEMEX obtaining an approved HCP has dominated the County's involvement with the Quarry. The delay has not caused significant problems at the Quarry, and our most recent interactions with CEMEX and the USFWS have been constructive. The submittal of the draft HCP is a significant step towards resolving the current impasse. This impasse has caused three areas of concern related to compliance with Conditions of Approval:

1. The final re-grading and reclamation has been delayed.
2. The removal of invasive species has ceased on the Quarry floor. This has resulted in the expansion of the area of invasive species in an area that will be substantially re-graded.
3. Erosion continues resulting in increased sedimentation in detention facilities.

The Quarry operator can complete all of these tasks once the HCP has been approved. This will involve an Amendment to the Quarry's permit to reflect changes to the Final Grading and Drainage Plan and any changes required as a result of the HCP process.

Staff does not propose new conditions at this time because the current conditions are adequate to address the Quarry's reclamation. Ultimately, final site grading and reclamation will wait for action by USFWS on the HCP submitted by CEMEX for Olympia Quarry.

The 1994 Reclamation Plans and the 1995 Revegetation Plan required by the Conditions of Approval and approved by the Planning Department are not each listed as an Exhibit in the Conditions of Approval. Therefore, it is recommended to add these two key items to the list of Exhibits in the Conditions of Approval. This will help also to clarify future Amendments to the plans.

Staff Recommendation

- Accept and File this report for the Olympia Quarry;
- Add the 1994 Mining Plans and the 1995 Revegetation Plan to the list of Exhibits in the Conditions of Approval;
- Approve the CEQA Notice of Exemption for this report.

Olympia Quarry Permit Review
July 22, 2009

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The General Plan, as well as hearing agendas and additional information is available online at: www.co.santa-cruz.ca.us

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**Olympia Quarry
Mining Certificate of Compliance and
Reclamation Plan Approval 78-0674 as amended (COC)
Review of Conditions of Approval**

Note: Text enclosed in boxes is staff comments. All other statements are Conditions of Approval of the COC in original outline numbered format. The Conditions of Approval begin with a list of Exhibits, which are not the same as the exhibits to this staff report. Two additions to the list of Exhibits are underlined.

I. EXHIBITS

Mining operations shall conform to the following exhibits, which are incorporate as conditions of this Certificate of Compliance (Mining Permit) except as modified herein.

- A. Lone Star Industries, Inc.-Plans for Compliance with County of Santa Cruz Quarry Regulations, dated July 1974.
- B. Final Environmental Impact Report on Lone Star Industries, Olympia Quarry, prepared by John Gilchrist and Associates, dated September 1982.
- C. County Code Chapter 16.54 "Mining Regulations".
- D. State of California Surface Mining and Reclamation Act (SMARA.)
- E. Reclamation Plans by Bowman and Williams, Registered Civil Engineers consisting of eight sheets revised 3/31/94.
- F. Amended Revegetation Plan, Olympia Quarry, dated July 1995 by Greening Associates.

All exhibits are on file with the Planning Department. Where conflicting or modified versions of plans, documents or descriptions exist, the most recent approved version shall govern as amended by this permit.

The Reclamation Plans and the Revegetation Plan required by the Conditions of Approval and approved by the Planning Department are not each listed as Exhibits in the Conditions of Approval. Therefore, it is recommended to add these two key elements to the list of Exhibits in the Conditions of Approval. This will help also to clarify future Amendments to the plans.

II. GENERAL PROVISIONS

- A. This Certificate of Compliance (Mining Permit) amends and supersedes all provisions of Use Permit 2131-U. Approval is limited to the westerly 585 feet of APN 070-241-34, and APN's 071-111-22, 071-141-06, 071-231-07 and 08, 070-231-22 (this parcel to be used for access only.)

Mining operations have ceased. Before the cessation of mining all activities stayed

Exhibit A

within the boundaries of the above parcels with one excavation along the northeastern property line that was replaced with engineered fill. Please refer to Exhibit "C" of the staff report, which shows the relationship between parcel numbers and Quarry boundaries.

- B. This permit is for the extraction, processing, storage and shipping of sand resources obtained from the property in accordance with the referenced exhibits as modified by this permit for a 25-year project.

Operations at Olympia Quarry have ceased. The operations at the Olympia Quarry were limited to the extraction, processing and shipping of sand resources.

- C. Minor variations to this permit requested by the operator or staff which will not change the general concept of use and operation, and which do not adversely affect the environment, including extensions of time for completion of actions where necessitated by circumstances beyond the control of the permittee, may be approved in writing by the Planning Director following review and recommendation of the Environmental Coordinator upon written request by the permittee.

A Minor Mining Amendment was processed and reviewed by your Commission on August 24, 1999. This amendment also allowed the phased payment of the \$120,000 in lieu of the replacing of sensitive habitat. The total payment of \$120,000 was received and used toward the County purchase of the south ridge area of Quail Hollow Quarry.

- D. The property owners and applicant shall execute, date and return two copies of this permit within forty-five (45) days of permit issuance to indicate acceptance and agreement with the conditions thereof. Should such action not take place it will be grounds for revocation of the existing Use Permit 2131-U. By executing the permit, property owners agree to file a Notice of Restriction/Recorder Form with the County binding themselves and future owners or lessees to the revegetation requirements of this permit. The Recorder Form shall be supplied by the Planning Director and shall be filed for recordation within 90 days of permit issuance. Should such actions not take place, the existing Use Permit 2131-U shall be set for revocation hearing before the County of Santa Cruz Planning Commission pursuant to County Code Section 18.10.462.

All property owners signed the subject permit in 1986 thereby making all property owners responsible for the revegetation and reclamation efforts by the operator. A change has occurred in ownership with CEMEX purchasing RMC Lonestar. Even so, the nature of the signature requires that any purchaser assume liability for reclamation of the property that they own.

- E. Compliance with the permit conditions and regulations of the following agencies as they apply to operations on this property shall be a condition of this permit.

The operator shall provide the Planning Department with copies of any permit amendments or new permits issued by these agencies within 30 days of receipt.

1. Central Coast Regional Water Quality Control Board
2. Monterey Bay Unified Air Pollution Control District
3. State Division of Mines and Geology
4. State Department of Fish and Game
5. State Division of Water Rights
6. Fish and Wildlife Service of the US Department of Interior

The Quarry has submitted all permits and amendments. Further, the Quarry has made reports as required by the RWQCB. In 2000 RWQCB staff ordered a fine, but upon appeal the RWQCB determined that a violation could not be clearly determined by the approved monitoring methods. The RWQCB required modifications to the monitoring program so the Discharge Limitations could be clearly monitored. In 2001 a significant discharge into Zayante Creek resulted in monetary penalties exceeding \$100,000. Based on cessation of mining operations the Waste Discharge Requirements Order has been rescinded. Prior to commencement of major reclamation grading activities the operator is required to prepare a new SWPPP and monitor the site in accordance with the requirements of the General Permit for Discharges Associated with Construction Activity.

A Memorandum of Understanding (Section 2081) was completed with the California Department of Fish and Game (CDFG) for a "take" of the Ben Lomond Wallflower within a portion of Area B. The operator has completed the mitigation required by CDFG. However, permits authorizing incidental take of federally protected species have not been approved while the Draft HCP is under review by the USFWS.

- F. This permit shall be reviewed by the Planning Commission two years from the date of issuance and every five years thereafter. In connection with such review, the Planning Commission shall take public testimony and shall otherwise investigate the permittee's compliance with the operating conditions specified herein, and shall be empowered to amend the conditions of the permit if necessary to eliminate nuisance conditions or to mitigate problems resulting from a change in circumstances.

This staff report and public hearing represents the 3rd review for compliance with permit conditions after similar reviews in 1994 and 2000. Little mining has occurred since 2004. On each occasion in the past new conditions have been added to the permit to address specific issues at the time. As a result of the current review a minor correction is recommended to the list of Exhibits.

- G. The applicant shall post a \$150,000 bond or other equivalent security with the Planning Department within forty-five (45) days of permit issuance to guarantee compliance with these permit conditions and performance of the site reclamation and revegetation work required herein.

The current financial assurance amount is \$2,421,467.00 in the form of a surety bond, which was established in 2000. As required by SMARA and the County Mining Regulations the financial assurance cost estimate is updated annually to account for changes in the mined lands and inflation. The amount of the existing surety bond is executed for an amount in excess of the required amount of the bond based on the updated cost estimate.

- H. The mining operations allowed under this permit are subject to quarterly inspections and such reasonable inspections by the County as are necessary to assure compliance with conditions. Payment of inspections fees and permit processing fees (as established by resolution of the Board of Supervisors) is a condition of this permit.

Staff has conducted quarterly, annual and other necessary inspections. The Quarry has always met its obligation to pay for inspection and other permit related staff time.

- I. Each January an annual report shall be prepared and submitted by the permittee to the Planning Director. All costs of such reports shall be paid for by the permittee. The report shall include the following:
1. A report on the compliance with each of the conditions of this report.
 2. An analysis of any change in environmental or operating conditions, which were not anticipated in this permit.
 3. A current aerial photograph of the site (1' = 200') showing the property boundary, existing contours, facilities, stripped areas, and re-vegetated areas together with a report on the extent of excavation and reclamation completed in the previous year and projection for the coming year. Every 5th year beginning October 1986 a current aerial topographic map (scale 1' = 200') of the entire site shall be photographed and submitted to the Planning Department with the annual report to assist in monitoring of site conditions.
 4. Reports as required in Condition III. A. 4 and IV-B.
 5. Verification of renewal of bond or other equivalent security coverage.

Annual reports have been submitted in compliance with this condition. It has been necessary to remind the Quarry more recently to submit the report in a timely manner.

- J. In the event the County's Mining Regulations in County Chapter 16.54. are amended to require the reports referred to in paragraph I. above to be prepared by an independent consultant employed by the County, then the same requirement shall apply to the reports to be thereafter prepared under this permit.

Currently, the only component of the Annual Report to the Planning Department that is required to be prepared by an independent consultant is the Revegetation Report. This is required by Section 16.54.073 of the County Mining Regulations. A Noise Report is not required at this time because mining has ceased.

- K. If at any time the Planning Director determines there is substantial noncompliance with any of the requirements regarding the time, method or completeness or performance specified in any of the conditions set forth in the approved Lone Star/Olympia Certificate of Compliance, Mining Permit 78-674-PQ, Rezoning Permit Number 82-981-Z, the final impact report dated September, 1982, and related exhibits to each of the above, the Planning Director shall recommend that the Planning Commission set a revocation hearing on the Certificate of Compliance, Mining Permit Number 78-674-PQ in accordance with the provisions of the County Code Section 18.10.462.

The Planning Department did notify the Quarry operator that the delay in preparing the Draft HCP and the resulting delay in the reclamation timeline for the site constitutes non-compliance with the Conditions of Approval and the Mining Regulations. However, the operator has finally submitted the HCP document to the USFWS office in Ventura. We understand that it will take considerable additional time to complete the process of obtaining an Incidental Take Permit from the USFWS. Security and monitoring of the site, and revegetation activities will continue during this time.

III. OPERATING REQUIREMENTS

A. Noise and Vibration

1. Maximum operating noise at the site boundaries (not including haul trucks or construction activities) shall not exceed the limits of Section 13.10.445-A (5) of the County Code. Average noise levels at the site boundaries shall conform to an LDM (day/night weighted average) of 60dBA.

Annual reports submitted during years of mining operations have contained a noise report prepared by an independent consultant in acoustical engineering, which verified that the Quarry was complying with the above noise level limits.

2. In addition, the most effective noise abatement equipment and methods shall be installed, maintained and used at all times on any equipment used for contouring, earthmoving, grading, hauling, or any other activities associated with the reclamation project, or the mining and processing operation. This condition shall be implemented to the extent feasible and reasonable in cost in relation to the size and condition of the Olympia Quarry operations, as determined by the Planning Director.

The annual noise reports documented continuous improvements by the Quarry in reducing noise emissions. The County has not received an acoustical study for several

years because the Quarry has conducted neither extraction nor reclamation activities. Monitoring may need to resume during the grading portion of the reclamation. No complaints have been received about Quarry noise in the last eight years.

3. Off-site vibration shall be subject to the provisions of Section 13.10.445-A(6) of the County Code.

The section of the County Code cited is obsolete and the Mining Regulations, therefore, regulate only noise. Adverse affects from blasting are addressed in federal surface mining regulations, which is not applicable to this Quarry.

4. Prior to beginning excavation in area "A" or area "B" as designated on page 14 of the final EIR, the applicant shall submit a Comprehensive Mining Progression Plan for the area to the Planning Department for review and approval. This plan shall provide that to the extent feasible and reasonable in cost in relation to the size and conditions of the Olympia Quarry operations, as determined by the Planning Director, all equipment operating in these areas shall operate behind berms or that there shall be other effective screening between the Quarry operations and residential areas to the West to mitigate noise impacts on these adjacent neighbors. These mitigation measures shall be in conformance with Section 16.54.060(8) of the Mining Regulations ordinance and as required by the conditions of the permit. To the extent feasible and reasonable in cost in relation to the size and condition of the Olympia Quarry operations, as determined by the Planning Director, berms shall be 25 feet or higher and shall be designed so that equipment moving behind them will not be visible from a distance of 3000 feet or less from the West (between north 45 degrees West and South 45 degrees West) at any point. Berming shall be provided for both the working faces of the Quarry and the travel routes used by internal mining equipment (scrapers, loaders, etc.) Any deviation from the approved mining progression plan, berming and screening requirements, noise containment and mitigation measures must receive written approval by the Planning Director prior to commencing operations in any area.

Mining progression plans were submitted to staff prior to moving into Area "B" and all mining operations, with the exception of some mining related traffic (scrapers, etc.), have been occurring behind sand berms for effective noise control. Complaints from neighbors regarding excessive noise from mining operations have not been received during the last eight years.

5. Within 60 days of issuance of this permit and thereafter each year, as of the annual report, a noise report shall be prepared by an independent noise/acoustical consultant employed by the permittee and approved by the County. Any draft noise report to be submitted by the consultant to the permittee as well as the final noise report shall be simultaneously submitted to the Planning Director. All costs of such reports shall be paid by the

permittee. Each report shall determine whether or not compliance with noise conditions of this permit is occurring and shall investigate and make recommendations (relative to noise mitigations) on any mining equipment to be used on the site, the noise protection berming (existing and proposed), and shall identify and make recommendations regarding any equipment which is becoming excessively loud due to age or other factors. The report shall include input from and responses to any concerned area residents relative to noise, and shall investigate and make recommendations on any other significant noise resulting from Quarry operations at the site. The permittee shall implement all recommendations of the noise consultant to the extent feasible and reasonable in cost in relation to the size and conditions of the Olympia Quarry operations, and within a reasonable timetable as determined by the Planning Director.

In addition, the first of these noise reports shall specifically include a review of all mobile mining equipment currently used on the site, including all loaders and scrapers as well as trucks using the new access road as specified in Condition III-E.2. The makes and models used shall be compared with similar equipment available from other manufacturers to determine if quieter equipment can be provided. Available noise suppression equipment shall also be investigated. Recommendations shall be made on which equipment additional noise suppression devices shall be used.

Noise reports by a qualified expert have been submitted for staff review addressing this condition. Staff has accepted these reports as adequate.

6. The permittee shall implement the following noise abatement measures as soon as possible:
 - a. Sonar activated devices as approved by jurisdictional safety agencies shall be installed for the back-up alarms on all loaders used in the Quarry operation.
 - b. A Caterpillar 980c loader or other equipment determined by the noise consultant to be equivalent or better in terms of noise reduction shall be placed in operation as the primary loader used in the Quarry operation.
 - c. Stockpiles shall be located in the Northwesterly portion of the finished product surge pile area to mitigate noise impacts of the processing plant operations on adjacent neighbors.
 - d. A quarterly inspection and maintenance program developed by the permittee and approved by the Planning Director shall be implemented for all processing equipment. Permittee shall retain for at least 2 years written records of each inspection and work performed in response to

each inspection, and such records shall be made available to the Planning Director.

Major changes to the back-up alarms were not implemented because concerns regarding compliance with Federal and State regulatory safety agencies (MSHA and CALOSHA). Instead during Quarry operations low beepers were used. The loader fleet was upgraded as needed, which also resulted in lower operating noise. The processing plant has been removed eliminating this major noise source.

B. Air Quality

1. All roads on the property shall be surfaced, treated or watered frequently enough to insure that wind and traffic generated dust will not present a nuisance to adjacent properties or public roads.

The main driveway into the Quarry is paved and unpaved roads within the site are used so infrequently that traffic-generated dust is not a problem.

2. Mining operations on exposed slopes shall be curtailed in dry periods during high wind conditions to reduce the potential of dust nuisance to adjacent properties.

Mining operations have ceased.

3. Exposed slopes shall be watered or treated in some other approved manner during periods of wind to minimize off-site dust nuisance to adjacent properties.

Revegetation is considered the current method of dust control on mined slopes. Some minor wind erosion continues on slopes along the Northeastern Quarry face, but the Quarry is not experiencing significant amounts of wind erosion or the production of dust.

4. Un-vegetated disturbed areas including interim slopes, which do not meet final contours and are not actively involved in mining activities shall be revegetated or treated by the start of the rainy season each year by a method approved by the Planning Director.

CEMEX has ceased to treat un-vegetated slopes before each winter due to their concerns about not having an HCP for the reclamation. This has resulted in some increased erosion, which remains contained within the site. Following approval of the HCP these areas will be graded and revegetated.

B. Drainage Erosion Control

1. All settling basins, drainageways, culverts, pumps, pipelines and other drainage and erosion control features (including the concrete flume to

Zayante Creek), shall be maintained as necessary to insure that they are functioning properly as designed.

Quarterly inspections show that all drainage ways and basins were maintained adequately and were functioning properly. Most of the past areas of erosion have been contained, but drainage must continue to be modified to control runoff so that new areas of erosion can be controlled.

2. Runoff originating from mined areas, stockpiles, unpaved on-site roads or other disturbed areas shall be contained on-site except where other measures are approved in writing by the Planning Director prior to implementation. Necessary measures shall be taken to insure that excessive silt does not leave the site when the existing water supply ponds overflow to Zayante Creek. Runoff leaving the site shall meet the requirements of the Regional Water Quality Control Board. To insure meeting these objectives, permittee shall allow representatives of the City of Santa Cruz access to the Quarry for water monitoring purposes.

As required by the RWQCB, the Quarry has monitored water quality. Monitoring reports indicate some minor deficiencies and exceedances of water quality standards during normal Quarry operations in the past. As a result of this monitoring no significant violations of applicable water quality standards has occurred during normal Quarry operations. The drainage system of the Quarry has been performing adequately during the last eight years. However, there has been several significant incidents involving discharge of process water to Zayante Creek as a result of failure of drainage system components (1982, 1992, 1993 and 2001). The 2001 violation was resolved with the Quarry operator paying a \$100,000 fine, which was used for environmental restoration and enhancement projects within the watershed. Water quality monitoring is not currently required because mining activity has ceased.

3. The applicant shall submit detailed engineered drainage plans showing existing, interim and final contours, proposed settling basins, swales and other drainage features together with appropriate calculations to insure compliance with this permit for Area B by December 31, 1986, and or before one year from the date of approval of this permit by the Board of Supervisors for Area A. The plans shall provide trash rack or other acceptable inlet protection for all culverts.

Plans prepared by Bowman and Williams were submitted after 1986, and these were modified over time to reflect current operating conditions. The plans were approved in 1994. These plans will require additional, but minor, modifications as part of the final contouring of the Quarry. Plans by Kane Engineering were submitted in July 2004, but these plans will require modification to reflect current conditions and County requirements. Additionally, when the HCP is approved, the plans may require changes to reflect pertinent aspects of the HCP.

4. Necessary measures shall be taken to prevent access to the site for unauthorized off road vehicles.

This is a problem that must be monitored diligently. The entire Quarry site has been fenced thus preventing access to the site to off road vehicles, and the site has had continuous monitoring by local Quarry personnel to assure that the fencing is maintained and the unauthorized access to the Quarry is discouraged.

5. Plans shall be submitted to the Planning Director for review and approval to upgrade or replace the existing concrete flume draining the site into Zayante Creek. The plans shall also provide for stabilization of disturbed areas around the flume with appropriate riparian vegetation. All work shall be completed within six months of permit issuance.

Acceptable plans were submitted and the required work was completed in 1986/87. These facilities have been maintained by the Quarry operator and inspected by County staff.

6. A qualified engineering expert with an expertise in soils, employed by the permittee and approved by the Planning Director shall make a written evaluation of the stability of the existing levee system as discussed on page 24 of the EIR and if necessary redesign the levees to improve their stability. Any draft evaluation to be submitted by the consultant to the permittee, as well as the final evaluation, shall be submitted simultaneously to the Planning Director within one year of permit issuance for review and approval. Concurrently, a plan shall be developed for erosion protection of the levee slopes in conformance with the mitigation recommendations on page 24 of the EIR. Measures required by these plans and evaluations shall be implemented within one year of approval by the Planning Director.

Geotechnical reports regarding the stability of the levees were submitted in a timely manner. These reports were reviewed and accepted by the Planning Department. There are no significant issues with the condition of any levee.

7. All drainage facilities shall be designed for a 50-year storm.

All drainage calculations supporting the above drainage plans have been designed for 50-year storm criteria.

D. Days and Hours of Operation

1. Mining, stripping and processing activities at the site shall be confined to between the hours of 6:00 am and 7:00 pm, Monday through Friday, and 9:00 am to 4:00 pm on Saturdays. Equipment maintenance shall only be conducted from 6:00 am to 10:00 pm, Monday through Friday and 6:00 am to 6:00 pm on Saturday.

The Quarry operation maintained the hours of operation. No mining, stripping, processing, or equipment maintenance activities are occurring on the site.

2. Processing activities at the site shall be confined to the hours of 6:00 am to 8:00 pm, Monday through Friday and 9:00 am to 4:00 pm on Saturdays. Between the hours of 7:00 pm to 8:00 pm, processing activities shall be restricted to the use of the stationary processing equipment and conveyors together with the use of one earthmover in the raw material surge pile area. The earthmover in the surge pile area shall be limited to an earthmover such as bulldozer or, in the event the bulldozer is inoperable or undergoing maintenance, a front-end loader.

The permittee shall conduct a test during the months of July or August, 1986, for no less than a two-week period involving the use of one earth mover in the raw material surge pile area and the stationary processing equipment and conveyors between the hours of 7:00 pm and 8:00 pm to ascertain the noise impacts of the Quarry operations between the hours of 7:00 pm and 8:00 pm on the surrounding neighborhood. The neighbors and County Planning Director shall be given at least ten days prior written notice of the dates of the test. The test shall be conducted during typical summer weather patterns. Upon completion of such test, or at any time after August 31, 1986, the County Zoning Administrator shall determine whether processing with the use of one earth mover in the raw material surge area may be allowed between the hours of 7:00 pm to 8:00 pm, Monday through Friday, either on an on-going or limited term basis without significant adverse noise impacts on the neighbors. The decision of the County Zoning Administrator shall be made pursuant to Level 5 Processing Procedures.

All of these types of activities on the site have ceased.

3. All truck shipping activities shall be confined to between the hours of 5:00 am and 8:00 pm, Monday through Friday. Conveyors, loaders and other mobile equipment shall not be used before 6:00 am. Occasional weekend and off-hour shipments may be authorized by the Planning Director upon written request and approval prior to implementation.

Trucking activities on the site have ceased.

4. Any berm construction or stripping shall be confined to between the hours of 8:00 am and 5:00 pm, Monday through Friday.

Upon resumption of reclamation, grading activities will be confined to a period between 8:00 am and 5:00 pm, Monday through Friday. Typically, reclamation will include a period of intense activity to achieve rough final grades. To achieve these grades the Quarry will retain a contractor that will pull their equipment on to the site and then leave

the equipment onsite until the work is completed. After this mass grading stage of final reclamation, reclamation activities will be similar to current site activity involving revegetation and site security.

E. Roads and Transportation

1. Graham Hill Road between Zayante Road and the City of Santa Cruz shall not be used as a haul route except in case of emergency or when making deliveries to properties along that roadway.

The Quarry has not used Graham Hill Road as a haul route.

2. Except as specified below, all vehicular access to or from the Olympia Quarry from the existing Zayante Road access shall be prohibited.
 - a. Passenger vehicles, emergency vehicles, pick-ups and two-axle trucks may continue to use the existing access on East Zayante Road to and from the Quarry.
 - b. During periods of heavy fog at the location of the new egress on Mt. Hermon Road, the existing egress on East Zayante Road may be used for double trailer sand trucks exiting from the Quarry, upon written authority to the driver from the Plant Manager, who shall also keep a signed, dated log indicating the times and dates of such granted authority.

Access via East Zayante Road has been limited to above types of traffic. Sand trucks have only rarely used East Zayante Road for exiting during periods of heavy fog.

3. The applicant shall maintain the entrance roads reasonably free of dust and debris resulting from the site operations and shall load trucks in such a manner as to minimize spillage on haul routes.

The Quarry has been keeping the new entrance road reasonably free of sand resulting from spillage. No transportation of sand has occurred for several years.

4. The applicant shall install a sign along the access road advising truck drivers of their obligation to comply with state, federal and local regulations.

The Quarry has complied with the required placement of signs.

5. Open loads of dry sand shall be wetted down as necessary prior to leaving the site to minimize dust impacts.

The Quarry has complied with this condition and no longer ships sand.

6. Off street parking shall be provided on-site for all equipment and employee vehicles.

The Quarry has complied with this condition.

F. Excavation and Grading

1. The applicant shall minimize the surface area of the Quarry, which is stripped, mined or otherwise disturbed at any given time to the greatest extent compatible with reasonable mining and marketing requirements.

During active mining the operator generally only stripped those areas that were scheduled for immediate mining operations. Mining is complete in areas B and C. It appears that mining in Area A will not occur. Final reclamation will include only those areas of the Quarry floor necessary to be disturbed to achieve an adequate final configuration.

2. In the event of a significant paleontological or archaeological find, all operations shall be halted within 200 feet of the find and the Planning Director shall be immediately notified in writing. Operations may be resumed within three working days following such notification unless the Planning Director requests in writing additional time for proper excavation of fossils or artifacts in conformance with the provisions of the County's Native American Cultural Sites or Paleontological Ordinances.

No significant paleontological or archaeological finds have been reported at the Quarry during mining operations.

3. All clearing, excavation or other disturbance shall maintain a setback from property lines as set forth on the setback map as has been prepared by the permittee and approved by the Planning Director, and the subject to the regulations of the agencies listed in Condition II-E. The setback shall be measured from property lines in a horizontal plane from the property boundary; excavations may thereby extend closer to the property line where the site rises up from the property boundary.

The Quarry has been maintaining the required setbacks except in the one area (see Exhibit C) where a survey error allowed mining into a setback and an engineered fill was placed to restore this setback. Staff verified the required setback dimensions periodically during quarterly inspections.

4. Prior to excavating, clearing, or otherwise disturbing the land within 200 feet of the site boundary, the operator shall provide survey markers at 200-foot intervals along the property line to indicate the location of the site boundary. The markers shall be maintained until a clear (readily identifiable) working

face is established at the 100 foot setback from the westerly property line of Area "A" or the approved setback from all other property lines.

The Quarry has complied with the requirement to establish survey markers for property lines for staff's verification prior to the mining of any new work-faces. Reclamation will require the confirmation of some of these survey markers, but advances in grading control should reduce the likelihood that future reclamation activities will cross over onto adjacent properties.

G. Protection of Groundwater

1. No excavation will be allowed within 10 feet of the highest seasonal groundwater level underlying a given part of the site. If the groundwater table is encountered during excavation, the Planning Director shall be immediately notified in writing to allow for possible modification of the "Final Contour Plan." Prior to excavating within 20 feet (measured vertically) of the approved finish elevations the operator shall provide survey elevation markers at 200 foot intervals along a plane 30 feet above the approved final elevations and maintain such markers until excavation is complete to facilitate inspection by the County.

During mining operations the Quarry maintained a 10-foot separation zone between highest ground water elevation and mining floor.

2. The operator shall use the two existing wells together with seismic testing for monitoring purposes, if seismic testing by the operator accurately predicts the depth (to within 1 foot +/-) of groundwater within the Quarry to the satisfaction of the Planning Director. For one month before seismic testing and until the results of the seismic testing are presented to the County, the two existing wells shall be temporarily sealed. When the County receives the seismic test results, the operator shall install monitoring holes in each of the two well caps and measure the water depth in the presence of a County representative to compare with the seismic data. A licensed surveyor or licensed engineer approved by the County will determine the elevation at the top of the two existing wells and any additional wells drilled on the site. In the event the seismic testing method does not accurately predict the depth of the groundwater, the operator shall drill two additional monitoring wells at locations to be determined by the Planning Director. The new wells shall be drilled to contact the shale layer underlying the site.

The highest seasonal depth of groundwater shall be determined pursuant to this condition before any further excavation occurs within 20 feet of the proposed final elevations shown on Figure 12 (p. 31) of the EIR. The operator shall allow the San Lorenzo Valley Water District (SLVWD) access to monitor all wells, subject to reasonable terms and conditions. All wells shall be monitored and seismic tests performed monthly for at least two years or

through one winter of above normal rainfall, whichever occurs later. Should the SLVWD not provide the monitoring, the applicant shall provide such monitoring at its own expense. All well monitoring and seismic information shall be included in the annual report to the County.

Monitoring of the wells in the Quarry produced groundwater level data, which was reported by the Quarry operator in the annual reports. Additionally, groundwater levels were verified in Area B by excavation of test pits, which were backfilled. The well in Eastern Area C was abandoned when the area began being utilized as a settling basin. Staff has utilized this monitoring information in determining the final mining floor elevation of Area "C"-East and Area B.

3. The applicant shall store and handle any petroleum products used on the site in such a manner that no contamination of ground or surface waters occur. No petroleum products may be disposed of on-site.

Compliance with this condition has been verified in the past by the Environmental Health Department. Petroleum products and other hazardous materials are no longer stored on the site.

4. Sludge or other disposal of septic waste (other than for existing on-site facilities) is not allowed under this permit.

All disposal of septic waste is in conformance with County's regulations and the Department of Environmental Health performs required inspections.

H. Signing

1. Within three months of permit issuance the signing requirements of the Mining Ordinance (Section 16.54.060(g)) shall be complied with. The property shall be posted to prohibit the use of off-road vehicles.

Required signing advising the public of active mining operations was implemented shortly after the issuance of the permit, and is appropriately maintained.

IV. RECLAMATION REQUIREMENTS

A. Revised Final Contour Plan

1. The applicant shall submit a revised final contour plan, together with cross sections as needed, for the site to the Planning Director for review and approval. The plan shall be complete and legible with a minimum scale of 1" = 200' with 10' contours. Site boundaries shall be clearly shown and APN 071-141-11 shall be deleted in conformance with the revised application. The plan shall be coordinated with and reflect the requirements of the

revegetation plan required by Conditions IV-B and the setback requirements established by Condition III-F.3.

If the setback requirements established by the County or other agencies listed in Condition II-E are changed after approval of the revised final contour plan, an updated final contour plan shall be submitted for review and approval by the Planning Director within 60 days of such change, which reflects the new setbacks and all the provisions of this Condition IV-A.

A Final Contour Plan, prepared by the Quarry's Civil Engineer, Bowman and Williams, was submitted for review and approval. The plan shows the required final contours, Quarry boundaries and reflects the requirements of the Revegetation Plan. The Final Contour Plan was approved by the Planning Department in 1994. The Quarry has been maintaining the required setbacks except in the one area (see Exhibit C) where a survey error allowed mining into a setback and an engineered fill was placed to restore this setback. Staff verified the required setback dimensions periodically during quarterly inspections. The plan includes a revised setback of 150 feet for Area "A" in accordance with the County's Mining Regulations. Quarry and County staff continue to discuss the proposed final reclamation grading with the hope that the amount of final site disturbance can be reduced while accomplishing all of the reclamation goals. Revised plans have been submitted, which will require an Amendment to the Quarry's permit, but that process should wait until the final details of the HCP are known and, if necessary, can be properly incorporated in the revised plans. It is anticipated that any final changes will be minor in scope.

The following criteria for preparation of the revised final contour plan shall be followed. Variations to these criteria which are recommended by the consultant and which are consistent with the intent of the EIR and this permit shall be considered and may be approved by the Planning Director in writing.

- a. Until reliable groundwater elevation data is compiled the plan shall utilize the shale layer elevations provided in the EIR and shall provide for a minimum thickness of sand over the Monterey Shale Formation as required by Condition III-G.2. When sufficient groundwater data is available (two years from completion of all wells) the final contour plan shall be modified to provide 10 feet of sand over the high groundwater elevations in conformance with Condition III-G.1. Should continued monitoring for any reason show peak groundwater levels to be higher than initially determined, the final contour plan shall be modified accordingly; this requirement shall not be construed as requiring the operator to fill areas mined to completion in accordance with an approved plan but shall only apply to areas not already at approved final grades.

The Final Contour Plan provides for the required setback of 10 feet between final mining floor and highest groundwater table. No adjustment has been required at this time.

- b. The plans shall provide for runoff to drain away from residences towards detention basins as shown on Figure 12 (the revised final drainage plan) of the EIR. A vegetated berm shall be provided between the silt pond and Southernmost drainage retention pond or some other method approved in writing by the Planning Director shall be provided to insure no drainage can bypass the detention basins.

The general drainage pattern has been established in accordance with this condition and will not change significantly with final grading of the Quarry floor. The approved final drainage plan incorporates all necessary requirements to assure the proper functioning of the present and final drainage system at the Quarry. The drainage system, including remaining ponds, is functioning as designed.

- c. The plan shall provide for construction of a third detention pond before operations begin in Area "A" to provide adequate storage for storm water runoff.

Mining will likely never occur in Area A.

- d. All property runoff shall be channeled into an intermediate retention basin before flowing into the final basin and into Zayante Creek.

Required intermediate and final drainage basins have been constructed and are functioning. Reclamation of the site will alter the pond system removing some and retaining others based on diminished sediment generation at the site with cessation of mining and revegetation to stabilize soils.

- e. Culverts between the two higher detention ponds and the final pond, which discharges into Zayante Creek, must be adequately sized to handle anticipated runoff. These culverts shall be protected from plugging by providing trash racks or other adequate measures approved in writing by the Planning Director. Use of lined swales should be examined as an alternative.

Proper drainage ways, a combination of lined swales and culverts, have been installed to facilitate the transfer of accumulated runoff between the drainage basins. Minor modifications will occur during implementation of final reclamation.

- f. Runoff should be routed in established drainage channels. A minimum grade of 1.5 percent shall be maintained towards the detention basins.

As discussed above, storm-water runoff is conveyed in correctly sized drainage-ways meeting the above standard.

- g. The ponds must be maintained and evaluated at yearly intervals for a minimum of three years after cessation of operations or three years after excessive siltation has stopped, whichever is later. The Planning Director shall be responsible for reviewing the project at the end of three years, or once excessive siltation has stopped to determine when maintenance of the detention ponds can be terminated. The bond required by Condition II G of this permit shall remain in effect until the required maintenance operation is complete.

Siltation continues on the site and until the final grading and related revegetation occurs this condition will remain in affect. The three-year period will start after the implementation of all final grading, and the observed cessation of excessive siltation.

- h. In areas where drainage swales are intercepted by cut slopes, catch basins with outflow pipes shall be installed. Other equivalent methods may be approved by the Planning Director in writing.

These types of drainage controls have been installed and are monitored for effectiveness. Field modifications are made on occasion based on observations made during site inspections. This will continue until the final drainage system functions well enough that only minimal monitoring and maintenance is required.

- i. Ditches shall be constructed at tops of cut slopes and drained to flat areas below using culverts. Other equivalent methods may be approved by the Planning Director in writing.

The drainage system incorporates this measure as needed.

- j. High cut slopes shall be benched at not to exceed 60-foot vertical intervals. Cut slopes above benches shall be at 1.5:1 slope or shallower. Benches shall have inboard ditches drained by culverts carrying runoff to the bottom of the slope. Other equivalent methods of ditch protection and down-drains may be approved by the Planning Director in writing.

Discharge areas must be protected from scour with some type of energy dissipater. Benches shall be 15 feet wide (minimum). Ten percent (10%), or more, if required by the revegetation plan, of the slopes in Areas "B" and "C" shall be covered with jut netting to reduce erosion of the long slope faces. (Jute netting and slopes used in the Sand Parkland Revegetation Program shall not be considered in determining the foregoing 10% jute netting requirement.)

The final slopes have been graded appropriately and 15-foot wide benches have been installed at the required 60-foot vertical interval. Revegetation and erosion control is occurring in Area "B" and "C" and has been increasingly successful in controlling erosion. New drains have been placed as necessary to control erosion rills.

After the last review by the Planning Commission, staff identified several areas where bench construction produced vertical cuts adjacent to the inside slopes of the benches. Corrective measures will be necessary to increase the stability of these slopes, and this work may include grading, soil nails, and retaining walls. If the work will have a significant visual impact then the Planning Commission will be advised of the work so that the Commission can have the opportunity to determine if a permit amendment is necessary.

- k. All drainage facilities shall be designed for a 50-year storm.

Drainage facilities have been designed for the 50-year storm occurrence.

- l. All re-contouring and revegetation efforts shall be phased to commence immediately upon completion of Quarrying activities in any given area.

This has occurred on the Quarry slopes, but has not occurred on the Quarry floor due to the presence of federally protected species.

B. Revised Revegetation Plan

1. A revised revegetation plan shall be submitted for review and approval by the Planning Director, prepared by a qualified independent biologist employed by the permittee and approved by the Planning Director who has a demonstrated knowledge of plant communities, unique to Santa Cruz County. Any draft plans or draft reports to be submitted by the consultant to the permittee, as well as the final plan and reports, shall be submitted simultaneously to the Planning Director. All cost of the revegetation plan and required yearly report shall be paid for by the permittee. The plan shall consist of an overlay to the final contour plan required in Condition IV-A showing the types of biotic communities to be re-established on all parts of the site. In addition, a written report shall be prepared which develops a detailed replanting plan for each of the communities, which specifies the methods of planting together with the types and densities of plants to be used. Types of soil treatment required shall be specified. The revised plan shall incorporate the recommendations of the plans and reports required in Condition IV-C. The plan shall be implemented under the direct ongoing supervision of the biologist. The biologist shall prepare yearly reports to the Planning Commission describing progress made in implementing the revegetation plan, describing the degree of success achieved and identifying any plan changes which may improve results. If the setback requirement established by the County or other agencies listed in Condition II-E are changed after approval of the revised revegetation plan, an updated revegetation plan shall be submitted for review and approval by the Planning Director within 60 days of such change, which reflects the new setbacks, the updated final contour plan and all the provisions of this Condition IV-A.

An amended Revegetation Plan was submitted by the Quarry (Greening and Associates 1995) and was reviewed and approved by the Planning Department as required in the 1994 Quarry Planning Commission review. A description of the status of the revegetation project is included in the staff report.

The following criteria shall be followed in preparation of the plan. Variations to these criteria which are recommended by the biologist and which are consistent with the intent of the EIR and this permit may be approved by the Planning Director in writing.

- a. The plan shall utilize native seeds, volunteer seedlings and transplants from onsite to ensure genetic continuity (see plant list, Appendix EIR.) Seedling transplant and topsoil from future Quarry areas shall be used for reclamation.

The Revegetation Plan utilizes the collection of native seeds to ensure genetic continuity.

- b. Non-native invasive shrub and tree species shall be removed from the site in an ongoing program to be described in the revised Revegetation Plan.

The removal of non-native plants has been incorporated into the amended Revegetation Plan and their removal is an ongoing process at the Quarry. More recently the Quarry has stopped removing non-native plants from the Quarry floor because of the presence of federally protected insect species and a desire by CEMEX to have authorization from the USFWS prior to removal operations. The USFWS is aware of the issue and has made several site visits. Approval of the HCP and issuance of an Incidental Take Permit by the USFWS will allow removal of non-native species as part of mass grading of the Quarry floor. The revegetation consultant is able to control invasive shrub and tree species in all the revegetation areas on the slopes. Non-native, invasive grasses, however, cannot reasonably be controlled.

- c. Native herbaceous plant species shall be replanted in random associations in the flat central portion of the site, subject to a determination of appropriate final land use(s). Emphasis should be placed on planting large areas of Type 1 a Sand Parkland to ensure the highest possible likelihood of establishment of this habitat type.

The plan provides for the planting of the flat mining floor areas with herbaceous plant species. However, implementation of the planting scheme must wait until after final reclamation grading. This grading waits on final action from the USFWS as described above.

- d. Commercial sources of "native" plants or seeds should be avoided. Commercial seed purchases shall be limited to annual grasses, clover and vetch.

Revegetation avoids the use of commercial native plants or seeds.

- e. The plan shall provide for stockpiling topsoil from all new Quarrying areas to preserve seeds and nutrients located in the soils and enhance revegetation. Stockpiled soil should be spread evenly over re-contoured portions of the site before revegetation efforts begin.

Topsoil has been stockpiled and has been reapplied over mined areas prior to the commencement of revegetation efforts.

- f. The plan shall utilize a mixture of trees, shrubs, and herbs/grasses from onsite sources to more closely duplicate existing and adjacent vegetation cover (reducing watering and fertilization costs and creating a more varied vegetation mosaic.) Tree and shrub species should include only those native to the site (for example, Ponderosa Pine, Madrone, Douglas Fir, Redwood, Coast Live Oak, Silver Leaf Manzanita; see Plant List, Appendix of the EIR.) Wherever feasible seeds should be collected from plants already on the site.

The Plan utilizes a mixture of trees, shrubs, and herbs/grasses from onsite sources as required in this condition.

- g. Since the water supply will be permanently altered, the plans shall allow natural succession to occur in the drainage detention basins. Natural riparian plant succession should be allowed to occur on the abandoned silt ponds as these are phased out from Quarrying activities.

The final drainage plans indicate that ponds in the South portion of the site will be eliminated and the drainage pattern will flow towards the North portion of the site where several ponds will remain to control runoff and prevent sediment movement off-site and into Zayante Creek. Natural riparian succession will occur in the remaining ponds.

- h. The plan shall maintain as much diversity in final vegetation mix as possible. Particular attention must be given to providing shrub and groundcover, which are important food sources. Since Monterey Pine and Monterey Cypress provide minimal food sources for wildlife, the plantings of these species should be eliminated or kept to a minimum consistent with other priorities (i.e., erosion control, maintenance of visual values.) Ponderosa Pine, Coast Live Oak and Madrone are preferable for maximum wildlife value.

The Plan provides for the desired diversity of planting through the use of mixed

evergreens, ponderosa pines and herbaceous shrubs. The amended Revegetation Plan (Greening & Associates 1995) recognizes the concern for appropriate diversity. Diversity is currently being monitored and is not achieving the amended Revegetation goals. Adjustments are being made to improve diversity, but diversity is dependent upon time and site conditions. Diversity goals have been adjusted during reclamation. This type of adaptive management has become the standard for similar Quarry reclamation.

- i. All revegetation efforts shall be phased to commence immediately upon completion of Quarrying activities in any given area. Revegetation of the flat portion of the site shall proceed pending final determination of appropriate future land use. The plan shall include a phasing schedule with final dates for the completion of revegetation in the various portions of the site.

The schedule shall provide that a) Areas "C" East and "C" West be 100% planted in accordance with the plan prior to initiating stripping or mining in Area "A" or by 1990 whichever comes first; b) Area "B" shall be 100% planted in accordance with the plan, and 4.5 acres of Area "B" and/or Area "C" shall be re-vegetated in conformance with the criteria listed in Condition IV-C-1 before the last 33% of Area "A" is stripped and mined; c) Sand Parkland community shall be established in conformance with the schedule in Condition IV-C-1.

Revegetation has been phased with mining progression. The Quarry floor phase of planting has been delayed as described above. Areas B and C have been planted. It is unlikely that Area A will be mined.

- j. The plan shall incorporate existing information available on revegetation of Santa Margarita soils including that listed on page 42 of the EIR.

The 1995 amended revegetation plan incorporates all available information regarding the revegetation of the Santa Margarita soil formation. Mined slopes are cut into sandstone and are therefore quite difficult to revegetate due to slope steepness, slope length, compaction of substrate, lack of topsoil, and windy conditions.

- k. In the event the County's Mining Regulations in County Code Chapter 16.54 are amended to require revised final contour and revegetation plans if the Quarry activity should be abandoned or substantially reduced, then the same requirement shall thereafter apply to this permit.

The County Mining Regulations have not been amended to add such a specific provision. However, revised final contour plans have been submitted indicating minor revision in final grading and drainage on the Quarry floor and no mining in Area A. These plans are under review by the Planning Department concurrent with the HCP process and approval of these plans will be considered after the HCP process is

completed.

2. The permittee shall remove and stockpile the top 12 inches of material (topsoil, silty sand and vegetation), or such other amount as determined by the approved revegetation plan, from all the portions of Area "B" (except the 2.7 acres identified in Condition IV-C-5) before mining these areas for later use in re-vegetating the site.

Topsoil has been stockpiled and has been reapplied over mined areas prior to the commencement of revegetation efforts.

C. Rare and Endangered Plants

1. A revegetation plan to establish a minimum of 4.5 acres of as nearly as possible type "1-A" Sand Parkland community on the final slopes of the east ridge of Area "C (East)" and the eastern final slope of Area "B", shall be submitted to the Planning Director for review and written approval. If the Planning Director, based on the advice of the implementing botanist, determines that 4.5 acres of suitable area is not available, as many acres as possible shall be re-established; however, in no case shall less than 3.0 acres be re-established. If less than 4.5 acres is established in conformance with the above criteria, the operator shall, within 12 months of the Planning Director's determination, provide a prorated contribution of \$27,000.00 per acre to the Planning Director for each acre (or portion thereof) under 4.5 acres not established. The plan shall be prepared and implemented by the botanist or biologist employed by the Permittee as required by Condition IV.B. Any draft plan to be submitted by the consultant to the Permittee as well as the final plan, shall be submitted simultaneously to the Planning Director. All cost of preparing the revegetation plan, required reports and plan implementation shall be paid by the Permittee. The plan shall be implemented as rapidly as possible; however, implementation shall not exceed the following time line: within 1 year - ½ acre shall be revegetated; each subsequent year one-half additional acre or more of Sand Parkland shall be planted, until a full 4.5 acres or more is revegetated.

Except as expressly approved by the Planning Director in the Revegetation Plan, no further grading or disturbance shall be permitted in portions of Area "C" containing rare and endangered plants. In no case shall further grading occur within 50 feet of the Eastern permit and/or property boundary in Area "C" except as required to prepare the area for planting.

Any funds paid by the Permittee under this condition shall be deposited in the Sand Parkland Community Trust Fund to be established within the Santa Cruz County Fish and Game Budget Unit for the explicit and sole purpose of preserving or enhancing Sand Parkland.

Re-establishment of Sand Parkland habitat was determined by the Planning Department to be unsuccessful.

2. In the event of failure to restore the Sand Parkland community pursuant to Condition IV.C.1 to the satisfaction and written approval of the County prior to the end of eight years from the date of permit approval, the Permittee shall pay to the Planning Director a total amount of \$120,000 within one year of final determination of failure to establish the above stated habitat less any sums paid under paragraph IV. C.1. If revegetation of the Sand Parkland Community is determined to have failed under Condition C.2, a revised overall revegetation plan shall be submitted by the applicant within 120 days of such determination in conformance with Condition IV. B.

The re-establishment of Sand Parkland habitat was unsuccessful and the Quarry paid a \$120,000 offset fee as required by this condition. Payments were made in August 1998, September 1997, July 1996 and September 1995. This money was used to help preserve off-site Sand Parkland.

3. A detailed Biotic Management Plan shall be prepared by the qualified biologist, employed by the Permittee and approved by the County as required in Condition IV. B., to define exact boundaries and location of affected rare plants, transplanting requirements and capabilities, habitat requirements, (exposure, water, soil composition, soil etc.), areas of the site most suitable for replanting, stockpiling strategies for seeds and plants and long-term management strategies (controlled burns, elimination of invasives, etc.) The plan shall be submitted to the Planning Director for review and written approval within one year of permit acceptance and shall be incorporate in the site revegetation plan after final approval.

A biotic management section has been incorporated into the approved Revegetation Plan.

4. In addition, a supplement to the plan required in IV. C. 3 above shall document individual species in Area "A" through one or more yearly cycles before this area is quarried. Documentation should be done by photographs and voucher collections of specimens for herbaria.

It is unlikely that mining will commence in Area A.

5. The biologist, employed by the Permittee and approved by the County as required in Condition IV.B. shall review the study being commissioned by the USFWS, as well as any future studies, of the butterfly species located on the Quarry property. The biologist shall develop and incorporate feasible and reasonable recommendations in relation to the size and conditions of Olympia Quarry to preserve and re-establish the butterfly habitat to the extent that the butterfly is determined to be rare or unique.

The butterfly observed at the Quarry and in the general vicinity was determined not to be the rare and endangered Smith's Blue Butterfly and the USFWS did not proceed with any studies regarding this butterfly species. However since the approval of this permit, two additional insects species have been listed as endangered by the USFWS: the Mount Hermon June beetle and the Zayante band winged grasshopper. Mining of Area A and reclamation disturbance will require an HCP approved by the USFWS.

D. General Reclamation Conditions

1. Within 90 days of permit issuance the Permittee shall enter into a contract with the scope for work provided by the County Planning Director for the services of a qualified biologist as required in Conditions IV.C to direct, report on, and perform as necessary the approved Revegetation Plan. The Permittee shall fully cooperate with the biologist in this endeavor.

The Quarry obtained the services of a qualified biologist, approved by the Planning Department.

2. Reclamation shall be concurrent with Quarrying as approved in the revised revegetation and final contour plans.

Reclamation of mined areas was concurrent during various mining phases, but has been delayed on the Quarry floor after it was determined that on the Quarry floor where major grading must take place federally protected insect species are present.

3. A revised phasing map shall be submitted which reflects Conditions IV. A, B, C.

Appropriate maps have been submitted.

4. All revised maps, plans, and reports required by conditions of Section IV "Reclamation Requirements" of this permit shall be submitted for review on or before one year from the date of approval of this permit by the Board of Supervisors, unless otherwise stated in this permit. Upon written response from the County, the Permittee shall have 30 additional days to make necessary corrections and additions and submit an acceptable final product for review and final written approval by the Planning Director. Upon receipt of any plans, reports, maps, or other submittals requiring a response by the County, the County shall have 30 days within which to approve or reject the submittals. In the event the submittals are not approved within 30 days, the County shall within the thirty days provide a written response indicating the requested corrections or additional information which is required.

All revised maps, plans, and reports required by conditions of Section IV "Reclamation Requirements" of this permit have been submitted, reviewed and approved by the

Olympia Quarry Permit Review
July 22, 2009

Planning Department.

Conditions Applied to the Quarry During the 1995 Planning Commission Review

1. By June 15, 1994, the Quarry shall have executed a contract with the County regarding the payment of the sum of \$120,000.00 to the County to be used for the enhancement and restoration of Sand Parkland Habitats.

The contract was executed in a timely manner.

2. By June 15, 1994, the Quarry Operator shall submit for staff review a revised Revegetation Plan incorporating the discontinuance of the Sand Parkland revegetation efforts.

A revised Revegetation Plan was submitted in a timely manner, reviewed and approved by the Planning Department.

3. By June 15, 1994, the Quarry shall submit an application for a permit amendment to permit the phased payment of \$120,000.00.

A permit amendment was approved to permit the phased payment.

4. During periods of discharge of water from the Quarry site, monthly water monitoring results shall be submitted by the Quarry to the Planning Director for evaluation. If the Planning Director finds it necessary to ensure the monitoring, the Planning Director may require an independent water quality consultant, approved by the Planning Director, and retained by the Quarry, to evaluate the monitoring process in a written report to be submitted to the Planning Director. Recommendations of such report, if approved by the RWQCB, shall become permit conditions.

County staff has reviewed the required water quality reporting and did not determine that a review of the reports by an independent consultant was necessary. The Quarry has maintained good water quality in all of its discharges, except for one major incident caused by human error. Since mining has ceased, inspection of the site and review of water quality monitoring information indicates that future problems with water quality are unlikely to occur.

5. By June 15, 1994 the required recordation of a form regarding revegetation responsibility shall be completed.

The required form was recorded in a timely manner.

Conditions Applied to the Quarry During the 2000 Planning Commission Review

1. Within four months of the completion of the five-year review, the Quarry's California Registered Civil Engineer(s) must examine, map and provide a written report on the completion and function of the existing drainage system. The report must document the existing conditions and will include recommendations for improvements and repairs, if necessary. In consultation with the Quarry's California Registered Civil Engineer(s), and with the written approval of the County, the Quarry will implement the findings of the Quarry's California Registered Civil Engineer during the next 12 months. During the six months after implementation the Quarry's California Registered Civil Engineer will evaluate performance of the improvements and for further modifying the Quarry's drainage plans and slopes.

The Quarry has hired Kane Engineering and they have recommended several discreet slope stabilization and drainage control projects, which were implemented before the need for an HCP forced cessation of major ground-disturbing activities. Kane Engineering has also prepared revised plans that address the final drainage system and final grading contours. An Amendment to the Quarry's permit is required to approve changes to the final drainage system and final contours. The revised plans are under review by the Planning Department concurrent with the HCP process and final Planning Commission approval of these plans will be considered as soon as the outcome of the HCP process is more certain. Full implementation of the remaining aspects of the plan will need to wait for the approval of the HCP.

2. The Quarry revegetation specialist must provide a report by the fourth quarterly inspection of 2001 summarizing the schemes proposed to reach the revegetation diversity goals.

This report was submitted in a timely manner and this issue has been addressed consistently in each annual report on revegetation activities. The revegetation consultant has made diligent efforts to meet diversity goals and diversity has improved. Based on recent monitoring results, alternative native species have been included in the revegetation efforts to substitute for original species that have not been successfully reestablished.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION**

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 78-0674 (as amended)

Assessor Parcel Number: 070-231-22, 070-341-01, 071-111-22, 071-141-06, 071-212-10, 071-231-07 & -08

Project Location: 7450 E. Zayante Road, Felton

Project Description: Review of Mining Approval and Certificate of Compliance 78-0674 (as amended) for the Olympia Quarry for compliance with Conditions of Approval.

Person or Agency Proposing Project: Cemex dba Lonestar California LLC

Staff Contact and Phone Number: David Carlson 454-3173

- A. The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

- E. **Categorical Exemption**

Specify type: Class 5: Minor Alterations to Land Use Limitations

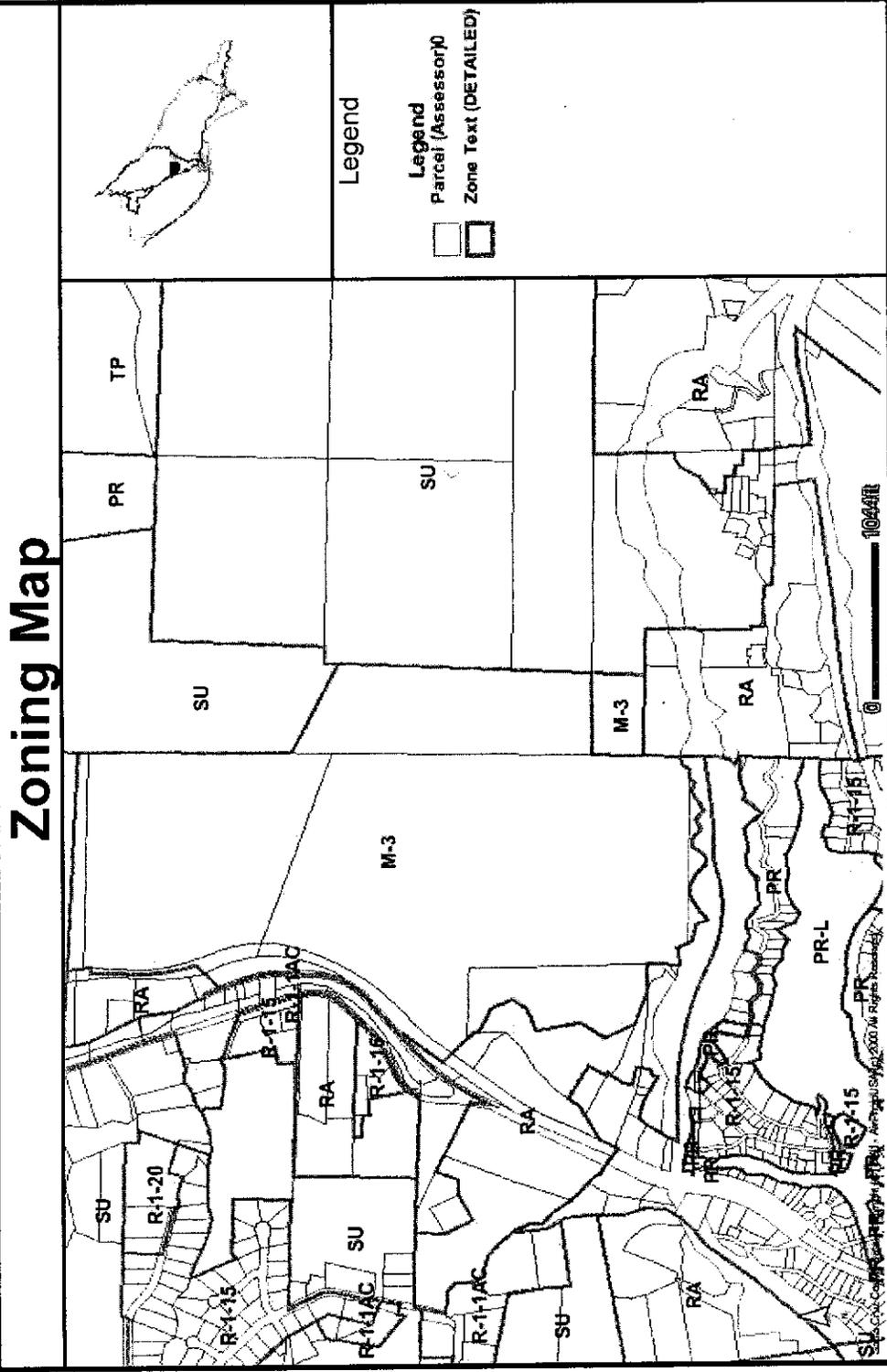
- F. **Reasons why the project is exempt:**

Staff Planner: _____ Date: July 22, 2009

Olympia Quarry Map







General Plan Map

