



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: DECEMBER 16, 2019
TO: HONORABLE BOARD OF SUPERVISORS
FROM: DEPARTMENT OF PLANNING AND BUILDING SERVICES
SUBJECT: ORDINANCE AMENDMENT (OA 1-2007), REZONE (R 4-2011), AND USE PERMIT AND RECLAMATION PLAN RENEWAL (UR 19-83/2005)

OWNER: FRANK DUTRA
PO BOX 1566
WILLITS, CA 95490

APPLICANT: NORTHERN AGGREGATES, INC. ("NAI" or "the Applicant")
100 NORTH PINE STREET
UKIAH, CA 95482

REQUEST: Ordinance amendments to the County's Zoning Code (Division 1 of Title 20 of the Mendocino County Code) creating a new Mineral Processing Combining District (MPCD) allowing for the processing of mineral resources near the site of extraction (OA 1-2007); and; a concurrent rezone adding the combining district to an 18-acre portion of a larger property which includes an active hillside quarry to accommodate a proposed onsite asphalt plant (R 4-2011). Also requested is a Use Permit and Reclamation Plan Renewal (UR 19-83/2005) to allow: (1) extraction and processing of 200,000 cubic yards ("cy") of aggregate onsite per year for a 30-year period, (2) production of up to 58,280 cubic yards (150,000 tons) of asphalt per year, (3) nighttime operations up to a maximum of 100 nights per year, and (4) adoption of an associated revised reclamation plan.

LOCATION: The Project site includes APNs 147-140-07, 147-180-13, and 147-180-08. Harris Quarry is located immediately west of Highway 101 near the top of the Ridgewood Grade (at mile marker 40.77). The proposed asphalt plant site is located immediately south of Black Bart Drive (County Road no. 370), about 2,000 feet west of the intersection of Black Bart Drive with Highway 101.

TOTAL ACREAGE: County Code Amendments: Countywide excluding the Coastal Zone

Rezone: 18±acres

Use Permit and Reclamation Plan Renewal/Modification Disturbed Area: Approximately 44.9 acres of a 320-acre property (39.8 acres for the quarry and asphalt plant and 5.1 acres of offsite mitigation)

GENERAL PLAN: Rangeland

ZONING: Rangeland - 160 acre minimum (RL 160)

ADJACENT ZONING: North: Rangeland - 160 acre minimum and General Commercial with a Community Character combining district (RL 160 & C2(CC))
East: Rangeland - 160 acre minimum (RL 160)
South: Rangeland - 160 acre minimum (RL 160)
West: Rangeland - 160 acre minimum and Rural Residential - 5 acre minimum (RL 160 & RR 5)

EXISTING USES: Rock Quarry, Rangeland

SURROUNDING LAND USES: North: Commercial, Rangeland
East: Highway 101, Rangeland
South: Rangeland
West: Rangeland

SURROUNDING LOT SIZES: North: 4 - 142± acres
East: 33 - 38± acres
South: 80± acres
West: 80± acres

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: The Department of Planning and Building Services is the lead agency for the project and a 2019 Revised Draft Environmental Impact Report ("2019 RDEIR") was circulated and made publicly available from August 28, 2019 to October 15, 2019. A Final Environmental Impact Report ("2019 FEIR") was released on December 6, 2019.

STAFF PLANNER: JULIA ACKER KROG

PROJECT BACKGROUND: The Harris Quarry Use Expansion Project ("Project") concerns the expansion of an existing 11.5-acre quarry that has been mined since the 1920s and officially permitted since 1983. NAI currently extracts aggregate from the quarry. The Project would allow the Applicant to continue to mine the existing quarry and expand the quarry to the north and to the west. In all, the existing 11.5-acre quarry would be expanded to a final size of about 30.6 acres. The Project would also allow the construction and operation of an asphalt processing facility. Access and processing would result in the development of an additional 9.2 acres. Offsite mitigations comprise an additional 5.1 acres. The total property includes APNs 147-140-007, 147-180-013, and 147-180-008, constituting approximately 320 acres.

Project development has been contemplated since the mid 2000's but was stalled due to revisions to the Project description and litigation. This memo is intended to provide background of the events leading to the Project as proposed, to inform the public and County decision makers as to the details of the Project proposal, and to set forth the rationale for the Staff's recommendation to approve the Project.

On March 22, 2012, the Mendocino County Planning Commission recommended the Board of Supervisors approve the Ordinance Amendment (OA 1-2007) and Rezone (R 4-2011). On April 10, 2012, the Board of Supervisors adopted the recommendation of the Planning Commission and approved Ordinance Amendment (OA 1-2007) and Rezone (R 4-2011), which consisted of five ordinances (Ordinances no. 4292 through no. 4296) and certified the environmental impact report (EIR), and adopted a statement of overriding considerations, prepared for the Project. On May 17, 2012, the Planning Commission approved the Use Permit and Reclamation Plan Renewal (UR 19-83/2005). On June 19, 2012, the County Board of Supervisors denied an administrative appeal from the Planning Commission's May 2012 approval of the Use Permit and Reclamation Plan (UR 19-83/2005) filed by Keep the Code, Inc. and approved the Use Permit and Reclamation Plan (UR 19-83/2005).

Certification of the EIR must be vacated as a result of litigation. As described in more detail below, the court ruled that the County's determination that Project Alternatives 4 and 5 were infeasible was not supported by substantial evidence and directed reconsideration of those alternatives. Accordingly, the rescission and reapproval of the certification of the EIR, Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and Use Permit and Reclamation Plan Renewal (UR 19-83/2005) are being presented for the Board's consideration.

The following is a more detailed timeline of events:

June 1983 – The Planning Commission approved Use Permit U 19-83 allowing for the extraction of up to 10,000 cy of rocks per year for a 20-year period from Harris Quarry.

July 1990 – The Planning Commission approved Use Permit Modification UM 19-83/90, allowing for an increased rate of extraction and processing (crushing and screening) of up to 50,000 cy of rock per year for a five-year period. The Planning Commission also allowed a one-time extraction rate of 125,000 cy with the total amount not to exceed 325,000 cy for the term of the permit.

July 1995 – The one-time extraction rate Use Permit Modification UM 19-83/90 expired.

January 1997 – The Planning Commission approved a Use Permit and Reclamation Plan UR19-83/95, allowing for the extraction and processing of up to 75,000 cubic yards of material for 10 years.

September 2001 – The County administratively approved a minor modification to the 1997 Use Permit and Reclamation Plan to allow for the addition of a wash plant to the daily operations at Harris Quarry.

November 2004 – The Planning Commission denied an application for permanent asphalt plant on North State Street in general industrial zoning.

January 2005 – NAI applied for the renewal of the existing use permit and reclamation plan. This application sought to mine the quarry until the material was exhausted and is referenced as the “End of Quarry Life” application. This was application UR19-83/2005. The use permit and reclamation plan renewal associated with the proposed ordinance amendment was originally intended to correspond with approval of the County initiated Ordinance Amendment (OA 1-2005).

May 2005 - The Planning Commission recommended, pursuant to County initiated Ordinance Amendment (OA 1-2005), that the Board adopt a mitigated negative declaration approving the amendment allowing for permanent concrete and/or asphalt facilities to be located near the Harris Quarry site.

June 2005 – The Board of Supervisors denied the County-initiated Ordinance Amendment (OA 1-2005), without prejudice, partially on the grounds that the application could potentially require an EIR. NAI then proposed further amendment to the ordinance, which resulted in the promulgation of Ordinance Amendment OA 1-2007. This proposal included asphalt and concrete batch plants, as well as a request for the annual extraction of rock at a rate of 200,000 cy for approximately 90 years (“End of Quarry Life” timeframe), or until the total estimated quantity of material was extracted.

August 2005 – It was determined that an EIR would be required for the Project.

November 2006 - The County issued a Notice of Preparation for an EIR for the “End of Quarry Life” Application.

January 2007 – Use Permit and Reclamation Plan UR 19-83/1995 expired. County policy allows for the continuation of activities beyond the date of expiration as long as the operator continues to show good faith efforts in renewing a permit for a given use. In such cases, operations are allowed to continue subject to the provisions and conditions of the expired permit.

November 2007 – The County completed a Draft EIR for the “End of Quarry Life” Application in December of 2007 (“2007 DEIR”). Prior to completion of a final EIR, the Applicant requested that the Project be placed on hold until revisions could be made addressing certain concerns raised during the process.

January 2010 – The County received a new project description from NAI downsizing the original project. As a result, a revised draft EIR was released to analyze the downsized project. The

primary changes were the scaling back of the requested timeframe to a 30-year permit (from the original 90-year “End of Quarry Life” proposal), elimination of the concrete batch plant facility, and a reduction in the maximum annual production rate of asphalt from 250,000 tons per year to 150,000 tons per year. The proposed ordinance amendment remained as part of the Project to allow for the asphalt processing plant, which was retained in the request.

May 2011 – The Revised Draft EIR (“2011 RDEIR”) was released for public review, and two hearings were held before the Planning Commission (June 16, 2011 and July 21, 2011), taking public comment on the document.

February 2012 – The 2012 FEIR (SCH# 2006112087) was released. (The 2011 RDEIR and 2012 FEIR shall collectively be referred to as the “2012 EIR.”)

March 2012 – The Planning Commission recommended the County Board of Supervisors approve the Ordinance Amendment (OA 1-2007) and Rezone (R 4-2011) with minor revisions to proposed Mendocino County Code section 20.134.005.

April 2012 – The County Board of Supervisors adopted the recommendation of the Planning Commission and certified the 2012 EIR (Resolution no. 12-065) and approved Ordinance Amendment (OA 1-2007) and Rezone (R 4-2011), which consisted of five ordinances, Ordinance no. 4292 through no. 4296.

May 2012 – The Planning Commission approved Use Permit and Reclamation Plan (UR 19-83/2005).

May 2012 – Keep the Code, Inc. filed a Petition for Writ of Mandate against the County and NAI challenging the adequacy of the 2012 EIR.

June 2012 – The County Board of Supervisors denied an administrative appeal from the Planning Commission’s May 2012 approval of the Use Permit and Reclamation Plan (UR 19-83/2005) filed by Keep the Code, Inc. and approved the Use Permit and Reclamation Plan (UR 19-83/2005).

November 2013 – The Superior Court of Mendocino County ruled that the County’s rejection of Alternatives 4 and 5 was not supported by substantial evidence. The court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. (*Keep the Code v. County of Mendocino* [Judgment Granting Petition for Writ of Mandate November 14, 2013, SC UK CVPT 1260196].) In all other respects, the trial court upheld the adequacy of the County’s 2012 EIR.

December 2018 – The First District Court of Appeal’s decision affirming the trial court’s decision became final. In the decision, the court held that “the EIR was sufficient for its required purposes, except to the extent noted as to the consideration of two alternatives [Alternatives 4 and 5] to the project.” (*Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub.opn].)

February 2019 – The time to file a petition for review of the First District Court of Appeal’s decision with the California Supreme Court ran, no petition was filed, and the First District Court of Appeal issued a remittitur to the trial court.

June 2019 – The Board of Supervisors approved a request by the Applicant for the Board of Supervisors to have direct review of actions related to compliance with court decisions regarding the County’s 2012 approvals for the Harris Quarry expansion and proposed asphalt plant, pursuant to Mendocino County Code section 2.54.010.

August 2019 – Following submission of an economic feasibility analysis of Alternatives 4 and 5 by the Applicant, the County prepared the 2019 RDEIR (SCH #2006112087), which the County released for public comment from August 28, 2019 to October 15, 2019.

October 2019 – The 45-day review period for the 2019 RDEIR closed on October 15, 2019. Prior to the close of the review period, on October 7, 2019, the County held a public meeting to receive public comment on the 2019 RDEIR.

December 2019 – The 2019 FEIR was released. (In this staff report, the 2019 RDEIR and 2019 FEIR shall collectively be referred to as the “2019 Revised EIR,” and the 2012 EIR as supplemented by the 2019 Revised EIR shall be referred to as “the EIR.”)

PROJECT DESCRIPTION

The Project pertains to the establishment of a Mineral Processing Combining District and rezone of property to include the Mineral Processing Combining District and the proposed expansion of the existing Harris Quarry plus the construction of an asphalt processing facility at the quarry. Entitlements for the Project include the following:

- Amending the Mendocino County Zoning Code to create a Mineral Processing Combining District (MPCD) (OA 1-2007).
- Rezoning 18 acres of APN 147-140-07 (R 4-2011) to add the MPCD, allowing processing of aggregate for the length of the use permit. The Applicant volunteered to include a condition of approval requiring the Applicant to submit an application to remove the MPCD overlay zoning (RL 160:MP) and revert the 18 acres back to Rangeland zoning (RL 160) after expiration of the use permit.
- Use Permit and Reclamation Plan Renewal (UR 19-83/2005) to allow:
 - Extraction and processing of 200,000 cy of aggregate onsite per year for a 30-year period (an increase from current limit of 75,000 cy annually);
 - Production of up to 58,280 cy (or 150,000 tons) of asphalt per year;
 - Nighttime operations up to a maximum of 100 nights per year; and
- A revised Reclamation Plan that directs how the site will be reclaimed at the end of the use permit.

The Applicant has identified five project objectives:

1. Renew the quarry operation for a period of 30 years;
2. Increase the maximum allowable extraction volume from 75,000 cy per year to 200,000 cy;
3. Add a new asphalt processing facility;
4. Have the new processing facility located close to the quarry site and market demand; and
5. Locate the Project between Willits and Ukiah, felt to be the primary area of aggregate consumption in the County.

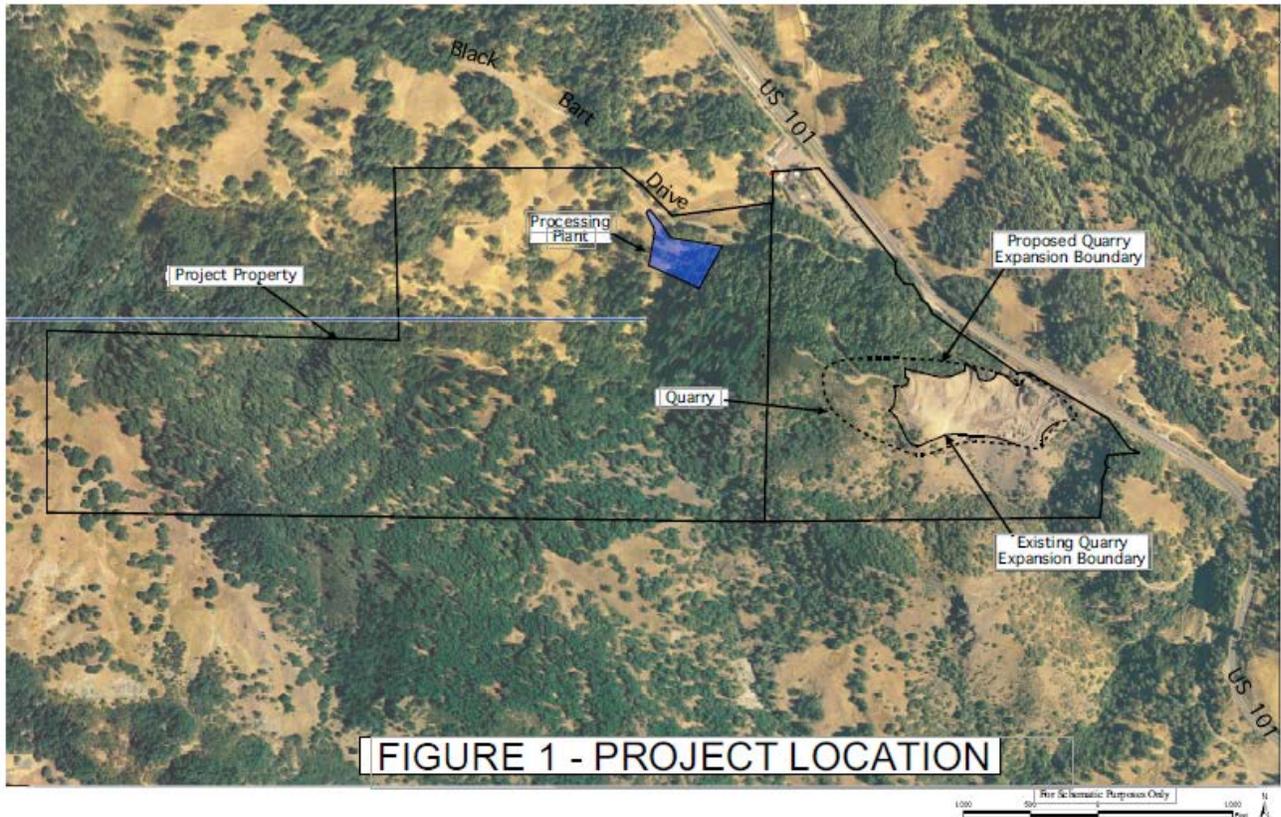
Ordinance Amendment (OA 1-2007) creates a new Mineral Processing Combining District (MPCD), which will allow for the processing of mineral resources near the site of extraction. The other zoning ordinance amendments are necessary for consistency within the County’s Inland Zoning Code. Rezone (R 4-2011) will permit the rezone of 18 acres of APN 147-140-07 to Rangeland with a Mineral Processing Combining District (RL 160:MP) to allow the construction and operation of the proposed onsite asphalt plant with approval of the Use Permit and Reclamation Plan Renewal (UR 19-83/2005).

The proposed ordinance amendment OA 1-2007 would apply to areas within the Rangeland (R-L) zoning district of the portion of the County subject to the Inland Zoning Code (Division I of Title 20) that are within one-half mile of a legally established and active mining or mineral extraction operation. The MPCD does not apply in the Coastal Zone and cannot be applied to special flood hazard areas subject to the County Floodplain Ordinance (Chapter 22.17) or lands within an Agricultural Preserve.

The Project would allow the Applicant to continue to mine the existing quarry and expand the quarry to the north and to the west. In all, the existing 11.5-acre quarry would be expanded to a final size of about 30.6 acres. An additional 9.2 acres would be developed for access and processing, and 5.1 acres would be disturbed to provide mitigation proposed to address project impacts. Quarrying would use the same techniques and equipment currently used at the site.

As proposed, the Ordinance Amendment (OA 1-2007) and Rezone (R 4-2011), and the Use Permit and Reclamation Plan Renewal (UR 19-83/2005) have not substantively changed from the versions previously considered by the Planning Commission and adopted by the Mendocino County Board of Supervisors in 2012.

Project Setting: The Project site includes APNs 147-140-07, 147-180-13, and 147-180-08, comprising approximately 320 acres. These 320 acres are part of a large 600-acre holding owned by the Applicant. The site is zoned Rangeland - 160 acre minimum (RL 160). Harris Quarry is located immediately west of Highway 101 near the top of the Ridgewood Grade (at mile marker 40.77). The proposed asphalt plant site is located immediately south of Black Bart Drive (County Road no. 370), about 2,000 feet west of the intersection of Black Bart Drive with Highway 101.



An internal access road is also proposed to connect the quarry to the proposed processing area. The site is made up of moderate to steep slopes and is vegetated by tanoak, chamise, canyon live oak shrub and grassland.

Surrounding land uses include Highway 101, undeveloped land and open space, and commercial development. Highway 101 is east of the site, and further east is the Northwest Pacific Railroad line and open space hillsides. Northeast of the asphalt plant site are the California Department of Forestry Howard Forest Fire Station. Five to six residential units and several former commercial businesses including a motel, service station, and restaurant are located to the north of the quarry site, along Highway 101, and northeast of the asphalt plant site. This development is as near as 1,000 feet from the asphalt plant site. North of the asphalt plant site (and west of the highway commercial area) is open space land owned by the Applicant. West of the quarry is the rest of the larger 600-acre holding, followed by rural residential development further west and southwest. The nearest residence to the west of the quarry is about 1.4 miles away and about 1 mile from the asphalt processing facility. South of the Project site is undeveloped open space on the Ridgewood Ranch owned by the Church of the Golden Rule. Its buildings are about 2 miles south of the quarry. A school is located about 2.3 miles south of the quarry, and a mobile home park is located about 3 miles south of the quarry.

ENVIRONMENTAL REVIEW AND PROCEDURAL BACKGROUND: As noted above, the Project was initially the subject of a 2007 DEIR. Due to concerns raised in the planning process, the Project was put on hold. The 2011 RDEIR was released to address changes to the Project description. Following responses to comments received on the 2011 RDEIR, the 2012 EIR was certified by the Board of Supervisors on April 10, 2012 (Resolution No. 12-065). As discussed above, the EIR certification was challenged by Keep the Code, Inc., and the trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the project, and

approval of permits for the project. (*Keep the Code v. County of Mendocino* [Judgment Granting Petition for Writ of Mandate November 14, 2013, SC UK CVPT 1260196].). The appellate court affirmed the trial court's decision, holding "the EIR was sufficient for its required purposes, except to the extent noted as to the consideration of two alternatives [Alternatives 4 and 5] to the project." (*Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub.opn].)

As a result of the prior litigation, the County is charged with rescinding the EIR certification and prior approvals for Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and Use Permit and Reclamation Plan Renewal (UR 19-83/2005), and reconsidering the feasibility of Alternatives 4 and 5. The Board may elect to exercise its discretion to certify the EIR if the Board finds that substantial evidence in the record supports a finding that Alternatives 4 and 5 are not feasible. If the Board certifies the EIR, it may then approve the Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and Use Permit and Reclamation Plan Renewal (UR 19-83/2005).

The 2019 RDEIR was prepared to address the concerns raised by the court in *Keep the Code v. County of Mendocino*. Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170; see also CEQA Guidelines, §15234(d) [stating lead agencies "need not expand the scope of analysis on remand beyond that specified by the court"].) The Project and associated approvals for the Project have not substantively changed from the versions previously considered and approved in 2012. Therefore, unless the County finds, based on substantial evidence, that information identified by, or submitted to, the County relating to unrevised portions of the 2012 FEIR constitutes significant new information that was not, and could not have been, litigated and resolved in the prior litigation, the County is not required to address these issues in approving the Project as proposed. As described below, there is no new significant information requiring recirculation or modification of the Project's environmental documents. Accordingly, the 2019 RDEIR properly focused on providing further analysis of Alternatives 4 and 5, as directed by the court.

Analysis of Changed Circumstances: Public comments submitted on the 2019 RDEIR assert recirculation is required to address changes in several impact areas.

First, some commenters assert that the 2019 RDEIR needed to evaluate the Project's air quality and odor impacts in consideration of production of rubberized asphalt. Production of rubberized asphalt does not constitute a change in the Project as originally proposed by the Applicant and approved by the County in 2012. Further, rubberized asphalt is a proven road paving material that has been used in California since the 1970s and was contemplated as part of the Project as originally approved in 2012. Additionally, compliance with required mitigation measures and oversight by the Mendocino County Air Quality Management District (MCAQMD) will ensure impacts are not more severe than disclosed in the 2012 EIR.

Concerns regarding toxic air contaminants (TACs) likewise do not require recirculation. Commenters argue that the 2019 RDEIR needs to be recirculated to evaluate the Project's TAC impacts based on the 2015 California Office of Environmental Health Hazard Assessment Air Toxic Hot Spots Program Guidance Manual for Preparation of Risk Assessment. However, a lead agency is not required to recirculate an EIR to address new standards for evaluating potential project impacts. (See, e.g., *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 532; *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, 1320; *Citizens Against Airport Pollution v. City of San Jose* (2014) 227 Cal.App.4th 788, 808.) The 2012 EIR adequately discloses the Project's potential toxic air contaminant impacts, which, as mitigated will be less than significant. Additionally, to the extent MCAQMD requires an evaluation of toxic air contaminant impacts based on the 2015 California Office of Environmental Health Hazard Assessment Air Toxic Hot Spots Program Guidance Manual for Preparation of Risk Assessment as part of its permitting process, Mitigation Measure 4.6-E.1 ensures the Project will meet those requirements. Thus, as mitigated, the Project does not have the potential to result in a significant impact relating to TACs.

Some commenters on the 2019 RDEIR also asserted that the 2019 RDEIR needed to evaluate increased fire risks in the area as well as the impact of a portion of Williams Ranch Road currently being unusable. While fire risk is a grave community concern, potential impacts of the Project related to fire risk were thoroughly analyzed in the 2012 EIR, and Project features designed to reduce the risk of igniting fires, reduce the likelihood that a fire would escape the site, and ensure that emergency evacuation from the neighborhoods could utilize Black Bart Drive have not changed. Therefore, the impact analysis and the mitigation provided in the 2011 RDEIR remain valid. Furthermore, the fact that a portion of Williams Ranch Road washed out in 2017 and has not been repaired to date does not impact the adequacy of the analysis or mitigation included in the 2012 EIR. The 2012 EIR did not rely on the potential use of Williams Ranch Road as a viable access or evacuation route to reach its conclusions regarding

fire and evacuation risk. Therefore, its current unusable condition does not constitute significant new information as defined by CEQA.

Additionally, changes in traffic conditions in the Project area do not warrant recirculation. The 2012 EIR conservatively assumed that traffic on Black Bart Drive and US-101 would increase by 50% by 2025 to reflect assumptions in planned growth in the area. However, as explained in the 2019 FEIR, actual population and traffic growth between certification of the 2012 EIR and today has been substantially lower than the cumulative conditions assumed in the 2011 RDEIR.

Lastly, the locations of sensitive receptors surrounding the Project site have not significantly changed since the County certified the 2012 EIR because changes in development since certification of the 2012 EIR, as well as future development anticipated by some commenters, are consistent with the cumulative growth projections assumed in the 2012 EIR. Also, the presence of certain uses such as commercial uses in the White Deer Lodge area and the potential future development of a senior living facility were known when the County certified the 2012 EIR. Therefore, no changes have been identified with the potential to result in a substantial increase in the severity of environmental impacts disclosed and analyzed in the 2012 EIR.

Because no new circumstances exist which warrant additional environmental review, the 2012 EIR remains valid, and the only issue requiring further analysis, as directed by the trial court, is the feasibility of Project Alternatives 4 and 5. Accordingly, the 2019 RDEIR was prepared by the County to provide additional analysis of those alternatives and to provide a further opportunity for public comment.

Analysis of Project Alternatives: Pages 359 through 388 of the 2011 RDEIR and pages 2-1 through 2-11 of the 2019 RDEIR address Project Alternatives. In all, seven alternatives were evaluated which are listed as follows:

1. No Project – No Future Development
2. No Project – Future Development Consistent with Land Use Classification
3. Quarry Only
4. Quarry and Temporary Asphalt Plant
5. Project Redesign
6. Reduced Production
7. Alternate Location

Of these seven alternatives, **Alternative 1** (No Project- No Further Development) is considered the environmentally superior option, eliminating site-specific impacts and requiring immediate reclamation of the site. However, this would also likely result in secondary effects, including the increase of regional traffic, air quality, climate change, and energy use impacts because asphalt demand would have to be satisfied by purchasing asphalt at other facilities, including out-of-County facilities. Further, Alternative 1 would meet none of the project objectives.

CEQA requires that a second environmentally superior alternative be identified should the “no project” alternative be found to be environmentally superior. In this case, **Alternative 6** (Reduced Production) is considered the environmentally superior choice of the remaining alternatives. This alternative would reduce the annual maximum rate of extraction from 200,000 cy to 75,000 cy and would eliminate the combining district and asphalt production facility. Two of the five significant impacts (visual impacts from Black Bart Drive and from nighttime asphalt processing) would be eliminated as a result of this alternative. However, only one of the five project objectives would be met (renewal of the existing quarry permit). Additionally, like Alternative 1, this alternative would have secondary effects because asphalt demand would have to be satisfied by purchasing asphalt at other facilities, including out-of-County facilities.

Under **Alternatives 2** (No Project- Future Development Consistent with Land Use Classification) the quarry activities would terminate, the site would be reclaimed, no improvements would be made to Highway 101, and one new residence would be developed near the location of the proposed asphalt processing facility. Another new residence would be constructed to the west, with access via Black Bart Drive. Alternatives 2 is infeasible because it would fail to achieve any Project objective. Additionally, it would result in largely the same indirect environmental impacts identified above for Alternative 1.

Alternative 3 (Quarry Only) would extend quarry activities for 30 years at a rate of 200,000 cubic yards per year. This alternative does not include the proposed Mineral Processing Combining District, zoning amendments or

zoning overlay being applied to 18 acres of the Project site. This alternative only meets two of the Project's objectives, operating the quarry for 30 years and increasing the production rate to up to 200,000 cubic yards per year. Additionally, Alternative 3 would lead to secondary impacts because the demand for asphalt would have to be met at other quarries, increasing the cost of asphalt products in the service area and increasing VMT.

Alternative 4 (Quarry and Temporary Asphalt Plant) is identical to the proposed Project, including all EIR-recommended mitigation measures, except that the asphalt plant would be issued a temporary use permit for a period of only five years. It would meet two of the Applicant's five objectives (maintain the quarry and expand the maximum rate of production), and partially meet three other objectives (develop an asphalt facility, locate processing facilities adjacent to the quarry, and locate the Project in a central location between Willits and Ukiah).

Alternative 4 is infeasible based on economic constraints, as established in economic feasibility studies appended to the 2019 FEIR.¹ (These studies include two reports by EnviroMINE, the "EnviroMINE Report" and the "Supplemental Report," as well as a report by Hatch, the "Hatch Report," which was commissioned by the County to peer review the EnviroMINE Report and Supplemental Report.) To analyze the hypothetical profitability of Alternative 4, the EnviroMINE Report used Phase II of the Willits Bypass project (the largest known future project within the market reach of the quarry but is not planned to be immediately developed). The EnviroMINE Report concluded that asphalt paving for Phase II of the Willits Bypass project could be fully supplied by the proposed temporary asphalt plant within three years. The Applicant would then remove and sell the plant for salvage value, as the temporary use permit would no longer be valid. Under the profitability projection in the analysis, Alternative 4 would result in a net loss between approximately \$2.4 and \$3 million. Even assuming the asphalt plant could serve a project larger than Phase II of the Willits Bypass project, thereby allowing for five years of production, the Applicant would incur between \$1.6 and \$2.8 million in losses. This conclusion was supported by the Hatch Report. Thus, limiting operation of the asphalt plant to 5 years, instead of permitting the asphalt plant to operate for the 30-year life of the use permit as proposed by the Project, renders Alternative 4 economically infeasible.

Additionally, public policy concerns impact the feasibility of Alternative 4. Specifically, substantial evidence demonstrates that the availability of a local source of asphalt is desirable for numerous reasons. First, when a local source is unavailable, aggregate and asphalt demand must be met by other quarries and processing facilities, potentially outside of Mendocino County. These other facilities could have site specific effects, as well as regional impacts, including increased VMT, resulting in increased emissions of air pollutants, greenhouse gasses, and energy use. (See, e.g., Pub. Resources Code, § 2711 [the Legislature has found that "the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the state's infrastructure are vital to reducing transportation emissions that result from the distribution of hundreds of millions of tons of construction aggregates that are used annually in building and maintaining the state"].) Second, a local source of AC-grade aggregate is critical to maintaining stable construction costs and, without such a source, the costs of local public improvement projects requiring asphalt would likely increase. Accordingly, limiting the asphalt plant to 5 years may result in secondary environmental impacts and increase costs of local public improvement projects (including future projects that may be pursued by the County, incorporated cities in the County, as well State agencies).

Alternative 5 (Project Redesign) meets all of the Applicant's objectives and is largely similar to the Project as proposed, except that nighttime activities would only be allowed 20 nights per year to serve one or more major road construction projects, and the County would need to authorize nighttime use. The Applicant would also be required to finance its fair share of at least a partial interchange at the quarry access road/Highway 101 intersection. Actual construction of the interchange, however, would be delayed to some unknown future time when the interchange was fully funded. Alternative 5 reduces the significant and unavoidable visual impact of the

Project to a less-than-significant level, and would further reduce some of the Project's less than significant impacts (such as its noise impact) because the asphalt processing facility would only operate 20 nights per year, at most.

The EnviroMINE study found that Alternative 5 would cause the Applicant to be responsible for roughly \$28.6 million in fair share contributions toward construction of the interchange, and would have a negative net present value, resulting in losses of \$23.4 million. In addition to the economic impact to the Applicant, the analysis identified

¹ The 2019 FEIR includes the following economic feasibility studies:

- Economic Analysis of the Proposed Harris Quarry Expansion Project: An Evaluation of Alternatives 4 & 5 by EnviroMINE, March 2019 ("EnviroMINE Report")
- Extending Analysis of Alternative 4 over 5-years and Including a Portable Plant Scenario, by EnviroMINE, November 14, 2019 ("Supplemental Report")
- Review of Harris Quarry Economic Analysis for Alternatives 4 and 5 as Evaluated by EnviroMINE, November 20, 2019 ("Hatch Report")

that the remaining 23% of construction cost of the interchange, totaling roughly \$8.5 million, would likely be paid by the County given that no other private projects have been identified that would need to contribute towards the interchange project. The Hatch Report likewise concluded that Alternative 5 would be economically infeasible.

Public policy concerns impact the feasibility of Alternative 5 as well. As noted above, no other major development projects are anticipated within the vicinity of the proposed interchange that could provide the additional \$8.5 million in fair share contribution towards the interchange. While the precise amount of the County's portion of the interchange project is not currently known, completion of the project would likely require the County to dedicate a substantial amount of public money to the project. However, the County has a limited roadway improvement budget, and a large number of improvement and maintenance projects already require public funding within the County. Moreover, the 2011 RDEIR concluded that with implementation of required roadway improvements would improve conditions as compared to baseline conditions (see pages 221 and 222 in the 2011 RDEIR). As discussed further in the 2019 FEIR (see pages 2-13 and 2-14) after the applicant completed roadway improvements, W-Trans completed traffic monitoring reports in 2016 and 2017. The County's environmental consultant concluded that the W-Trans reports and other data, including the California Highway Patrol's Statewide Integrated Traffic Records System data, constitute substantial evidence that "safety conditions have improved over the last five years, and the incidence of collisions has decreased." (2019 RFEIR, p. 2-15.) In consideration of the County's limited roadway improvement budget, the large number of improvement and maintenance projects that already require public funding within the County, and evidence supporting the conclusion that the completed traffic improvements have decreased traffic conflicts in the project area, the Staff recommends that the Board find that Alternative 5's anticipated need for substantial public funding to complete the interchange renders the alternative infeasible.

Alternative 7 (Alternative Location) would site the quarry expansion and asphalt plant at the Blue Ridge Rock Quarry. This is not feasible given the Blue Ridge Rock Quarry is not for sale and there is no evidence that the owner of the Blue Ridge Rock Quarry has any interest in installing an asphalt facility. This alternative also does not accomplish any of the project objectives.

Alleged Conflict of Interest: On July 29, 2019, the County retained Thomas Law Group (TLG) to assist it in complying with the court's ruling in the prior litigation. The petitioner in the prior litigation, Keep the Code (KTC), expressed concern that, because some attorneys at TLG were previously attorneys at Remy, Thomas, Moose, & Manley, LLP (RTMM, now Remy Moose & Manley; attorneys for KTC), TLG's current representation of the County posed a potential conflict of interest. On December 4, 2019, after the court requested counsel for parties to meet and confer to address this concern, attorneys for all parties involved in the prior litigation, including those for KTC, entered a stipulation acknowledging that no conflict of interest exists that calls into question the ability of staff members of TLG to represent the County.

Public Comment: The 2019 RDEIR was released for public comment from August 28, 2019 to October 15, 2019. Prior to the close of the review period, on October 7, 2019, the County held a public meeting to receive public comment on the 2019 RDEIR. Approximately 35 comment letters were received on the 2019 RDEIR. Responses to comments are included in the 2019 FEIR.

GENERAL PLAN CONSISTENCY

The ordinance amendment and rezone components of the Project are consistent with applicable goals and policies of the General Plan. The Project site has a General Plan Land Use Category of Rangeland and is zoned Rangeland. Under the Rangeland Land Use Classification and Policy DE-17, uses that are related to and compatible with processing and development of natural resources are expressly allowed. Aggregate extraction is the "processing of a natural resources" as is set forth in Section 4-8 of the General Plan. Making asphalt from aggregate that was extracted on-site is compatible with the "processing and development natural resources" within the meaning of General Plan Policy DE-17 and, thus, is consistent with the General Plan.

RECOMMENDATIONS

Staff recommends that the Board of Supervisors rescind certification of the 2012 EIR and 2012 approvals of Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and Use Permit and Reclamation Plan Renewal (UR 19-83/2005 in compliance with the court's judgment in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196.

Staff further recommends that the Board of Supervisors find the Applicant's request for certification of the 2019 Revised EIR, Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and Use Permit and Reclamation Plan Renewal (UR 19-83/2005) are consistent with the General Plan and approve the requests.

Please refer to the agenda summary for this item for a recommended motion/list of actions.

ALTERNATIVE ACTION

Deny the Applicant's request for certification of the 2019 Revised EIR and for approval of the Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and Use Permit and Reclamation Plan Renewal (UR 19-83/2005). Staff recommends rescinding the 2012 approvals in any event.

ATTACHMENTS

Rescission Documents:

- (1) Resolution rescinding the Final Environmental Impact Report and Ordinance Amendment (OA 1-2007) and Rezone (R 4-2011)
- (2) Ordinance rescinding Ordinance No. 4292, which amended Section 20.040.010 (Combining Districts) of the Mendocino County Code
- (3) Ordinance rescinding Ordinance No. 4293, which amended Section 20.036.010 (Mining and Processing) of the Mendocino County Code
- (4) Ordinance rescinding Ordinance No. 4294, which added Chapter 20.134 ("MP" Mineral Processing Combining District) within Division I (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code
- (5) Ordinance rescinding Ordinance No. 4295, which amended Section 20.152.025 (Height Exceptions) of the Mendocino County Code
- (6) Ordinance rescinding Ordinance No. 4296, which related to the Harris Quarry Project and changed the zoning of real property in Mendocino County
- (7) Resolution rescinding Approval of the Harris Quarry Use Permit and Reclamation Plan Renewal (UR 19-83/2005)

Consideration of Project Documents:

- (8) Resolution certifying the Revised Final Environmental Impact Report, adopting the CEQA Findings of Fact and Statement of Overriding Considerations, and adopting a Mitigation Monitoring and Reporting Program for Ordinance Amendment (OA 1-2007), Rezone (R 4-2011) and for the Harris Quarry Expansion Project Use Permit and Reclamation Plan Renewal (UR 19-83/2005)
 - a. Exhibit A: CEQA Findings of Fact and Statement of Overriding Considerations
 - b. Exhibit B: Mitigation Monitoring and Reporting Program
- (9) Ordinance amending Section 20.040.010 (Combining Districts) of Chapter 20.040 (Establishment of Districts) of Division I (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code
- (10) Ordinance amending Section 20.036.010 (Mining and Processing) of Chapter 20.036 (Extractive Use Types) of Division I (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code
- (11) Ordinance establishing Chapter 20.134 (MP – Mineral Processing Combining Districts) within Division I (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code
- (12) Ordinance Amending Section 20.152.25 (Height Exceptions) of Chapter 20.152 (General Provisions and Exceptions Districts) of Division I (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code
- (13) Ordinance changing the zoning of a portion of Assessor's Parcel Number 147-140-07, real property in Mendocino County
 - a. Exhibit A: Property Map

- (14) Resolution Approving the Harris Quarry Use Permit and Reclamation Plan Renewal (UR 19-83/2005)
a. Exhibit A: Conditions of Approval for Use Permit and Reclamation Plan Renewal (UR 19-83/2005)

Additional Project Documents:

Project EIR

- Revised Draft Environmental Impact Report, May 2011
- Final Environmental Impact Report, February 2012
- 2019 Revised Draft Environmental Impact Report
- 2019 Revised Final Environmental Impact Report

Amended Mining and Reclamation Plan, February 2012

April 2012 Letters on Modified Language to be added to 2012 Reclamation Plan

RESOLUTION NO. 19-

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS RESCINDING ADOPTION OF RESOLUTION NO. 12-065, WHICH CERTIFIED THE FINAL ENVIRONMENTAL IMPACT REPORT FOR ORDINANCE AMENDMENT (OA 1-2007), REZONE (R 4-2011), AND THE USE PERMIT AND RECLAMATION PLAN FOR THE HARRIS QUARRY EXPANSION PROJECT

WHEREAS, on April 10, 2012, by Resolution No. 12-065, the Board certified the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project), Ordinance Amendment (OA 1-2007) for amendments to the Mendocino County Zoning Code to create a Mineral Processing Combining District (MP), and Rezone (R 4-2011) to add an MP zoning overlay to a portion of APN 147-140-07; and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the EIR for the Project. The trial court ruled that the County's rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court's judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors hereby rescinds its approval of Resolution No. 12-065.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this _____ day of December, 2019, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE RESCINDING ORDINANCE NO. 4292, WHICH AMENDED SECTION 20.040.010 (COMBINING DISTRICTS) OF THE MENDOCINO COUNTY CODE

WHEREAS, on April 10, 2012, the Board of Supervisors approved Ordinance Amendment (OA 1-2007), which consisted of four ordinances, including Ordinance No. 4292. Ordinance No. 4292 amended Section 20.040.010 (Combining Districts) of Chapter 20.040 (Establishment of Districts) of Division 1 (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code; and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project). The trial court ruled that the County's rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court's judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Ordinance No. 4292 is rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

CARRE BROWN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE RESCINDING ORDINANCE NO. 4293, WHICH AMENDED SECTION 20.036.010 (MINING AND PROCESSING) OF THE MENDOCINO COUNTY CODE

WHEREAS, on April 10, 2012, the Board of Supervisors approved Ordinance Amendment (OA 1-2007), which consisted of four ordinances, including Ordinance No. 4293. Ordinance No. 4293 amended Section 20.036.010 (Mining and Processing) of Chapter 20.036 (Extractive Use Types) of Division 1 (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code; and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project). The trial court ruled that the County's rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court's judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Ordinance No. 4293 is rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE RESCINDING ORDINANCE NO. 4294, WHICH ADDED CHAPTER 20.134 (“MP” MINERAL PROCESSING COMBINING DISTRICT) WITHIN DIVISION I (INLAND MENDOCINO COUNTY ZONING CODE) OF TITLE 20 OF THE MENDOCINO COUNTY CODE

WHEREAS, on April 10, 2012, the Board of Supervisors approved Ordinance Amendment (OA 1-2007), which consisted of four ordinances, including Ordinance No. 4294. Ordinance No. 4294 added Chapter 20.134 (“MP” Mineral Processing Combining Districts) within Division 1 (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code; and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project). The trial court ruled that the County’s rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court’s judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Ordinance no. 4294 is rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE RESCINDING ORDINANCE NO. 4295, WHICH AMENDED SECTION 20.152.025 (HEIGHT EXCEPTIONS) OF THE MENDOCINO COUNTY CODE

WHEREAS, on April 10, 2012, the Board of Supervisors approved Ordinance Amendment (OA 1-2007), which consisted of four ordinances, including Ordinance No. 4295. Ordinance No. 4295 amended Section 20.152.025 (Height Exceptions) of Chapter 20.152 (General Provisions and Exception Districts) of Division 1 (Inland Mendocino County Zoning Code) of Title 20 of the Mendocino County Code; and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project). The trial court ruled that the County's rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court's judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Ordinance No. 4295 is rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE RESCINDING ORDINANCE NO. 4296, WHICH RELATED TO THE HARRIS QUARRY PROJECT AND CHANGED THE ZONING OF REAL PROPERTY IN MENDOCINO COUNTY

WHEREAS, the Board of Supervisors adopted Ordinance No. 4296 on April 10, 2012, approving the rezone of Assessor’s Parcel Number 147-140-07 which is reclassified Rangeland (RL) to Rangeland with a Mineral Processing Combining District (RL:MP); and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project). The trial court ruled that the County’s rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court’s judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Ordinance No. 4296 is rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

RESOLUTION NO. 19-

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS RESCINDING APPROVAL OF THE HARRIS QUARRY USE PERMIT AND RECLAMATION PLAN RENEWAL (UR 19-83/2005)

WHEREAS, on April 10, 2012, by Resolution 12-065, the Board certified the Final Environmental Impact Report (EIR) for the Harris Quarry Expansion Project (Project), Ordinance Amendment (OA 1-2007) for amendments to the Mendocino County Zoning Code to create a Mineral Processing Combining District (MP), and Rezone (R 4-2011) to add an MP zoning overlay to a portion of APN 147-140-07; and

WHEREAS, on June 19, 2012, the Board approved the Use Permit and Reclamation Plan Renewal (UR 19-83/2005); and

WHEREAS, in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, the Superior Court of Mendocino County ruled on the adequacy of the EIR for the Project. The trial court ruled that the County's rejection of Alternatives 4 and 5 was not supported by substantial evidence. The trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the Project, and approval of permits for the Project. The trial court's judgment was affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors finds, declares and decides that the June 19, 2012, approval of the Harris Quarry Use Permit and Reclamation Plan Renewal (UR 19-83/2005) is rescinded.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this _____ day of December, 2019, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

RESOLUTION NO. 19-

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS CERTIFYING THE REVISED FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR ORDINANCE AMENDMENT (OA 1-2007), REZONE (R 4-2011), AND FOR THE HARRIS QUARRY EXPANSION PROJECT USE PERMIT AND RECLAMATION PLAN RENEWAL (UR 19-83/2005)

WHEREAS, Harris Quarry is immediately west of U.S. Route 101, near the top of the Ridgewood Grade on Mendocino County APNs 147-180-08, 147-180-13 and 147-140-07 (collectively "Property") and has been mined intermittently since the 1920s. The Property consists of approximately 320 acres that are part of a larger 600 adjacent acres owned by Northern Aggregates, Inc. ("the Applicant"); and

WHEREAS, in 1983, the County approved Use Permit U19-83 for Harris Quarry, which was a 20-year use permit allowing extraction of up to 10,000 cubic yards of rock per year; and

WHEREAS, in 1990, the Planning Commission approved a modification to this use permit, UM19-83/90, which increased the extraction rate to up to 50,000 cubic yards of rock per year for five years. This modification also allowed a one-time extraction rate of 125,000 cubic yards in 1990, with the total extraction under the five-year permit limited to 325,000 cubic yards; and

WHEREAS, in 1997, the Planning Commission approved a Use Permit and Reclamation Plan UR19-83/95, allowing for the extraction and processing of up to 75,000 cubic yards of material for 10 years; and

WHEREAS, on September 6, 2001, the County administratively approved of a minor modification to the 1997 Use Permit and Reclamation Plan to allow for the addition of a wash plant to the daily operations at Harris Quarry; and

WHEREAS, the Applicant submitted an application for permanent asphalt plant on North State Street in general industrial zoning. The request was denied by the Mendocino County Planning Commission on November 4, 2004. At a subsequent hearing before the Board of Supervisors ("Board") on January 25, 2005, an appeal to this decision was made by the Applicant and, while no action was taken, the Applicant chose to withdraw the request after direction was given to Planning staff to prepare an ordinance amendment that would allow for the requested use to instead be developed at the existing Harris Quarry site; and

WHEREAS, in January 2005, the Applicant applied for a Use Permit and Reclamation Plan Renewal. This application sought to mine the quarry until the material was exhausted and is referenced to as the "End of Quarry Life" application. This was application UR19-83/2005; and

WHEREAS, in response to the Board's direction, a County initiated ordinance amendment (#OA 1-2005) to allow for asphalt processing was brought forward. On May 19, 2005, the Planning Commission recommended that the Board adopt a Mitigated Negative Declaration approving the amendment allowing for permanent concrete and/or asphalt facilities to be located near the Harris Quarry site; and

WHEREAS, the Planning Commission's recommendation was brought before the Board

on June 14, 2005, at which time the Board denied the ordinance amendment, without prejudice, partially on the grounds that the application could potentially require an Environmental Impact Report ("EIR"); and

WHEREAS, in 2005, County staff advised the Applicant that an EIR would be required for an Applicant initiated Zoning Code Amendment to allow for permanent concrete and asphalt processing in conjunction with the End of Quarry Life Application; and

WHEREAS, on November 1, 2006, the County issued a Notice of Preparation for an EIR for the End of Quarry Life Application; and

WHEREAS, use permit UR 19-83/2005 expired on January 26, 2007, however, under County policy, the Applicant was allowed to continue operating under UR 19-83/2005 during the processing of the current renewal application; and

WHEREAS, the County completed a Draft EIR for the End of Quarry Life Application in December of 2007 ("2007 DEIR"); and

WHEREAS, in January 2010, in response to numerous public comments on the 2007 DEIR for the End of Quarry Life Application, the Applicant submitted a revised project description requesting:

- a. An Amendment to the Mendocino County Zoning Code to create a Mineral Processing Combining District;
- b. A rezone of 18 acres of APN 147-140-07 to add the new Mineral Processing Combining District overlay to approximately 18 acres of the existing Harris Quarry site;
- c. A Use Permit Renewal or modification that would allow the extraction and processing of 200,000 cubic yards every year for 30 years;
- d. An asphalt plant, allowing production of up to 150,000 tons (58,280 cubic yards) of asphalt per year;
- e. Authorization to conduct night time operations up to a maximum of 100 nights per year; and
- f. A revised Reclamation Plan.

WHEREAS, for purposes of this Resolution, the project description as it was revised in January 2010 shall constitute the "Proposed Project" or "Project." The Proposed Project substantially differs from the End of Quarry Life Application because the Proposed Project only seeks approval of use permit for quarry operations and an asphalt plant for 30 years. Additionally, the Applicant volunteered for a condition of approval requiring the Applicant to submit an application to remove the MP Zoning Overlay at the end of the 30 year use permit; and

WHEREAS, after the County received the revised project description from the Applicant, the County issued a revised Notice of Preparation on September 3, 2010 and made arrangements to produce a revised draft EIR ("RDEIR"); and

WHEREAS, the County released the RDEIR in May of 2011 ("2011 RDEIR"); and

WHEREAS, the Planning Commission held duly noticed public hearings on June 16, 2011 and July 20, 2011 and received comments on the 2011 RDEIR; and

WHEREAS, the County released a Final EIR in February of 2012 (“2012 FEIR”); and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 15, 2012 to consider its recommendations on: (1) the proposed amendments to the Zoning Ordinance; (2) applying the MP zoning overlay on 18 acres of the Project Site, and (3) certification of the EIR. The Planning Commission continued this meeting to a date certain of March 22, 2012; and

WHEREAS, on March 22, 2012, the Planning Commission, in a 7-0 vote, recommended that the Board (1) adopt the proposed amendment to the Zoning Ordinance subject to a minor revision to the proposed Section 20.134.005 of Chapter 20.134 of Division 1 of Title 20 of the Mendocino County Code, (2) apply the MP zoning overlay on 18 acres of the Project Site, (3) certify the 2012 FEIR, and (4) adopt a Statement of Overriding Considerations; and

WHEREAS, on March 26, 2012, the Board held a duly noticed tour of the Project Site with members of the public in attendance. Upon completion of the on-site tour, the Board reconvened in its chambers and accepted additional public comment on the Proposed Project; and

WHEREAS, the Board held a duly noticed public hearing on April 9, 2012 to consider: (1) the proposed amendments to the Zoning Ordinance; (2) applying the MP zoning overlay on 18 acres of the Project Site, and (3) certification of the EIR. During this hearing the Board received comments from the public and reviewed all oral and written evidence presented to the County; and

WHEREAS, on April 10, 2012, the Board (1) adopted the proposed amendments to the Zoning Ordinance; (2) approved the rezone of 18 acres of the Project Site to apply MP zoning overlay, and (3) certified the EIR; and

WHEREAS, on June 19, 2012, the Board approved the Use Permit and Reclamation Plan Renewal (UR 19-83/2005), subject to adopted Conditions of Approval; and

WHEREAS, on May 11, 2012, Keep the Code, Inc. filed a Petition for Writ of Mandate against the County and Project applicants challenging the adequacy of the certified EIR; and

WHEREAS, the trial court entered judgment directing the County to set aside and vacate the certification of the EIR, approval of the project, and approval of permits for the project and to reconsider the feasibility of Project Alternatives 4 and 5. (*Keep the Code v. County of Mendocino* [Judgment Granting Petition for Writ of Mandate November 11, 2013, SC UK CVPT 1260196].); and

WHEREAS, the First District Court of Appeal affirmed the trial court’s decision, finding that “the EIR was sufficient for its required purposes, except to the extent noted as to the consideration of two alternatives [Alternatives 4 and 5] to the project.” (*Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn.].); and

WHEREAS, EnviroMINE conducted an economic feasibility analysis and supplemental analysis, analyzing the economic feasibility of Alternatives 4 and 5; and

WHEREAS, EnviroMINE determined that Alternative 4 would result in losses if the asphalt production plant was limited to operating over either a 2-year or 5-year period. EnviroMINE also determined that Alternative 4 would result in net losses if a portable asphalt plant option were pursued. It, therefore, determined that Alternative 4 is economically infeasible; and

WHEREAS, EnviroMINE determined that Alternative 5 would result in significant losses of \$23.4 million and, therefore, is economically infeasible; and

WHEREAS, the County commissioned Hatch to conduct an independent analysis of the EnviroMINE economic feasibility analysis and supplemental analysis; and

WHEREAS, HATCH confirmed the validity of EnviroMINE's methodologies and confirmed both Alternatives 4 and 5 would be economically infeasible; and

WHEREAS, the County released an RDEIR in August 2019 ("2019 RDEIR"); and

WHEREAS, the 2019 RDEIR was made available for public review from August 28, 2019 and October 15, 2019; and

WHEREAS, on October 7, 2019, the County held a public meeting to receive public comment on the 2019 RDEIR; and

WHEREAS, the County released a Final EIR on December 6, 2019 ("2019 FEIR"); and

WHEREAS, the changes described in the 2019 RDEIR amplify or clarify the existing language in the EIR previously certified by the County; the circumstances, impacts, and mitigation requirements identified in the 2011 RDEIR and 2012 FEIR remain applicable to the Project; and

WHEREAS, The 2019 RDEIR and 2019 FEIR (collectively "2019 Revised EIR") has been presented to the Board, which has reviewed and considered the information in the 2019 Revised EIR as well as the 2011 RDEIR and 2012 FEIR and the supporting evidence, and the County has determined that the 2019 Revised EIR reflects the County's independent judgment; and

WHEREAS, the analysis and conclusions of the 2019 Revised EIR do not change any of the analyses or conclusions of the previously certified EIR, and the 2019 Revised EIR does not include "significant new information" requiring recirculation of some or all of the revised EIR pursuant to CEQA Guidelines section 15088.5; and

WHEREAS, on December 16, 2019, the Board conducted a duly noticed public hearing, received and considered evidence concerning the Project and 2019 Revised EIR.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors finds, declares and decides as follows:

1. Certification of the EIR.

- A. For purposes of this Resolution, the 2011 RDEIR, 2012 FEIR, 2019 RDEIR, 2019 FEIR and all technical studies and reports made available for public

review shall be referred to as “the EIR” or “EIR”.

- B. The Board hereby certifies that the EIR has been completed in compliance with the requirements of California’s Environmental Quality Act (“CEQA”).
- C. The Board hereby certifies that the EIR was presented to the Board and that the Board reviewed and considered the information contained in the EIR prior to taking action on the EIR, proposed amendments to the County’s Zoning Ordinance, application of the MP Zoning overly to 18 acres of Mendocino County APN 147-140-07, and Use Permit and Reclamation Plan Renewal (UR 19-83/2005).
- D. The EIR reflects the Board’s independent judgment and analysis.

2. Findings on Impacts.

Pursuant to Public Resources Code section 21081, subdivision (a) and CEQA Guidelines section 15091, and in support of its approval of the Project, the Board adopts the attached CEQA Findings of Fact and Statement of Overriding Considerations in support of approval of the Project as set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

The Board makes the following specific findings with respect to the EIR:

- A. Less Than Significant Impacts. During the preparation of the EIR, the EIR Preparer determined that certain environmental impacts would not occur as a result of the Proposed Project or would not rise to a level of significance. The Board concurs with the EIR’s “less than significant” findings for the environmental impacts identified in **Exhibit A** and determines that these environmental impacts of the Proposed Project would have no significant impact on the environment.
- B. Impacts that were Mitigated to Less than Significant. The EIR discloses that the Proposed Project poses certain significant or potentially significant adverse impacts that can be mitigated to less than significant levels. The Board finds that changes or alterations have been required or incorporated into the Proposed Project that will mitigate these impacts to the less than significant levels as set forth in the EIR. The Board therefore determines that the significant adverse environmental impacts of the Proposed Project summarized in **Exhibit A** have been eliminated or reduced to a point where they would have no significant effect on the environment.
- C. Unavoidable Significant Adverse Impacts. The EIR discloses that the Proposed Project poses certain significant or potentially significant adverse environmental impacts which, even after the inclusion of mitigation measures, may not, or cannot, be avoided if the Proposed Project is approved. These impacts are:

- (i) Impact 4.6-C: indirect emissions of criteria pollutants (NOx, CO, VOCs, PM10, and PM2.5) from on-site activities which could exceed applicable significance lines;
- (ii) Impact 4.7-A (aesthetics): the processing site will change views from Black Bart Drive and the Ridgewood Subdivision;
- (iii) Impact 4.7-B (aesthetics): the expansion will change views from vantage points on the Ridgewood Ranch;
- (iv) Impact 4.7-C (aesthetics): lighting of the processing facilities will impact night views in the area; and
- (v) Impact 4.7-E. (aesthetics): the expansion and highway improvements will change views from Highway 101

Those impacts are fully and accurately summarized in **Exhibit A**.

- D. Substantial Evidence. The findings set forth herein are supported by substantial evidence in the record of this proceeding. The Board finds that these determinations are supported by substantial evidence and that there is no substantial evidence in the record that these determinations were erroneous. The Board further finds that there is no substantial evidence in the record that any environmental impact that might arguably be anticipated to occur as a result of the Proposed Project has not been adequately examined in the EIR.
- E. Alternatives. The EIR considered seven project alternatives. The Board rejects these Alternatives because they do not meet the objectives for the Proposed Project, are not economically feasible, or for other reasons as is set forth in **Exhibit A**. The Board further finds that the Proposed Project, as mitigated by the adoption of mitigation measures identified in the EIR, can be feasibly implemented and serves the best interests of Mendocino County.

3. Statement of Overriding Considerations.

- A. As to the significant adverse environmental impacts of the Proposed Project identified in the EIR and this Resolution which are not avoided or substantially lessened to a point less than significant, the Board finds that specific economic, social, technological, or other considerations make additional mitigation of these impacts infeasible, in that all feasible mitigation measures have been incorporated into the Proposed Project and that Project alternatives one through seven are infeasible. The Board further finds that it has balanced the benefits of the Proposed Project against its unavoidable environmental risks and determines that the benefits of the Proposed Project outweigh the unavoidable adverse environmental effects. The Board further determines that the unavoidable adverse environmental effects of the Proposed Project are acceptable, that there are overriding considerations which support the Board's approval of the Proposed Project and that these considerations are identified in **Exhibit A**.

4. Adoption of the Mitigation Monitoring and Reporting Program.

- A. The Board hereby finds that the mitigation measures described in the EIR are feasible and, therefore, will become binding on the County.
- B. The Mitigation Monitoring and Reporting Program, as set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, is adopted. County staff is directed to undertake monitoring in accordance with the Mitigation Monitoring and Reporting Program to ensure that required mitigation measures and project revisions are complied with during project implementation.

5. Other Findings.

- A. The Board has considered comments and arguments received in writing, during the public comment periods, prior Planning Commission hearings, during the March 27, 2012 post site tour comments, the April 9, 2012 Board hearing, October 7, 2019 public meeting on the 2019 RDEIR, and December 16, 2019 Board hearing regarding the Proposed Project's potential environmental impacts and the feasibility of imposed mitigation measures, and makes the following additional specific findings with respect thereto:

- (i) Water Supply Assessment. The Board notes that a Water Supply Assessment ("WSA") was prepared for the Proposed Project on January 11, 2012 and was independently peer reviewed on February 6, 2012. Both the WSA and the peer review were included in the FEIR and have been available for public review and comment since at least February of 2012. The Board notes that *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 523-526, determined that lead agencies are not required to hold separate hearings to approve a WSA and a CEQA document. Accordingly, the Board hereby adopts and approves the WSA and its peer review for the Proposed Project.

- (ii) Land Use/Planning.

The Board finds that there are many different policies and goals in the County's 2009 General Plan and that the Board must weigh and balance these policies to determine if a project is consistent with the General Plan. The Board finds that: (a) aggregate extraction is the "processing of a natural resources" as is set forth in Section 4-8 of the General Plan; (b) the Rangeland Land Use Classification and Policy DE-17 expressly allow uses that are related to and compatible with processing and development of natural resources; and (c) making asphalt from aggregate that was extracted on-site is compatible with the "processing and development natural resources" within the meaning of General Plan Policy DE-17.

Any assertion that the amendments will result in additional permit applications for asphalt plants is speculation because there are no

pending, known or reasonably foreseeable asphalt plant permit applications. The Board further finds that it is not required to engage in speculation or to analyze speculative impacts. (CEQA Guideline §15145.) Furthermore, if any such hypothetical application were to be submitted, the application would be a separate discretionary decision and would require its own CEQA review and permitting process.

The Board finds that the proposed ordinance amendments, with the revisions recommended by the Planning Commission on March 22, 2012, limits the intent of “processing mineral resources” to the operation of asphalt and concrete batch plants. Thus, there is no possibility that the ordinance amendments create any ability for oil drilling, offshore oil drilling, etc. beyond what may or may not be allowed without proposed amendments.

The Board finds that the EIR provides a programmatic discussion of the potential range of impacts that could result from approval of amending the Zoning Code and recognizes that additional site-specific and project-specific impact analysis would need to be assessed in CEQA documentation before the County could consider other rezonings of property into the MP Overlay district.

6. Miscellaneous.

The findings and determinations set forth in this Resolution are based upon the record of these proceedings. References to specific statutes, ordinances, regulations, reports, or documents in a finding or determination are not intended to identify those sources as the exclusive bases for the finding or determination.

7. Summary.

The foregoing findings and determinations are true and correct, are supported by substantial evidence in the record, and are adopted as hereinabove set forth.

8. Custodian of Records.

The Clerk of the Board is designated as the custodian of the documents and other materials that constitute the record of the proceedings upon which the Board’s decisions herein are based. These documents may be found at the office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Ukiah, California 95482.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this _____ day of December, 2019, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
Acting County Counsel

CARRE BROWN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

EXHIBIT A

CEQA FINDINGS OF FACT

and

**STATEMENT OF OVERRIDING
CONSIDERATIONS**

for the

**HARRIS QUARRY USE PERMIT AND RECLAMATION
PLAN**

DECEMBER 2019

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INTRODUCTION

The purpose of these findings is to satisfy the requirements of Sections 15091, 15092, and 15093 of the California Environmental Quality Act (CEQA) Guidelines, and relevant statutes associated with approval and implementation of the Harris Quarry Expansion Project (hereafter called “the Project” or “proposed Project”), Ordinance Amendment (OA 1-2007) for amendments to the Mendocino County Zoning Code to create a Mineral Processing Combining District (MPCD), Rezone (R 4-2011) to add an MPCD zoning overlay to a portion of APN 147-140-07, and the Use Permit and Reclamation Plan Renewal (UR 19-83/2005).

The CEQA Statutes (Public Resources Code Sections 21000 et seq.) and CEQA Guidelines (Code of Regulations Sections 15000 et seq.) state that, if it has been determined that a project may or will have significant impacts on the environment, an Environmental Impact Report (EIR) must be prepared. Prior to approval of the project, the EIR must be certified pursuant to Section 15090 of the CEQA Guidelines. When an EIR identifies one or more significant environmental impacts, the approving agency must make one or more of the following findings, accompanied by a brief explanation of the rationale, pursuant to Section 15091 of the CEQA Guidelines, for each identified significant impact:

- a) Changes or alterations have been required in, or incorporated into, such project which avoid or substantially lessen the significant environmental effect as identified in the final environmental impact report.
- b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- c) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta II*).

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*); *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509 [court upholds CEQA findings rejecting alternatives in reliance on Applicant’s project objectives]; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (*CNPS*) [“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record’”] (quoting Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* [Cont.Ed.Bar 2d ed. 2009] (*Kostka*), § 17.39, p. 825); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 (*Bay-Delta*) [“[i]n the CALFED program, feasibility is strongly linked to achievement of each of the primary project objectives”; “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”].) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and

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technological factors.” (*City of Del Mar, supra*, 133 Cal.App.3d at p. 417; see also *CNPS, supra*, 177 Cal.App.4th at p. 1001 [“an alternative that ‘is impractical or undesirable from a policy standpoint’ may be rejected as infeasible”] [quoting *Kostka, supra*, § 17.29, p. 824]; *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 17.)

Section 15092 of the CEQA Guidelines states that, after consideration of an EIR, and in conjunction with making the Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. A project that would result in a significant environmental impact cannot be approved if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impact.

However, in the absence of feasible mitigation, an agency may approve a project with significant and unavoidable impacts if there are specific economic, legal, social, technological, or other considerations that outweigh the unavoidable adverse environmental effects. Section 15093 of the CEQA Guidelines requires the lead agency to document and substantiate any such determination in “statements of overriding considerations” as a part of the record.

The requirements of Sections 15091, 15092, and 15093 of the CEQA Guidelines as summarized above are all addressed herein. This document is intended to serve as the findings of fact and statement of overriding considerations authorized by those provisions of the CEQA Guidelines.

PROJECT DESCRIPTION

These findings provide the County of Mendocino’s rationale for approving the Project—including Ordinance Amendment (OA 1-2007), Rezone (R 4-2011), and the Use Permit and Reclamation Plan Renewal (UR 19-83/2005)—and are based on the Board of Supervisors’ review of the 2011 Recirculated Draft EIR (2011 RDEIR) and the 2012 Final EIR (collectively, “the 2012 EIR”), considered by the County of Mendocino on April 10, 2012, and the 2019 RDEIR and the 2019 FEIR, considered by the County of Mendocino on December 16, 2019 (collectively, “the 2019 Revised EIR”) (collectively the 2012 EIR as supplemented by the 2019 Revised EIR shall be referred to as “the EIR”). The existing quarry at the Project site is on the west side of Highway 101 just south of the Ridgewood Grade and Black Bart Drive. Entitlements for the proposed Project include the following:

- Amending the Mendocino County Zoning Code to create a Mineral Processing Combining District (MPCD).
- Rezoning 18 acres of Assessor’s Parcel No. 147-140-07 to add the MPCD, allowing processing of aggregate for the length of the Use Permit. The Applicant has volunteered to include a condition of approval requiring the Applicant to submit an application to revert the 18 acres back to Rangeland zoning at the end of the Use Permit.
- Use Permit Renewal/Modification (UR 19-83/2005) to allow:
 - Extraction and processing of 200,000 cubic yards of aggregate on site per year for a 30-year period.
 - Production of up to 150,000 tons (58,280 cy) of asphalt per year.
 - Nighttime operations up to a maximum of 100 nights per year.
- A revised Reclamation Plan that directs how the site will be reclaimed at the end of the use permit.

The proposed Project would allow the Applicant to continue mining the existing quarry and expand the quarry to the north and to the west. In all, the existing 11.5-acre quarry would be expanded to a final size of about 30.6 acres. An additional 9.2 acres would be developed for access and processing, and 5.1 acres would be disturbed to provide mitigation proposed to address project impacts. Quarrying would use the same techniques and equipment currently used at the site.

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PROCEDURAL BACKGROUND

These findings address the 2012 EIR which is supplemented by the 2019 Revised EIR pursuant to the writ of mandate issued by the Superior Court in *Keep the Code v. County of Mendocino*. There, in numerous causes of action, plaintiffs alleged that the County had violated both CEQA and State Planning and Zoning Law. Upon review, the trial court found “that, for the most part, [the County] proceeded in the manner required by law and that its decision[s are] supported by substantial evidence in the record,” with the exception of the Board’s consideration of two project alternatives: Project Alternative 4 (permit for extended quarry and temporary asphalt processing facility) and Project Alternative 5 (redesign of the Project relative to nighttime activities and construction of a partial highway interchange at the Project’s access driveway). Specifically, the trial court concluded that, “[g]iven the court’s finding that Respondent’s findings complied with CEQA in most respects, it seems appropriate to issue a writ of mandate pursuant to CCP 1094.5(f) which directs Respondent to reconsider its decision on project alternatives in light of the court’s opinion.” (*Keep the Code v. County of Mendocino* [Decision after Court Trial on Petition for Writ of Mandate issued October 7, 2013, SC UK CVPT 1260196].) The court then entered a judgment directing the County to set aside and vacate the certification of the EIR, approval of the project, and approval of permits for the project. (*Keep the Code v. County of Mendocino* [Judgment Granting Petition for Writ of Mandate November 11, 2013, SC UK CVPT 1260196].)

Both the plaintiffs and the real party in interest separately appealed the decision of the trial court. The appellate court affirmed the trial court’s decision, and found that “the EIR was sufficient for its required purposes, except to the extent noted as to the consideration of two alternatives [Alternatives 4 and 5] to the project.” (*Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn.]

When a court determines that part of an agency’s decision lacks evidentiary support in the administrative record, the court may, instead of requiring the agency to reconsider the entirety of its prior action *de novo*, remand to the agency for further proceedings. (Pub. Resources Code, § 21168.9.) Recent updates to the CEQA Guidelines define the scope of what a lead agency must consider in the event of a remand: “As to those portions of an environmental document that a court finds to comply with CEQA, additional environmental review shall only be required as required by the court consistent with principles of *res judicata*. In general, the agency need not expand the scope of analysis on remand beyond that specified by the court.” (CEQA Guidelines, § 15234(d).) Based on the court’s decision, the County is now charged with reconsidering Alternatives 4 and 5.

To comply with the court’s directive, the 2019 RDEIR was prepared and circulated for review in August 2019. The RDEIR contains updated analyses of Alternatives 4 and 5. The 2019 RDEIR contains a discussion of the financial feasibility of Alternatives 4 and 5. Neither the writ issued by the court nor CEQA requires an analysis of the financial feasibility of alternatives to be included in the EIR. (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1503.) Nevertheless, the County included a discussion of the economic feasibility of Alternatives 4 and 5 in the 2019 RDEIR. As discussed in greater detail below, the Applicant submitted economic feasibility analyses prepared by EnviroMINE, and the County commissioned Hatch to peer review EnviroMINE’s methodology, analyses, and conclusions. These findings reflect analysis of the updated Alternatives 4 and 5, as well as summarize and discuss the environmental conclusions from the 2012 EIR.

The Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. As discussed further herein and in the 2019 FEIR, in consideration of the principles of *res judicata* as well as the meaning of “significant new information” pursuant to CEQA, the Board has determined that changes in circumstances caused by the passage of time since the Board previously certified the 2012 EIR do not require the County to

EXHIBIT A

recirculate any portions of the 2011 RDEIR unrelated to Board's reconsideration of Alternatives 4 and 5.

TERMINOLOGY OF FINDINGS

CEQA and the CEQA Guidelines require that, for each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of the three allowable conclusions:

1. Changes or alterations which avoid or mitigate the significant environmental effects as identified in the EIR have been required or incorporated into the project;
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding, and such changes have been adopted by such other agency or can and should be adopted by such other agency; or
3. Specific economic, legal, social, technological, or other considerations, including consideration for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the DEIR.

(Pub. Resources Code, § 21081, subd. (a)(1)-(3); CEQA Guidelines, § 15091, subd. (a)(1)-(3).)

For purposes of these findings, the terms listed below will have the following definitions:

- "Mitigation measures" shall constitute the "changes or alterations" discussed above.
- "Avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. The term "substantially lessen" refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level.
- "Feasible," pursuant to the CEQA Guidelines, means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

DEFINITIONS AND ACRONYMS

Unless otherwise stated, these findings use the same definitions and acronyms used in the EIR.

LEGAL EFFECT OF FINDINGS

These findings constitute the County's best efforts to set forth the evidentiary and policy basis for its decision to approve the Project in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that various mitigation measures outlined in the EIR are feasible and have not been modified, superseded or withdrawn, the County hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the County adopts a resolution approving the Project.

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MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Project, and is approved by the Board by the same Resolution that adopts these findings. The MMRP will remain available for public review during the compliance period. The MMRP is attached to and incorporated into the environmental document approval resolution and is approved in conjunction with certification of the EIR and adoption of these Findings of Fact.

The MMRP for the Project outlines the required mitigation measures, who they are implemented by, when they are implemented, who monitors the measures, when they must be verified by, and who verifies it. The Project's conditions of approval obligate the Applicant to fund the County's process to monitor compliance with the MMRP and, to the extent additional resources are needed, the County has the discretion to retain the services of consultants to assist County Staff in confirming that the Applicant complies fully with, and maintains compliance with, all requirements set forth in the MMRP.

Furthermore, Mendocino County Code Section 20.216.015 provides that it is unlawful and prohibited to violate any term or condition of any permit or approval granted under Title 20, Division I of Mendocino County Code. Any member of the public who believes there has been a violation of Conditions of Approval and/or mitigation measures should file a complaint with the Mendocino County Department of Planning and Building Services Code Enforcement Division. Complaints can be filed over the phone, in person, or online on the Department website. Code Enforcement Staff will review the complaint and determine if it must be referred to other agencies for potential violation of any standards they may have.

In addition to the Code Enforcement role noted above, each year during operation of a mining site, County Staff (certified by the California Division of Mine Reclamation as Surface Mine Inspectors) conducts an annual inspection, the cost of which is paid by the Applicant. At that time, County Staff verifies conformance with the Surface Mining and Reclamation Act (SMARA) and any required conditions of approval and/or mitigation measures applicable to the Project.

LESS THAN SIGNIFICANT IMPACTS

The 2012 EIR disclosed that the proposed Project poses the environmental impacts identified herein that are less-than-significant and do not require mitigation:

- Impact 4.1-E: The proposed on-site wastewater disposal system could fail due to inadequate soils;
- Impact 4.1-G: Future expansion of the quarry could result in unstable slopes;
- Impact 4.2-C: The proposed Project could adversely affect groundwater resources;
- Impact 4.2-F: Cumulative Impact - Future expansion of the quarry will alter the runoff regime to Forsythe Creek;
- Impact 4.2-G: Cumulative Impact - Future expansion of the quarry could adversely affect groundwater resources;
- Impact 4.3-F: Project development would convert Timberland to other uses;
- Impact 4.3-G: Removal of trees from the site could spread Sudden Oak Death to other areas;
- Impact 4.3-H: Project development could interfere with wildlife movement or impede the use of nursery sites;
- Impact 4.3-I: Cumulative Impact - The Project, in combination with possible future mining of the site, could adversely affect biological resources;
- Impact 4.3-J: Cumulative Impact - The Project could adversely affect biological resources;

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- Impact 4.4-A: The Project could increase traffic volumes at the intersections of Highway 101 with Black Bart Drive and the quarry access;
- Impact 4.5-A: The Project would generate noise that might affect residents living in the area;
- Impact 4.5-C: Project generated traffic noise could increase ambient traffic noise levels along roadways serving the Project site;
- Impact 4.5-D: Existing noise-sensitive land uses could be exposed to construction noises levels in excess of the significance thresholds;
- Impact 4.5-E: Cumulative Impact - The Project, plus cumulative increases in traffic, could adversely affect residents living along Highway 101.
- Impact 4.6-D: The Project-generated on-road traffic could result in the occurrence of carbon monoxide (CO) hot spots that would exceed the California 1-hour and 8-hour CO₂ standards;
- Impact 4.6-G: The Project would reduce the elevation of the hill on the site and cause changes to local weather patterns;
- Impact 4.6-H: Cumulative Impact - The proposed Project could result in greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment;
- Impact 4.6-J: Cumulative Impact - Additional Project-related truck traffic on Highway 101 would increase regional emissions of criteria pollutants;
- Impact 4.7-D: The Project could adversely affect views from Federal Wilderness Areas;
- Impact 4.8-C: The Project would generate increased calls for police services;
- Impact 4.8-E: If not properly designed and constructed, the new on-site wastewater system could adversely impact water quality;
- Impact 4.9-A: Transport, storage, and use of explosives pose the risk of an unplanned explosion;
- Impact 4.10-A: Project construction and operation could adversely affect agricultural operations in the project area;
- Impact 4.10-D: Speculative Cumulative Impact - Development and operation of processing facilities at other quarries in the county that would be allowed by the proposed Mineral Processing Combining District could have significant effects;
- Impact 4.11-A: Construction of the proposed Project would use electricity, gas, and diesel fuel, but this energy demand would not result in the need for new or altered facilities or exceed the capacity of PG&E;
- Impact 4.11-B: Future operation of the Project would require relatively substantial use of energy, but this energy demand would not result in the need for new or altered facilities or exceed the capacity of PG&E's ability to provide service.

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to the above impacts. The Board finds that recirculation is not required.

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POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The 2012 EIR identifies the following significant or potentially significant adverse environmental impacts of the proposed Project that can be mitigated to a less-than-significant level:

GEOLOGY AND SOILS

Impact 4.1-A: The quarry activities could result in unstable slopes.

Section 4.1-A (Geology and Soils) of the 2012 EIR determined that the proposed Project could result in unstable slopes. According to the final plans submitted by Rau & Associates in January of 2010, the overall working face slopes of the quarry are proposed to be as steep as 1h:1v or 45°. This includes 0.75h:1v slopes with 12' benches every 40 vertical feet of elevation. Blackburn Consulting, Inc. (BCI) performed an additional stability analysis of the finished quarry slopes and found that the cut slopes at both the overall 1:1 and localized 0.75:1 gradients were expected to be stable without additional reinforcement, based on the rock type and the generally tight irregular nature of most discontinuities at the site. In fact, BCI stated that the actual slope and rock strengths are likely to be higher than those used in BCI's analysis.

The 2012 EIR also determined that the safety factors for the proposed Project meet the established minimum standards for the stability of reclaimed mining slope set by the State Mining and Geology Board Reclamation Regulations.

Finding

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.1-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact to the stability of the slopes on the Project site will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.1-A.1, 4.1-A.2, and 4.1-A.3. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of unstable slopes in the Project site.

Rationale

Mitigation Measures 4.1-A.1, 4.1-A.2, and 4.1-A.3 require inspections of the slopes after quarry excavation and additional slope stability evaluations annually at the quarry site. The evaluations are specifically required to determine that the quarry face meets slope stability performance criteria and the factors of safety established by the State Mining and Geology Board Reclamation Regulations. Mitigation Measure 4.1-A.2 limits the steepness of the uppermost 20' quarry cut to the recommendations set forth in the Blackburn Consulting Report and associated addenda. Mitigation Measure 4.1-A.3 requires final cut slopes to meet a specific factor of safety of

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1.3 in between the 12' benches every 40 vertical feet. Enforcement of the standards set forth in these Mitigation Measures will ensure that the quarry activities will not result in unstable slopes and any significant impacts are reduced to less-than-significant.

Impact 4.1-B: Unstable geology and slopes at the asphalt processing facility site could cause failure of improvements at that site.

Section 4.1 of the 2012 EIR, which includes amendments in the Final EIR, found that unstable geology and slopes at the asphalt processing facility site could cause failure of improvements at that site. This would be a potentially significant impact. Section 4.1 (Geology and Soils) concluded that locating the asphalt processing facility at the proposed asphalt processing site is feasible, provided that the recommendations of a design-level geotechnical study, performed as part of the final design and improvements for the asphalt processing facility, are followed. The supplement to the previous design review shall consist of a slope stability analysis and settlement analysis and shall confirm that these items comply with all applicable standards. This conclusion was based on the grading and drainage plan prepared by Rau & Associates in March 2005 (revised in January of 2010) and a geotechnical evaluation of the processing facilities prepared by Blackburn Consulting, in March 2005. This conclusion is also based on the fact that the asphalt processing site is located in hard Franciscan complex volcanic and meta-volcanic bedrock, which is not generally considered an unstable geologic material.

Finding

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.1-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact to the geology and slopes at the asphalt facility site will be mitigated to a less-than-significant level by implementing Mitigation Measures 4.1-B.1, 4.1-B.2, and 4.1-B.3. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of unstable geology and slopes at the asphalt processing facility which could cause improvements failure at that site.

Rationale

Mitigation Measures 4.1-B.1, 4.1-B.2, and 4.1-B.3, as set forth in the 2012 EIR, require proper construction techniques overseen by a Certified Engineering Geologist and Geotechnical Engineer. Mitigation Measure 4.1-B.1 further requires that the County approve the certifying Engineering Geologist and the Geotechnical Engineer. Mitigation Measure 4.1-B.2 requires the processing building pad to be designed and constructed to the maximum stability in an earthquake area. Mitigation Measure 4.1-B.2 also requires a design-level geotechnical investigation and a supplemental report to address long-term slope stability and settlement analyses to verify compliance with all applicable standards. A supplemental geotechnical investigation is specifically required to verify the feasibility of long-term slope stability with a factor of safety of 1.3 and address potential settlement. This must include design recommendations for structural footing and foundations to minimize settlement and subsequent County review of plan sheets. Mitigation Measure 4.1-B.3 requires the incorporation of the State Mining and Geology Board Reclamation

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Regulations into the proposed fills in the west/southwestern portion of the expansion area, sets forth minimum compaction rates, and limits steepness to 2h:1v or reinforcement of fills as determined by the Project Geotechnical Engineer and Certified Engineering Geologist.

Impact 4.1-C: The Project site is subject to seismic events and strong seismic ground shaking.

Section 4.1 of the 2012 EIR noted that the Project site is subject to seismic events and strong seismic ground shaking. This is a potentially significant impact. The 2012 EIR also determined that due to the large, hard, resistant rock formations in the active quarry face, large failure forms (such as transitional or rotational rockslides), earth loads and debris slides are not expected to occur at the Project site. Small scale failures could occur in the event of seismic ground shaking. The State Mining and Geology Board Reclamation Regulations establish minimum standards for slope stability for reclaimed quarry slopes.

Finding

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.1-C. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the potentially significant impact of the proposed Project site becoming subject to seismic events and strong seismic ground shaking will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.1-A and 4.1-B, as set forth in the 2012 EIR. Accordingly, changes or alterations have been required or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the proposed site becoming subject to seismic events and strong seismic ground shaking.

Rationale

Mitigation Measures 4.1-A.1, 4.1-A.2, 4.1-A.3, 4.1-B.1, 4.1-B.2, and 4.1-B.3 recommended for Impacts 4.1-A and 4.1-B also apply to Impact 4.1-C, and the same rationale is incorporated herein by this reference. Upon implementation, potentially significant impacts related to seismic events and strong seismic ground shaking will be reduced to less-than-significant.

Impact 4.1-D: The new access road and the new road to the water tank could fail if not properly constructed.

Section 4.1 of the 2012 EIR determined that the new access road connecting the quarry to the asphalt processing site will expose weak bedrock and soil to the erosive forces of wind and water. Additionally, the road cuts will intrude into the Franciscan complex rock materials that are potentially unstable at the proposed steepness levels.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the

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prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.1-D. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the potentially significant impact of a new access road and new road to the water tank that could fail if not properly constructed will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.1-D.1, 4.1-D.2, and 4.1-D.3, as they are set forth in the 2012 EIR. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of a new access road and a new road to the water tank failing if not properly constructed.

Rationale

Per the 2012 EIR, Mitigation Measures 4.1-D.1, 4.1-D.2, and 4.1-D.3 collectively require a supplement to the existing design level geotechnical investigation, which shall be conducted by a Certified Engineering Geologist and a Geotechnical Engineer approved by the County's Department of Planning and Building Services. These Mitigation Measures require the design level geotechnical investigation to verify the feasibility and long-term stability of 1.5h:1v cut slopes for the main access road and 1 h:1v cut slopes for the water tank access road by performing a slope stability analysis for the proposed road cuts to confirm that the proposed slopes met factor of safety calculations, the involvement of civil engineer to design any required retaining walls, gravity walls, etc., and an erosion control plan for any soils that are excavated or exposed during the construction activities. Mitigation Measures 4.1-D.1 through 4.1-D.3 require that qualified professionals, a Certified Engineering Geologist, a Geotechnical Engineer and a Civil Engineer, where appropriate, investigate and address slope stability for the proposed road cuts, impose minimum safety standards, such as the factor of safety calculation, and erosion control plans for soil that is excavated during the process. Implementation of these measures will ensure that the potentially significant impact of the new access road and new road to the water tank and any potential failure of that road are mitigated to a less than significant level.

Impact 4.1-F: Improper construction and operation of the Project could result in soil erosion and the loss of topsoil.

The proposed Project could result in soil erosion and the loss of topsoil in two ways. First, the quarry expansion will result in the loss of topsoil and will expose the soils and weathered rocks to the possible effects of soil erosion. Second, construction of the asphalt plant processing site will result in 5.7 acres of land being disturbed. The grading activities on these 5.7 acres will expose soil. The 2012 EIR noted that new fill slopes or subsequent erosion could deposit sediment in Forsythe Creek.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since

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2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.1-F. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the improper construction and operation of the Project could result in soil erosion and the loss of topsoil will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.2-A.1 through 4.2-A.6 and 4.2-B.1 through 4.2-B.3. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the improper construction and operation of the Project which could result in soil erosion and the loss of topsoil.

Rationale

Mitigation Measures 4.2-A.1 through 4.2-A.6 and 4.2-B.1 through 4.2-B.3 require the Applicant to implement a SWPPP stormwater protection plan that incorporates best management practices into the construction and operation of the Project. The law requires an NPDES permit and compliance with the Conditions of Approval attached to that permit. Compliance with these additional Mitigation Measures and the conditions attached to the NPDES permit, will ensure that any significant impacts to soil erosion and the loss of topsoil will be mitigated to less-than-significant.

Furthermore, the Board also notes that the Regional Water Board has submitted a letter dated March 8, 2012, stating that the Regional Water Board is satisfied that the proposed Project will not result in negative impacts because of the proposed BMPs and the Applicant has an exemplary history of operating the site.

HYDROLOGY AND WATER QUALITY

Impact 4.2-A: Stormwater runoff containing sediments, metals, dust suppressants, total petroleum hydrocarbons, oil and grease, and other pollutants associated with mining activities and vehicle and equipment use would potentially violate water quality standards and/or impact habitat.

There are three possible ways that the proposed Project could affect storm water runoff: (1) the actual quarry expansion; (2) the asphalt processing site; and (3) the proposed haul roadway. The mining expansion will expand the area being mined from 11.5 acres to approximately 30.6 acres. The mining expansion has been designed so that no stormwater runoff will leave the site and that the entire quarry floor is used as a retention basin, such that storm flow from a 100-year, 24-hour event, would be kept within the quarry basin and not released. The quarry floors will be sloped two percent towards the retention pond, with a 2-6' high berm along the southern rim of the quarry to prevent flows from leaving the quarry site. As a result of the ultimate design, the quarry floor will contain more than seven consecutive 100-year storms, while maintaining 4' of freeboard at the sump pump pond. The retention basin will be maintained by annual clearing of the sediment at the bottom of the pond. Once dredged, the sediment will be sold as an aggregate product. There is also a possibility that total petroleum hydrocarbons (TPHs) used to operate equipment at the quarry could be accidentally released and deposited onto a road. The 2012 EIR anticipates that any rogue runoff will leave the paved roadway via storm drains and go directly to a culvert system.

At the asphalt processing site, there is potential that storm water runoff could impact water quality. Stormwater at the asphalt processing site will be directed to a peripheral containment dike. The runoff from the asphalt processing site will be separated from the industrial site's runoff. The asphalt processing site will contain runoff from the processing pad which will be graded to direct the flows from the pad to a sediment cleanout basin that overflows to a bio-retention basin just west of the boundary of the pad. The cleanout basin will be dredged regularly. The fueling area of the

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processing site will be covered and will have its own dedicated drainage zone, with a drain inlet that will collect surface runoff, contain spills, and facilitate cleanout. The area will be surrounded by a drive over curb that allows vehicle access, while containing stormwater and preventing it from spilling outside the fueling area. The asphalt processing site also includes a bio-retention basin that is a biological treatment system, both in terms of treatment efficiencies and the simplicity of its maintenance. The system that is proposed for the asphalt site will effectively treat all stormwater runoff from the 85th percentile event with an infiltration rate of 5 inches per hour. The bio-retention basin has capacity for a 10-year storm with 1 foot of freeboard and capacity for a 100-year storm with 6 inches of freeboard. It is a treatment system expected to adequately treat hydrocarbons that may be present in stormwater runoff, and is acknowledged as a polishing system that will remove any diminished concentrations of hydrocarbons in stormwater runoff.

Finally, the haul road will result in increased runoff and transport of the associated pollutants. To mitigate this, the road will be crowned so that it drains into either Black Bart Drive or into drainage ditches on the uphill side of the road. Flow from the ditches will be diverted to drain inlets of the proposed culverted stormwater system, which will have filters to filter sediment and residual petroleum products before outfall into a roadside channel that ultimately drains to the tributary to Forsythe Creek. Alternatively, grass lined swales may be used to convey the water through hill slopes or grass lined drainage ditches, or inlet filters which will reduce any pollutant concentrations from the paved roads.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.2-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of stormwater runoff containing sediments, metals, dust suppressants, total petroleum hydrocarbons, oil and grease, and other pollutants associated with mining activities and vehicle and equipment use which could potentially violate water quality standards and/or impact habitat will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.2-A.1, 4.2-A.2, 4.2-A.3, 4.2-A.4, 4.2-A.5, and 4.2-A.6, as they are set forth in the 2012 EIR.

Rationale

Mitigation Measures 4.2-A.1, 4.2-A.2, 4.2-A.3, 4.2-A.4, 4.2-A.5, and 4.2-A.6 in the 2012 EIR require compliance with a number of laws or subsequent permits, among other things, in order to reduce any significant impacts to less-than-significant. Mitigation Measure 4.2-A.1 requires the Project to comply with the Regional Water Board's construction and general permit conditions. Mitigation Measure 4.2-A.2 requires the Applicant to comply with the NPDES permit requirements for industry general permits and prohibits any violations of applicable water quality standards, as well as requiring the development and implementation of facility specific BMPs and monitoring the effectiveness of these BMPs. Mitigation Measure 4.2-A.3 requires the Applicant to implement any necessary corrective measures to meet water quality objectives. Mitigation Measure 4.2-A.4 requires the Applicant to implement an updated SWPPP, and specifically requires an aggressive sediment source and delivery control program. Mitigation Measure 4.2-A.5 specifies two measures that shall be included in the SWPPP to reduce the potential for erosion or sediment discharge. The first

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requirement regulates the stockpiling of topsoil and requires all topsoil stockpiles to be seeded and mulched in order to prevent soil lost through erosion. The second requirement requires adequately sized piped or rocked drainages for benches, with energy dissipaters to prevent erosion. Mitigation Measure 4.2-A.6 requires best management practices to reduce the potential for contaminated discharge in storm water runoff. It further requires that runoff from all access roads must be collected and passed through a treatment system prior to entering the outfalls of the secondary channel of the Forsythe Creek tributary, prohibits sealing and maintenance of all rubber tired loading, prohibits grading and support equipment within 100 feet of a drainage way, and requires the Applicant to adhere to the manufacturer's specifications when using chemical dust suppressants, slope stabilization chemicals or polymers and sediment detention basin enhancement chemicals.

Impact 4.2-B: Quarry expansion and use will alter the runoff regime to Forsythe Creek.

Flows from the pad for the processing site, which will be approximately 3.5 paved acres, will leave the processing site and enter the bio-retention basin. This represents twice as much flow from this area when compared to pre-project conditions. While the bio-retention basin will adequately detain peak flows, the Project will result in increased concentration of flows and may be a single point source of hillside erosion.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.2-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the quarry expansion and use altering the runoff regime to Forsythe Creek will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.2-B.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project which mitigate or avoid the potentially significant effects the quarry expansion and use altering the runoff regime to Forsythe Creek.

Rationale

Mitigation Measure 4.2-B.1 specifies design elements that will minimize erosion at the outlet point for the bio-retention basin. The required elements include pipe outlet sizing, a slotted pipe dissipater and visual (as well as photographic) monitoring at the beginning and end of each rainy season and after rain events. Mitigation Measure 4.2-B.1 will ensure that any potentially significant erosion impacts are mitigated to less-than-significant.

Impact 4.2-D: Cumulative Impact - The Project in combination with other Projects would generate sediments and other pollutants that could potentially violate water quality standards and/or impact habitat.

Reference is made to the discussion under Impact 4.2-A, which is incorporated into this section by this reference.

Findings

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Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.2-D. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the Project, in combination with other Projects, would generate sediments and other pollutants that could potentially violate water quality standards and/or impact habitat, will be mitigated to a less-than-significant level by implementing Mitigation Measures 4.2-A.1, 4.2-A.2, 4.2-A.3, 4.2-A.4, 4.2-A.5, and 4.2-A.6, as set forth in the 2012 EIR. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project, in combination with other Projects, generating sediments and other pollutants that could potentially violate water quality standards and/or impact habitat.

Rationale

The Mitigation Measures recommended for Impact 4.2-A also applies to Impact 4.2-D and the rationale for Impact 4.2-A is incorporated into this portion of the Resolution by this reference.

Impact 4.2-E: Cumulative Impact- Future mining of the quarry could generate sediments and other pollutants that could potentially violate water quality standards and/or impact habitat.

Reference is made to the discussion under Impact 4.2-A, which is incorporated into this section by this reference.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.2-E. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's cumulative impact of future mining of the quarry generating sediments and other pollutants that could potentially violate water quality standards and/or impact habitat, in combination with other Projects, would generate sediments and other pollutants that could potentially violate water quality standards and/or impact habitat will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.2-A.1, 4.2-A.2, 4.2-A.3, 4.2-A.4, 4.2-A.5, and 4.2-A.6, as set forth in the 2012 EIR. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project, in combination with other Projects, generating sediments and other pollutants that could potentially violate water quality standards and/or impact habitat.

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Rationale

Mitigation Measures 4.2-A.1, 4.2-A.2, 4.2-A.3, 4.2-A.4, 4.2-A.5, and 4.2-A.6, as discussed in Impact 4.2-D, require compliance with a number of laws or subsequent permits to reduce any significant impacts to less-than-significant. These Mitigation Measures also apply to Impact 4.2-D, and the rationale for Impact 4.2-A is incorporated into this section by this reference.

BIOLOGICAL RESOURCES

Impact 4.3-A: Project development could impact special status plant species, either directly or through habitat modification.

The 2012 EIR concluded that there is no special status species of plants on the Project site, or that would be disturbed by the construction or operation of the Project. Mitigation Measure 4.3-A.1 requires surveys for special status species of plants to be conducted by a qualified biologist every three years and requires a consultation with the Department of Fish and Wildlife in the event that a special status species of plant is encountered at some time in the future.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.3-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact to special status plant species, either directly or through habitat modification, will be mitigated to a less-than-significant level by implementing Mitigation Measure 4.3-A.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of possible impact to special status plant species, either directly or through habitat modification.

Rationale

Mitigation Measure 4.3-A.1 will provide for ongoing surveys in the areas that will be affected by the construction or operation of the asphalt processing facility including the haul road, road to the water tank, and the quarry expansion area. This survey will be conducted by a qualified biologist every three years and the consultation with the Department of Fish and Wildlife in the event that a special status species of plant is encountered at some time in the future. Accordance with Mitigation Measure 4.3-A.1 will reduce any potential impacts to special status plant species to less-than-significant.

Impact 4.3-B: Project development could impact special status wildlife species, either directly or through habitat modification.

The revised EIR concluded that there was general lack of even common wildlife species on the Project site. Wildlife surveys were conducted in both 2006 and 2010 and neither survey

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found any evidence of special status wildlife species. Portions of the Forsythe Creek Hydrologic Subarea are listed as critical habitat for the California Coastal Chinook Salmon. However, there is a series of natural high gradient boulders falls approximately 0.2 miles downstream of the confluence between the tributary to Forsythe Creek and Forsythe Creek south of the Project site that forms a migration barrier for the salmonids.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.3-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact to special status wildlife species, either directly or through habitat modification, will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.3-B.1, 4.1-E and 4.2-A. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of possible impact to special status wildlife species, either directly or through habitat modification.

Rationale

Although (i) there is no evidence of any special status wildlife species; (ii) the 2012 EIR identified a lack of even common wildlife species on the Project site; and (iii) there is a salmonid migration barrier 0.2 miles downstream of the Forsythe Creek tributary's confluence with Forsythe Creek, Mitigation Measure 4.3-B.1 prohibits the Applicant from removing the nest or dam sites of any special status species and requires a biological survey in the areas that will be affected by the construction or operation of the asphalt processing facility, including the haul road, road to the water tank, and the quarry expansion area. In the event that a special status species is discovered, the Applicant shall confer with the Department of Fish and Wildlife. The imposition of Mitigation Measure 4.3-B.1 ensures that any potential impacts to wildlife are mitigated to less-than-significant.

Impact 4.3-C: Project development would result in the loss of about 24 acres of native vegetation.

As a result of the quarry expansion, 11 acres of Douglas Fir Tan Oak forest on the north side of the ridge and eight acres of Chaparral and Evergreen forest habitat on the south side of the ridge will be removed. Additionally, construction of the asphalt processing facility will remove approximately five acres of grassland and oak habitat.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since

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2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.3-C. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact to the potential loss of about 24 acres of native vegetation will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.3-C.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the potential loss of 24 acres of native vegetation.

Rationale

As is required by SMARA, the proposed Project includes a Reclamation Plan that includes final reclamation of the Project site, including revegetation of the upper slope, upper and lower benches, the floor of the quarry and the entire asphalt processing facility site. Mitigation Measure 4.3-C.1 requires a final Reclamation Plan in compliance with any condition of approval recommended by State Office of Mines Reclamation (OMR) during its review of the plan. Compliance with the final Reclamation Plan's vegetation requirements ensures that any potential impacts to the loss of native vegetation will be mitigated to less-than-significant.

Impact 4.3-D: Project development could impact wetlands and "waters of the U.S." Construction of a portion of the access road between the existing quarry and the existing road to the processing facility's site could affect 0.04 acres of wetland located down slope of the proposed road.

The existing access road to the quarry will be relocated to the west, which results in the need to fill a 410-foot drainage channel southwest of the existing access road.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.3-D. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the Project impacting wetlands and "waters of the U.S." will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.3-D.1 and 4.3-D.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the proposed Project impacting wetlands and "waters of the U.S."

Rationale

Mitigation Measure 4.3-D.1 was drafted in consultation with the Department of Fish and Wildlife, which identified a section of Forsythe Creek to be improved in order to mitigate the impacts of the waters of the United States. These improvements include: channel stabilization, channel enhancement, channel creation, the planting of Willows, Oaks, and other vegetation of the adjacent

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terraces totaling approximately 26,750 square feet of channel, slopes and the upland terrace along and adjacent to Forsythe Creek. These mitigations result in a mitigation ratio of roughly 15:1, which far exceeds the standard mitigation ratio of 5:1, in order to mitigate the impacts to the 410-foot drainage channel southwest of the existing access road. Mitigation Measure 4.3-D.2 prohibits construction of the on-site haul road within the wetland between the haul road and Black Bart Drive. It further requires drainage improvements and level spreaders to be installed below the road to spread runoff before it enters the wetland. Mitigation Measures 4.3-D.1 and 4.3-D.2 ensure that there will be adequate mitigation for impacts to the 410-foot drainage channel and prevents any adverse effects to the small on-site wetland between Black Bart Drive and the on-site haul road and will reduce any impacts to either of these resources to a less-than-significant level.

Impact 4.3-E: Project development could conflict with the State law regarding Oak woodland conversion (Public Resources Code 21083.4).

Expansion of the quarry will result in removal of 24 Canyon Live Oaks and construction of the asphalt plant and internal haul road will result in the removal of 18 California Black Oaks, 49 Oregon White Oaks, 9 Interior Live Oaks and 2 Canyon Live Oaks, for a total of 102 true Oaks for the proposed Project.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.3-E. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the Project development conflicting with State law regarding oak woodland conversion will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.3-E.1 and 4.3-E.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the proposed Project development conflicting with State law regarding oak woodland conversion.

Rationale

Mitigation Measure 4.3-E.1 requires a biologist to inventory the species and number of true Oaks that will be removed as a result of the site preparation for the access road, the asphalt processing facility, and the access to the water tank. Mitigation Measure 4.3-E.2 requires replacement Oak trees at a mitigation ratio of three new trees for each one Oak removed. This Mitigation Measure also requires ongoing fertilization, irrigation protection and maintenance until the replacement trees are five years old and further requires that any tree dying in that 5-year period must be replanted until all of the replacement trees have been alive for seven years. Additionally, during the reclamation phase of the Project, additional Oak trees will be planted at a 2:1 ratio, resulting in a total of five new Oak trees for each one tree that was removed as part of the Project, at the end of the reclamation phase.

As a result of the required re-planting at a ratio of three trees for each Oak removed and the additional plantings at a 2:1 ratio during the Project's reclamation phase, there will be five new Oak

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trees for each one that was removed by the end of the site reclamation. The 5:1 replacement ratio ensures that any impact to Oak trees is reduced to less-than-significant.

Impact 4.3-K: Secondary Impact - Widening Highway 101 per Mitigation Measure 4.4-B.1 will impact biological resources.

Widening Highway 101 to provide additional north and southbound lanes will require removal of Oak trees, removal of other vegetation, and filling two wetlands - totaling 1,700 square feet or 0.04 acres. The first wetland is a roadside seep on the northeast slope of the access driveway. The second wetland is a linear road-influenced wetland across from the quarry entrance. While the second wetland is an acre in size, the area that may be filled is approximately 0.03 acres.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.3-K. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant secondary impact of widening Highway 101 pursuant to Mitigation Measure 4.4-B.1 will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.3-K.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the widening of Highway 101 pursuant to Mitigation Measure 4.4-B.1.

Rationale

The Applicant proposes to fill 0.04 acres of wetland and Mitigation Measure 4.3-K.1 requires the Applicant to expand and improve a wetland pool near the improvements to Forsythe Creek. This is in addition to compliance with Mitigation Measures 4.3-E.1 and 4.3-E.2. Mitigation Measure 4.3-K.1 further requires the compilation of baseline data, a water budget mimicking existing habitat characteristics, maintaining the hydrology of the wetland after construction, written protocols, and a conservation easement in order to ensure that the wetland is protected.

Widening Highway 101 will result in filling 0.04 acres of wetland. However, the restoration and enhancement of the existing wetland will provide replacement wetland habitat at a site that is much less disturbed and in a more natural state, which will reduce any impacts to wetlands to a less-than-significant level.

As addressed further in the 2019 FEIR, prior to certification of the 2019 Revised EIR, the Applicant completed various traffic improvements. Pursuant to the MMRP adopted by the Board, all mitigation measures relating to the traffic improvements required as Project mitigation remain applicable to the Project and future confirmation of compliance with the mitigation measures remains necessary pursuant to the MMRP.

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TRAFFIC AND CIRCULATION

Impact 4.4-B: The Project would increase traffic turning in and out of the Project access, and this would increase the existing safety hazard in the area.

The proposed Project will result in an increased number of trucks turning into and out of the access drive to Harris Quarry. Because of the absence of any acceleration, deceleration; or turn lanes where the Project access driveway intersects Highway 101, the increase in truck trips causes potential conflicts between drivers and increased the potentials for accidents.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.4-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the increase of traffic turning in and out of the Project access, thereby increasing existing safety hazards in the area will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.4-B.1, 4.4-B.2, and 4.4-B.3. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the impact of the increase of traffic turning in and out of the Project access, thereby increasing existing safety hazards.

Rationale

Mitigation Measure 4.4-B.1 requires the Applicant to construct improvements on Highway 101 prior to increasing its aggregate production or selling asphalt. These improvements include providing a left-turn, deceleration/storage lane of at least 470 feet in length on Highway 101; providing a right-turn deceleration lane that is at least 200 feet long on the southbound approach of Highway 101; providing a speed change acceleration lane for left turns from the Project site onto Highway 101 that is at least 1,410 feet in length and will extend north and through the Black Bart Drive intersection; and providing a speed change/acceleration lanes for southbound departures making right turns that is at least 1,090 feet long from the Project site, as well as a 300 foot taper.

Mitigation Measure 4.4-B.2 requires ongoing monitoring of operational and accident conditions at the 101/Harris Quarry access and the 101/Black Bart Drive intersections. Traffic counts and evaluations shall be obtained every two years, during both July and October, and the Applicant shall fund the studies. In the event that this monitoring indicates a safety or operational issue at either intersection, specified additional mitigation measures may be implemented.

Mitigation Measure 4.4-B.3 limits the aggregate production and Project generated traffic to the levels predicted in the 2012 EIR. In order to ensure compliance with this Mitigation Measure, an aerial survey is to be performed and provided to the County Department of Planning and Building Service every three years.

The Project will result in increased truck trips on Highway 101 that will aggravate existing traffic conditions, particularly where trucks are turning left or northbound onto Highway 101, or trucks

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traveling northbound on Highway 101 turn left into Harris Quarry. Mitigation Measures 4.4-B.1, 4.4-B.2 and 4.4-B.3 require the installation of the improvements recommended in the 2012 EIR as a result of the prior traffic studies, require ongoing operations monitoring and require aerial photos of the Project site every three years in order to ensure that the Applicant is complying with the extraction limits. Compliance with these three Mitigation Measures ensure any potential impacts to traffic are mitigated to less-than-significant.

As addressed further in the 2019 FEIR, prior to certification of the 2019 Revised EIR, the Applicant completed various traffic improvements. Pursuant to the MMRP adopted by the Board, all mitigation measures relating to the traffic improvements required as Project mitigation remain applicable to the Project and future confirmation of compliance with the mitigation measures remains necessary pursuant to the MMRP.

Impact 4.4-C: Nighttime use of the Project access would increase the safety hazard in the area.

During most years, nighttime operations are limited to 1-5 nights per year, when there is an emergency. However, the proposed Project will allow the Applicant to operate 100 nights per year in order to serve large roadway Projects. Nighttime use poses less of a safety concern than daytime use because of the reduced amount of traffic on Highway 101 at night. However, since the quarry access is not lit, night operations will result in an increased possibility of traffic accidents.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.4-C. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of nighttime use of the Project access increasing the safety hazard in the area will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.4-C.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of nighttime use of the Project access increasing the safety hazard in the area.

Rationale

Mitigation Measure 4.4-C.1 requires the Applicant to provide permanent or temporary lighting that illuminates the access intersection to the quarry from Highway 101 when the night operations exceed five days in one year. Illuminating the access intersection from Highway 101 to the quarry will allow drivers to see trucks waiting to pull onto Highway 101 and will mitigate any potential safety hazard impacts to less-than-significant for night operations.

As addressed further in the 2019 FEIR, prior to certification of the 2019 Revised EIR, the Applicant completed various traffic improvements. Pursuant to the MMRP adopted by the Board, all mitigation measures relating to the traffic improvements required as Project mitigation remain applicable to the Project and future confirmation of compliance with the mitigation measures remains necessary pursuant to the MMRP.

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Impact 4.4-D: Use of the Project access during times with limited visibility would increase the safety hazard in the area.

The quarry site is located near the top of the Ridgewood Grade, which experiences fog and winter storms. These events may reduce visibility.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.4-D. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of use of the Project access during times with limited visibility increasing the safety hazard in the area will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.4-D.1 and 4.4-D.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the impact of use of the Project access during times with limited visibility increasing the safety hazard in the area.

Rationale

Mitigation Measure 4.4-D.1 requires a south-facing truck warning sign located north of Black Bart Drive that is treated with a reflective surface, or that will have a light installed on it. When the quarry operator is not able to see the sign from the quarry access driveway, the trucks will not be permitted to turn left, or northbound, onto Highway 101 from the Project access road. The Applicant will prepare a driver's training manual for trucks that haul aggregate or asphalt out of the Project site and shall provide notice of these requirements to the drivers. Mitigation Measure 4.4-B.2 requires monitoring to be done by a County-approved monitor to ensure compliance of the visibility requirements and compliance with Mitigation Measure 4.4-D.1. The Applicant shall pay for the monitoring.

The sight distance at the top of the Ridgewood Grade for quarry access is generally very good and exceeds what is required for speeds during limited visibility, such as fog conditions. The implementation of Mitigation Measures 4.4-D.1 and 4.4-D.2 will reduce any potentially significant impacts to less-than-significant.

As addressed further in the 2019 FEIR, prior to certification of the 2019 Revised EIR, the Applicant completed various traffic improvements. Pursuant to the MMRP adopted by the Board, all mitigation measures relating to the traffic improvements required as Project mitigation remain applicable to the Project and future confirmation of compliance with the mitigation measures remains necessary pursuant to the MMRP.

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Impact 4.4-E: Cumulative Impact - The Project would increase 2014 traffic volumes at the intersections of Highway 101 with Black Bart Drive and the quarry access.

Impacts 4.4-E and 4.4-F are cumulative impacts and will result in increased 2014 and 2030 traffic, respectively, at the intersections of Highway 101 and Black Bart Drive and Highway 101 and the quarry access.

Findings

Based upon the 2012 EIR and the entire record, the proposed Project's potentially significant cumulative impact of the Project increasing 2014 traffic volumes at the intersections of Highway 101 with Black Bart Drive and with the quarry access will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.4-B.1, 4.4-B.2, 4.4-B.3, 4.4-C.1, 4.4-D.1, and 4.4-D.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant cumulative effects of the increase of 2014 traffic volumes at the intersections of Highway 101 with Black Bart Drive and Highway 101 with the quarry access.

Rationale

The Mitigation Measures for cumulative impacts related to these intersections require compliance with Mitigation Measures 4.4-B.1, 4.4-B.2, 4.4-C.1, 4.4-D.1, and 4.4-D.2. Therefore, the prior rationale and findings for these Mitigation Measures are incorporated by reference. Furthermore, Mitigation Measure 4.4-B.3 prohibits the Project from generating traffic that exceeds the level predicted and assessed in the EIR. The passage of time since the County's certification of the 2012 EIR does not impact the adequacy of the analysis, mitigation, or conclusions set forth in the 2012 EIR concerning Impact 4.4-E.

As addressed further in the 2019 FEIR, prior to certification of the 2019 Revised EIR, the Applicant completed various traffic improvements. Pursuant to the MMRP adopted by the Board, all mitigation measures relating to the traffic improvements required as Project mitigation remain applicable to the Project and future confirmation of compliance with the mitigation measures remains necessary pursuant to the MMRP.

Impact 4.4-F: Cumulative Impact - The Project would increase 2030 traffic volumes at the intersections of Highway 101 with Black Bart Drive and the quarry access.

Impacts 4.4-E and 4.4-F are cumulative impacts and will result in increased 2014 and 2030 traffic, respectively, at the intersections of Highway 101 and Black Bart Drive and Highway 101 and the quarry access.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.4-F. The Board finds that recirculation is not required.

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Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant cumulative impact of the Project increasing 2030 traffic volumes at the intersections of Highway 101 with Black Bart Drive and with the quarry access will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.4-B.1, 4.4-B.2, 4.4-C.1, 4.4-D.1 and 4.4-D.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant cumulative effects of the increase of 2030 traffic volumes at the intersections of Highway 101 with Black Bart Drive and Highway 101 with the quarry access.

Rationale

The Mitigation Measures for these two intersections require compliance with Mitigation Measures 4.4-B.1, 4.4-B.2, 4.4-C.1, and 4.4-D.1. Therefore, the prior rationale and findings for these Mitigation Measures are incorporated into this section of the Resolution by this reference.

As addressed further in the 2019 FEIR, prior to certification of the 2019 Revised EIR, the Applicant completed various traffic improvements. Pursuant to the MMRP adopted by the Board, all mitigation measures relating to the traffic improvements required as Project mitigation remain applicable to the Project and future confirmation of compliance with the mitigation measures remains necessary pursuant to the MMRP.

NOISE

Impact 4.5-B: The Project would generate noise and vibration from quarry blasting.

Quarries engage in intermittent blasting to loosen rock from the quarry face. When blasting is done, it is generally done in the spring. The proposed Project includes blasting on an infrequent basis, based on demand for material. Since the nearest residential unit is approximately 1,000 feet from the quarry site, residents may be able to hear the blasting.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.5-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the Project generating noise and vibration from the quarry will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.5-B.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project generating noise and vibration from quarry.

Rationale

Mitigation Measure 4.5-B.1 states that blasting shall be done as needed, but no more than ten times per year. Given the infrequency with which blasting were to occur, there will be no substantial change in noise levels to nearby residents. Limiting the blasting to no more than ten

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times per year will mitigate any potentially significant noise and vibration impacts from blasting to less-than-significant.

AIR QUALITY

Impact 4.6-A: Project construction would increase air emissions from equipment operation and fugitive dust from earth-moving activities.

Construction of the asphalt plant will generate exhaust omissions of CO₂, NO_x, VOC, and particulate matter. Clearing, grading and vehicle traffic on unpaved surfaces will also generate PM₁₀. The amount of dust that will be generated is variable and depends on the size of the area disturbed.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.6-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the Project's construction may result in significant impacts related to fugitive dust generation, but potential impacts will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.6-A.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project construction increasing air emissions from equipment operation and fugitive dust from earth-moving activities.

Rationale

Mitigation Measure 4.6-A.1 includes seven activities, including watering disturbed soil road surfaces, treating unpaved surfaces, applying asphalt, oil, water or suitable chemicals to stockpiles, restricting earth moving activities when winds exceed 15 mph and keeping a daily log of dust-controlling activities that will reduce dust. The implementation of Mitigation Measure 4.6-A.1 will reduce any potential impact from fugitive dust to less-than-significant.

Impact 4.6-B: The Quarry Project would generate direct emissions of criteria pollutant emissions (NO_x, CO₂, VOCs, PM₁₀, and PM_{2.5}) from on-site activities during operation of the quarry and asphalt plant which could exceed applicable significance levels.

Both the expanded quarry and the operation of the asphalt plant will increase emissions. However, fugitive dust may be generated by haul trucks traveling on the existing roads. The asphalt plant will also add new emissions to the Project site. However, the Board notes that the Applicant must obtain a permit from the Mendocino County Air Quality Management District (MCAQMD) and the Applicant must adhere to all laws, regulations and permit conditions imposed by MCAQMD.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the

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prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.6-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the quarry Project generating direct emissions of criteria pollutant emissions (NO_x, CO₂, VOCs, PM₁₀, and PM_{2.5}) from on-site activities during operation of the quarry and asphalt plant which could exceed applicable significance levels will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.6-B.1 and 4.6-B.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the quarry Project generating direct emissions of criteria pollutant emissions (NO_x, CO₂, VOCs, PM₁₀, and PM_{2.5}) from on-site activities during operation of the quarry and asphalt plant which could exceed applicable significance levels.

Rationale

Mitigation Measures 4.6-B.1 and 4.6-B.2 limit the emission of criteria pollutants and require MCAQMD to review all final equipment for compliance with the 2012 EIR. Compliance with all applicable laws, regulations, standards, the 2012 EIR, and MCAQMD's subsequent permit and conditions of approval will ensure that the implementation of Mitigation Measures 4.6-B.1 and 4.6-B.2 will reduce any potentially significant impacts to less-than-significant.

Some commenters on the 2019 RDEIR asserted that the 2019 RDEIR needed to evaluate the Project's air quality impacts in consideration of production of rubberized asphalt. Rubberized asphalt is a proven road paving material that has been used in California since the 1970s because, as stated by CalRecycle, it is cost-effective, safe, and environmentally friendly. (<https://www.calrecycle.ca.gov/tires/greenroads/rac>.) At the time the proposed Project was originally approved in 2012, Caltrans and the County utilized rubberized asphalt on highway and roadway projects. (See Mendocino County Board of Supervisors June 19, 2012 hearing, comments by Jim Houle [supporting the proposed Project because "the County can't meet its needs for asphalt, particularly for rubberized asphalt, under the existing conditions"]; see also Comments by Doug McLelland (undated) [discussing Caltrans' use of rubberized asphalt on its projects].) Therefore, the Project's potential production of rubberized asphalt does not constitute a change in the Project as originally proposed by the Applicant and approved by the County in 2012.

Furthermore, Mitigation Measures 4.6-B.1 and 4.6-B.2, and 4.6-E.1 were prescribed to lessen impacts from operational air quality impacts, and prescribed specific thresholds that could not be surpassed as part of the Project's operation. For example, Mitigation Measure 4.6-B.1 provides, in part, that "[t]he applicant shall not emit criteria pollutants beyond the levels described and analyzed in this EIR. MCAQMD shall not issue an Authority to Construct and a Permit to Operate if the equipment installed would cause the emission of pollutants that exceed the levels analyzed herein." (2011 RDEIR, p. 275.) Based on the performance standards contained within Mitigation Measures 4.6-B.1, 4.6-B.2, and 4.6-E.1, air quality impacts associated with the asphalt production process would not be allowed to exceed the thresholds prescribed in these measures. As such, the air quality impacts of manufacturing rubberized asphalt would not be any more severe than disclosed in the 2011 RDEIR.

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Impact 4.6-E: Emissions of toxic air contaminants from the Project could injure the health of workers and residents living in the area.

The Project will result in the emission of toxic air contaminants. Therefore, a human health risk assessment was performed. Airborne emissions of toxic air contaminants will consist of organic hydrocarbons generated by the production, storage and handling of asphalt. Additionally, diesel particulate matter and diesel exhaust are carcinogenic toxic air contaminants. Therefore, diesel particulate matter was included in the risk evaluation. The potential health effects from the proposed Project included an evaluation for sensitive receptors in the Project area located on Black Bart Drive, west of the Project, the Church of the Golden Rule, residents of the Golden Rule Mobile Village, students and teachers at La Vida School, the CAL FIRE Station, a commercial area on Highway 101 near Black Bart Drive. The 2012 EIR concluded that the maximum increased residential cancer risk for a 30-year Project is 1.24 per million at the commercial area just north of the quarry entrance, or 8 times less than the MCAQMD threshold limit of 10 per million. The maximum cancer risks for the residents of Black Bart Drive, Church of the Golden Rule and the Golden Rule Mobile Village are 0.24, 0.02 and 0.04 per million, respectively. All of these risks are at least 41 times less than MCAQMD's district threshold of 10 per million. The maximum workplace risk is 0.69 per million or fourteen times less than the MCAQMD's threshold of 10 per million. The 2012 EIR also concluded that the maximum acute hazard index is more than ten times lower than the Mendocino County Air Quality Management District's significance threshold of 1.0.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.6-E. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of emissions of toxic air contaminants from the Project injuring the health of workers and residents living in the area will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.6-E.1 and 4.6-E.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of emissions of toxic air contaminants from the Project injuring the health of workers and residents living in the area.

Rationale

Mitigation Measure 4.6-E.1 requires the Applicant to build and operate the Project in compliance with MCAQMD's threshold indices for cancer and acute and chronic non-cancer health effects. This Mitigation Measure further requires the Applicant to comply with all MCAQMD's requirements. Mitigation Measure 4.6-E.2 requires the asphalt plant to comply with the emission levels analyzed in the 2012 EIR. These two Mitigation Measures will reduce any potentially significant impacts to less-than-significant. (See also Impact 4.6-B Rationale above regarding potential production of rubberized asphalt.)

Some commenters on the 2019 RDEIR asserted that the 2019 RDEIR needed to be recirculated in order to evaluate the Project's toxic air contaminant impacts based on the 2015

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California Office of Environmental Health Hazard Assessment Air Toxic Hot Spots Program Guidance Manual for Preparation of Risk Assessment. A lead agency is not required to recirculate an EIR to address new standards for evaluating potential project impacts. (See, e.g., *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 532; *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, 1320; *Citizens Against Airport Pollution v. City of San Jose* (2014) 227 Cal.App.4th 788, 808.) The Board finds that the methodology relied on in the 2011 RDEIR adequately discloses the Project's potential toxic air contaminant impacts, which, as mitigated will be less than significant. Moreover, Mitigation Measure 4.6-E.1 requires the Applicant to build and operate the Project in compliance with MCAQMD's threshold indices for cancer and acute and chronic non-cancer health effects. Therefore, to the extent MCAQMD requires an evaluation of toxic air contaminant impacts based on the 2015 California Office of Environmental Health Hazard Assessment Air Toxic Hot Spots Program Guidance Manual for Preparation of Risk Assessment as part of its permitting process, Mitigation Measure 4.6-E.1 ensures the Project will meet those requirements. Furthermore, as explained in the MMRP, compliance with Mitigation Measure 4.6-E.1 is required both prior to issuance of any authority to construct and permit to operate as well as throughout the use permit process. Thus, as mitigated, the Project does not have the potential to result in a significant impact relating to toxic air contaminants.

Impact 4.6-F: The asphalt plant would generate odors.

The asphalt plant is the only source of odor for the proposed Project and will emit a number of hydrocarbon compounds. The Applicant will use the Best Available Control Technology as is required by MCAQMD. The 2012 EIR concluded that an odor analysis evaluated the acceptability of potential odor levels in areas occupied by sensitive receptors. None of the chemical concentrations identified in the odor analysis will exceed the odor thresholds in any of the odor sensitive receptor locations.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.6-F. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the asphalt plant generating odors will be mitigated to a less-than-significant level by implementing Mitigation Measure 4.6-F.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the asphalt plant generating odors.

Rationale

Mitigation Measure 4.6-F.1 prohibits operation of the asphalt plant from resulting in noxious odors. It further requires the asphalt plant to comply with the analyses in the 2012 EIR. This Mitigation Measure will reduce any potential odor impacts to less-than-significant.

Some commenters on the 2019 RDEIR asserted that the 2019 RDEIR needed to evaluate the Project's odor impacts in consideration of production of rubberized asphalt. As discussed above,

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Impact 4.6-B Rationale, the Project's potential production of rubberized asphalt does not constitute a change in the Project as originally proposed by the Applicant and approved by the County in 2012.

Furthermore, mitigation Measure 4.6-F.1 was prescribed to lessen impacts from odors, and prescribed specific thresholds that could not be surpassed as part of the Project's operation. The text of the measure is as follows: "The asphalt plant shall not result in noxious odors. The plant will be a facility that meets at least the odor emission levels and controls used to assess impacts from that facility in this EIR. If MCAQMD determines that the facility selected for installation would exceed pollutant emission standards as stated in Mitigation Measures 4.6-C.1 and 4.6-E.2, then additional odor analysis will be conducted as part of the required additional CEQA review prior to MCAQMD issuing any permits for the project." Based on the performance standards contained within the mitigation measure, odors emitted during the asphalt production process would not be allowed to exceed the thresholds prescribed in the measure. As such, the odor impacts of manufacturing rubberized asphalt would not be any more severe than disclosed in the 2011 RDEIR.

Impact 4.6-I: Cumulative Impact - The proposed Project could conflict with applicable GHG plans, policies, or regulations of an agency adopted for the purpose of reducing greenhouse gases.

The proposed Project will increase greenhouse gas emissions by 4,865 metric tons per year for stationary sources and have a net increase of 1,180 metric tons per year for nonstationary sources. However, because the Project is close to major population centers and geographical centers of the County, there will be shorter aggregate and asphalt trip lengths, resulting in a regional reduction in vehicle miles travelled (VMT). The Project is estimated to decrease VMT for the hauling of aggregate and asphalt in Mendocino County by approximately 183,500 VMT annually. This is a reduction in greenhouse gas emissions in the transportation sector, which is one of the goals of AB32. Once the site is reclaimed, the GHG will be reduced to below the 1990 emission levels. Mitigation Measure 4.6-I.1 requires the Applicant to comply with CARB standards for light and heavy vehicles, restricts the idling of diesel emissions to less than 5 minutes, requires purchasing new equipment or upgrading diesel equipment to meet the most recent CARB emission requirements, requires energy efficient appliances and lighting, energy efficient buildings, and meeting the green building code standard, among other things.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.6-I. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant cumulative impact of the proposed Project conflicting with applicable GHG plans, policies, or regulations of an agency adopted for the purpose of reducing greenhouse gases will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.6-I.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant cumulative impact of the proposed Project conflicting with applicable GHG plans, policies, or regulations of an agency adopted for the purpose of reducing greenhouse gases effects of the asphalt plant generating odors.

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Rationale

The Project is already below MCAQMD's significance threshold of 10,000 metric tons of CO₂ per year for stationary sources. For non-stationary sources, the net increase in GHG emissions will comply with MCAQMD's significance threshold of 1,100 metric tons when the VMT reduction as well as other existing requirements, such as reducing GHG emissions in passenger cars, are considered. Compliance with the list of items set forth in Mitigation Measure 4.6-l.1 will reduce any greenhouse gas emissions to less-than-significant.

AESTHETICS

Impact 4.7-C: Lighting of the processing facilities would impact night views in the area.

During nighttime operations, which are up to 100 nights per year, the lights at the asphalt processing facility would be noticeable for drivers using the portion of Black Bart Drive near the asphalt site.

Residents living in the Ridgewood Subdivision may have a direct view of these lights. The Project includes shielding these lights. However, if the lights are not installed properly, they could have a potentially significant impact on nighttime views.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.7-C. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the lighting of the processing facilities impacting night views in the area will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.7-C.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the lighting of the processing facilities impacting night views in the area.

Rationale

Mitigation Measure 4.7-C.1 limits the lighting in the final design and construction of the asphalt processing facility site to nighttime operations and security lighting. This mitigation further requires the lights to be shielded and prohibits direct lighting from being visible from off the site. Exterior lighting must be from the list of approved security lights adopted by the International Dark Sky Association and must be the minimum number of lights as determined by the Mendocino County Sheriff's Department. The limits on the number of lights, limiting the use of active lighting to nighttime operations and limiting security lighting to the minimum needed for security purposes, will reduce any potential impacts to nighttime use to less-than-significant.

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Impact 4.7-E: Cumulative Impact - The quarry expansion and highway improvements would change views from Highway 101.

The existing quarry face is already visible from Highway 101. The expansion of the quarry would show the additional bare face from Highway 101, particularly as drivers get closer to the quarry site. In addition to this, the proposed improvements at the access driveway for the quarry will change the views for those driving on Highway 101.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.7-E. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant cumulative impact of the quarry expansion and highway improvements changing views from Highway 101 will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.7-E.1 and 4.7-E.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant cumulative effects of the quarry expansion and highway improvements changing views from Highway 101.

Rationale

Mitigation Measures 4.7-E.1 and 4.7-E.2 require replanting to screen the views of the quarry from Highway 101 with fast-growing trees that will obtain a height of 20 feet quickly. This Mitigation Measure further requires the Applicant to fertilize, maintain and irrigate the trees. Mitigation Measure 4.7-E.2 requires limits the sign at the quarry entrance to 40 square feet in order to minimize its obtrusiveness. These two Mitigation Measures will reduce any cumulatively considerable contribution to less-than-significant.

PUBLIC SERVICES

Impact 4.8-A: The Project would generate increased calls for fire response and emergency medical aid.

The proposed access road complies with CAL FIRE's requirements for width, surface grade and turning radius. In addition to this, all on-site liquid storage tanks, other than water tanks, have a secondary containment system. Finally, the Project will have at least 120,000 gallons of water storage in order to provide adequate fireflow for fire suppression. While the quarry does not pose a major concern for fire, the fuels and other materials used on the asphalt processing site will all be contained in double-walled tanks on a paved surface. According to the Little Lake Fire District (LLFD), in the past 33 years there have not been any significant fires at the three asphalt plants that were historically located in the City of Willits.

There may be emergency medical response to accidents involving access inside and out of the quarry. However, there have been few traffic accidents at the Highway 101 and quarry intersection and no reported accidents at Black Bart Drive and Highway 101. The improvements to

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Highway 101 improve the overall safety of both the Black Bart / Highway 101 intersection and the quarry access and Highway 101 intersection.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.8-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the Project generating increased calls for fire response and emergency medical aid will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.8-A.1 and 4.8-A.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project generating increased calls for fire response and emergency medical aid.

Rationale

Mitigation Measure 4.8-A.1 requires the Applicant to comply with all LLFD requirements, such as having the LLFD review and approve any on-site storage tanks, review and approve the final Project design to ensure adequate fireflow and hydrant location, to approve the size, type and number of fire extinguishers, and to have the appropriate apparatus for the water storage tank. Mitigation Measure 4.8-A.2 requires an emergency-only, gated, and paved access from the asphalt processing facility to Black Bart Drive. Adherences to these Mitigation Measures will reduce any potentially significant impacts to less-than-significant.

Some commenters on the 2019 RDEIR asserted that the 2019 RDEIR needed to evaluate increased fire risks in the area as well as the impact of a portion of Williams Ranch Road currently being unusable. As discussed further in the 2019 FEIR, while fire risk is a grave community concern, potential impacts of the Project related to fire risk were analyzed in the 2011 RDEIR, and project features designed to reduce the risk of igniting fires, reduce the likelihood that a fire would escape the site, and ensure that emergency evacuation from the neighborhoods could utilize Black Bart Drive have not changed. Therefore, the impact analysis and the mitigation provided in the 2011 RDEIR remain valid. Furthermore, while a portion of Williams Ranch Road washed out in 2017 and has not been repaired to date, this fact does not impact the adequacy of the analysis or mitigation included in the 2011 RDEIR. Specifically, at the time the original EIR was prepared and the 2012 FEIR was certified, the County understood that Black Bart Drive was the only viable emergency access and evacuation route for residents along Black Bart Drive. For example, during the public scoping period of the original EIR, a commenter stated that “[t]he only other access [other than Black Bart Drive] to this subdivision is via Muir Mill Rd., to Williams Ranch Rd., to Black Hawk Dr.... This is not a feasible access route OR evacuation route in the event of an out of control wild land fire.” (Public Scoping Comment by Roni McFadden (Dec. 5, 2006); see also 2007 DEIR, App. B, p. 8 [acknowledging comments stating that “[i]f a fire occurs at the processing site, it would block emergency access to residential areas to the west” and stating the EIR would “[a]ssess impacts on emergency access and evacuation”]; see also Jack Magne e-mail entitled “Harris Quarry Comment – BOS” (April 8, 2012) [stating there is “no alternative route to these neighborhoods”]; Keep the Code comment letter entitled “Harris Quarry Expansion Project Supplemental Mitigation Monitoring and Reporting (May 14, 2012) [stating that an asphalt plant located on “Black Bart Road ... poses an

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increased wildfire risk to residents who depend on this road as their only public emergency vehicular access to Highway 101 and the only public emergency vehicular access by wildfire responders to their properties”].) As Williams Ranch Road was not considered a viable access or evacuation route for residents when the EIR was originally prepared and the prior analysis of potential fire safety risk included in the EIR did not rely on access to Williams Ranch Road to reach its impact conclusion, the current unusable condition of Williams Ranch Road does not constitute significant new information as defined by CEQA.

Furthermore, as the private Williams Ranch Road has historically been maintained, it is reasonable to assume that the washed-out portion of the road will be repaired. Therefore, while the status of Williams Ranch Road has no impact on the fire safety conclusions included in the 2011 RDEIR and 2012 FEIR, it is anticipated that the road will be repaired in the future and the historical baseline condition of the road being accessible to area residents will be maintained.

Impact 4.8-B: The Project would increase the risk of igniting wildland fires or being affected by a wildland fire.

The Project involves development of quarry activities in an underdeveloped portion of Mendocino County. Increased development of quarry activities results in the area results in an increase in the risk of wildland fires or the Project being affected by a wildland fire. The Mitigation Measures for Impact 4.8-A are incorporated into the response to Impact 4.8-B. Therefore, the discussion regarding Impact 4.8-A is incorporated here by this reference.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.8-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project’s potentially significant impact of the Project increasing the risk of igniting wildland fires or being affected by a wildland fire will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.8-A.1 and 4.8-A.2. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project increasing the risk of igniting wildland fires or being affected by a wildland fire.

Rationale

The Mitigation Measures for Impact 4.8-A are incorporated into the response to Impact 4.8-B, and the discussion regarding Impact 4.8-A is incorporated here by this reference. Adopting Mitigation Measure 4.8-A.1 would reduce the risk of wildland fires to less-than-significant.

Impact 4.8-D: The Project would generate increased demand for water.

The proposed Project has a water demand of approximately 9.08 acre feet per year. In the event of a severe drought, it is possible that there may not be sufficient water to wash and/or process aggregate. The Project description states that the Applicant will adjust its operation in the

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event of a severe drought. In severe drought conditions there may be insufficient water available for dust control, which could generate dust that drifts off the site.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.8-D. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of the Project generating an increased demand for water will be mitigated to a less-than-significant level by the implementation of Mitigation Measure 4.8-B.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of the Project generating an increased demand for water.

Rationale

Mitigation Measure 4.8-B.1 requires the quarry to cease operations if the Applicant cannot provide 7,200 gallons of water per day for dust control or provide an alternate method that would otherwise control dust. Ceasing operations when there is inadequate water for dust control will mitigate any potential impact from increased water demand and the Applicant's ability to control dust to a less-than-significant level.

HAZARDS AND HAZARDOUS MATERIALS

Impact 4.9-B: Transport, storage and use of diesel fuels and other chemicals on-site pose a potential safety risk.

The revised EIR concluded that transporting diesel fuel, asphalt, oil and other products that will be used on the site, such as lubricating oils and solvents, does not pose a particularly unique or significant problem for transportation of these types of materials. The potential risk of this type of transportation is a loaded diesel fuel truck turning into the Project being involved in an accident. Additionally, the storage of diesel fuel and asphalt oil would be a potential hazard in the event of a fire. However, the diesel fueling station will be operating in accordance with all County requirements and is not located near flammable structures or vegetation. Only minimal asphalt oil will be stored on-site, as the asphalt oil will be delivered on an as-needed basis.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.9-B. The Board finds that recirculation is not required.

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Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of transport, storage and use of diesel fuels and other chemicals on-site posing potential safety risks will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.1-B, 4.1-C, 4.4-B, 4.4-D, and 4.9-B.1. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of transport, storage and use of diesel fuels and other chemicals on-site posing potential safety risks.

Rationale

Mitigation Measures 4.1-B, 4.1-C, 4.4-B, 4.4-D, and 4.8-A are part of the mitigation for this impact. Additionally, Mitigation Measure 4.9-B.1 prohibits trucks transporting diesel fuel from turning left into the Project site after 10:00 a.m. Adherence to these Mitigation Measures will reduce any potentially significant impacts to less-than-significant.

CULTURAL RESOURCES

Impact 4.12-A: Future development of the site could damage cultural resources.

The 2012 EIR concluded that an archeological survey was prepared for the Project site and no archeological or historic resources were identified. In addition, eleven individuals in seven tribes were contacted so see if they were aware of any cultural resources on the site. No responses were received from any of these eleven individuals. There are currently no known cultural or paleontological resources on the Project site. However, unknown resources may be discovered during future mining or site preparation.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.12-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, the proposed Project's potentially significant impact of future development of the site damaging cultural resources transport, storage and use of diesel fuels and other chemicals on-site posing potential safety risks will be mitigated to a less-than-significant level by the implementation of Mitigation Measures 4.12-A.1, 4.12-A.2, and 4.12-A.3. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate or avoid the potentially significant effects of future development of the site damaging cultural resources.

Rationale

Mitigation Measures 4.12-A.1, 4.12-A.2, and 4.12-A.3 address the discovery of currently unknown resources on the site. Mitigation Measure 4.12-A.1 requires the cessation of all earth moving activity if cultural resources are discovered and requires the Applicant to obtain a qualified consultant to assess the resource and its significance. Mitigation Measure 4.12-A.2 requires the Applicant to contact the County Coroner in the event that human skeletal remains are discovered

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and further requires the Coroner to contact the Native American Heritage Commission. Mitigation Measure 4.12-A.3 requires the halting of work if any paleontological resources are discovered and retaining a qualified paleontologist to assess the significance of any finds.

Mitigation Measures 4.12-A.1, 4.12-A.2, and 4.12-A.3 all require the immediate cessation of work in the event that any cultural resources, human skeletal remains, or paleontological resources are discovered. They further require retaining a qualified person to assess the situation and to provide further direction. Since the immediate cessation of work upon discovery on any one these three items will result in preservation of the resource, these three Mitigation Measures reduce any potentially significant impacts to less-than-significant.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

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

The Project will implement mitigation measures to reduce significant environmental changes to a less than significant level for all issues except for (1) significant and unmitigable direct impacts to aesthetics (scenic vistas and visual character and quality) and (2) significant and unavoidable indirect impacts to air quality (air quality violations). A brief summary of each environmental topic that would result in a significant and unavoidable impact is provided below.

Aesthetics

Approval of the Project would result in significant and unavoidable direct impacts to scenic vistas and visual character and quality. The Project would permanently alter the views from Black Bart Drive, the Ridgewood Subdivision, and Highway 101. Also, Project lighting would impact resident and highway nighttime views.

Air Quality

Approval of the Project would result in significant and unavoidable indirect impacts to air quality. Specifically, Project operational emissions would exceed the daily regional thresholds for NO_x during the initial years of operation. Emissions are attributable to truck trips, which would exceed the thresholds for NO_x.

DETAILED ISSUES DISCUSSION FOR SIGNIFICANT AND UNAVOIDABLE DIRECT IMPACTS

Impact 4.7-A. The processing site will change views from Black Bart Drive and the Ridgewood Subdivision.

The Project would replace undeveloped and unmodified terrain with aggregate production. The oak savanna and wooded hillside would be replaced with a cut slope, graded level pad, fencing, and processing facilities. The existing view would be replaced by the perimeter fence, vehicles, and piled aggregate. Views are relatively limited along Black Bart Drive. East of the existing access to the site, views will be buffered by existing trees. However, the upper portion of the silo and the tops of aggregate storage piles may be seen from this vantage point.

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The unimpeded view of the site is possible for about 500 feet along Black Bart Drive. Traveling at 25 mph, the processing facilities would be visible for less than 15 seconds. The tops of the silos and other facilities would be visible from a turnout further west, and possibly from other locations within one-quarter mile of the site. Other than the unimpeded views immediately adjacent to (500 feet from) the site, views from Black Bart Drive would be blocked by topography and/or roadside trees. It is expected that, at most, the tops of the silos might be visible for a distance of up to one-quarter mile to the west.

The Project would introduce a view of industrial development into an open space vista. To lessen this impact, some existing trees between Black Bart Drive and the facility will be retained. The revised site plan has substantially less visual impact than the original site plan. This is because Project silos have been relocated to the southwest, aggregate piles have been added along the perimeter, and screening trees have been added. However, the asphalt processing facility would be visible from a few residences on the Ridgewood Subdivision.

The Project would also construct a new access road between the quarry and the asphalt processing facility (and the access to Highway 101). This road parallels Black Bart Drive from about 250 feet west of Highway 101 to the asphalt processing site; for most of this 1,500-foot length of the road, it is within about 50 feet of the edge of Black Bart Drive. The portion that remains to be graded is in the heavily wooded area northwest of the existing project access to Highway 101. The 500-foot long expansion would connect the existing road to the asphalt processing facility with the Project access at Highway 101. Due to heavy tree cover between the proposed road and Black Bart Drive, it is not likely that this road or the hillside cut required for that road will be visible from Black Bart Drive. However, if portions were visible through the trees, this would add to the potentially significant impact on views from Black Bart Drive.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.7-A. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, while Mitigation Measures 4.7-A.1 and 4.7-A.2 would substantially reduce the aesthetic impact associated with the Project over time, the impact would not be reduced to a less-than-significant level. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate the potentially significant aesthetic effects of Project to the extent feasible, however, the impact remains significant and unavoidable after mitigation.

Rationale

In addition to Mitigation Measures 4.7-A.1 and 4.7-A.2, the Applicant has proposed planting eleven new oaks between Black Bart Drive and the northeast corner of the site, and eight oaks and nine Douglas fir adjacent to Black Bart Drive near the emergency access to Black Bart Drive extending northwest past the west end of the bio-retention area. Over time, the view would be modified by these trees, and less of the site would be visible from Black Bart Drive. It is expected that in 10-15 years, these trees, if adequately fertilized, watered, and maintained, will screen most

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views of the processing facilities. The Applicant also proposed reclamation plantings including 150 oaks that are at least 5 years old and range in size up to 6+ feet high.

Mitigation Measures 4.7-A.1 and 4.7-A.2 would, over time, provide screening from Black Bart Drive. Planting facilities to blend with surrounding vegetation would also diminish the visual impacts. However, it is expected that it would take up to 10+ years before the new trees reach a height of 25-30 feet. This height is required to screen taller structures on the site. In addition, the screening would likely not be complete, allowing some views of the facility from Black Bart Drive, as well as more distant views from the west.

At completion of mining, the site would be reclaimed. Once reclamation is completed and the area is planted with grasses and new oak trees, the permanent visual impact would be less-than-significant. However, reclamation will not occur for several decades, so it remains a permanent impact. Although Mitigation Measures 4.7-A.1 and 4.7-A.2 would substantially reduce the aesthetic impact associated with the Project over time, it remains a significant and unavoidable impact.

Impact 4.7-B. The expansion will change views from vantage points on the Ridgewood Ranch.

The expanded quarry would be visible from many vantage points on Ridgewood Ranch. The volcanic knob just south of the quarry is visible from many locations, and from everywhere the knob is visible, the expanded quarry face would be visible. The south end of the vegetated ridge would be reduced in elevation, and the mined face of the quarry bordered by remaining trees to the northwest would be visible. Reclamation would provide some future screening of the quarry face, but that screening would not occur for several decades, as discussed in Impact 4.7-A.

Although the quarry face would be a relatively small part of the long-range views from most affected vantage points, it would be one of the few human-caused phenomena visible on the hills surrounding the valley where most of Ridgewood Ranch's use is centered, and is the highest point in the vista. Because the Ranch is being placed in conservation easements and is used for recreational and educational purposes, this change in views is considered a potentially significant impact.

There are other vantage points where the quarry face would also be visible, including the lake to the west of the main compound and higher elevation vantage points. The Church of the Golden Rule owns property to the east of the quarry site, including land at higher elevations that has views down onto the quarry. The Church has created five residential lots that could be sold as large lot residential parcels. The quarry would be an unattractive element for views from some vantage points on these lots.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.7-B. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, because the tree screening which would rehabilitate views would take several decades to effectuate, there are no identified mitigation measures which would reduce significant impacts associated with views from Ridgewood

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Ranch and surrounding areas. Accordingly, Impact 4.7-B remains significant and unavoidable after mitigation.

Rationale

Ridgewood Ranch is a sensitive biological and historical resource preserved through the purchase of conservation and other easements. It is also the home of Church residents and other residents. The lowering of the ridge and the change in views along the skyline would adversely affect views from the Ranch. While reclamation-associated plantings, over time, would provide screening from Ridgewood Ranch, because it would take several decades to reclaim the site, the aesthetic impact would be considered significant and unavoidable.

Impact 4.7-C. Lighting of the processing facilities will impact night views in the area.

Lights at the Project when nighttime operations are occurring (up to 100 nights per year) would be noticeable to drivers near the site on Black Bart Drive. This impact has been lessened because the originally proposed tall silos have been relocated to the southwest (and would not be straight ahead of drivers traveling east), and because the cement facility (and its lights) have been eliminated. Some residents living to the west in the Ridgewood Subdivision would also have direct views of these lights. Residents in that subdivision, as well as residents on Ridgewood Ranch, would notice a glow in the night sky. Given the generally dark nighttime visual environment, these lights would have a potentially significant impact on residents in the area and travelers on Black Bart Drive.

On nights when nighttime operations are not occurring, security lights would be on at the asphalt processing facility site and at the quarry site. Also, the Project access driveway would be lit when nighttime operations are occurring to reduce traffic safety hazards. The current proposal includes shielding of these lights. However, if these lights are not properly installed, they could also have a potential significant impact. This would add light to a currently dark landscape. However, the lighting would not affect residences and would be seen only by passing travelers.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.7-C. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, while Mitigation Measures 4.7-C would reduce security lighting impacts by limiting the time they are on to only when movement is recorded on the site, the impact would not be reduced to a less-than-significant level. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate the potentially significant aesthetic effects of Project to the extent feasible, however, the impact remains significant and unavoidable after mitigation.

Rationale

Lighting needed for operating the processing facilities would be visible for up to 100 nights per year. Mitigation Measure 4.7-C.1 would shield lights so that they would be barely visible or not visible from residences on the Ridgewood Subdivision and would reduce the night glow impact to

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these residents to a less-than-significant level. However, there are no identified mitigation measures available to lessen the lighting impacts from nighttime processing operations on drivers traveling on Black Bart Drive near the site and on some residents living to the west of the site. This would remain a significant and unavoidable impact.

Impact 4.7-E. The expansion and highway improvements will change views from Highway 101.

The quarry is visible intermittently on Highway 101 for about 1.1 miles north of Ridgewood Road. The bare face of the quarry would expand the already very noticeable development, particularly when traveling near the site. Quarry expansion would increase the area of disturbance and remove an additional 19 acres of chaparral and tanoak woodland. While there would be an expanded area of disturbance, the main impact to area views has already occurred. Therefore, the Project itself would not have a significant impact on views, but the cumulative impact of the Project expansion of the area of disturbance plus past actions (i.e., the existing quarry) would be considered a potentially significant cumulative impact.

Proposed improvements at the access driveway would change views for travelers as they pass this point. There would be additional paving visible. The southern quarry access driveway would be widened for about 1,390 feet. Trees in this area between the highway and the quarry driveway would be removed. Travelers driving north would not see roadside trees between the quarry and the access driveway intersection with the highway. The driveway will be widened and the new access road will be visible behind the driveway entrance. When passing the driveway entrance, a wider area of paving will be visible. If looking directly at the driveway, travelers would see the southernmost portion of the cut on the west side of the new access road. Once past the driveway intersection, the road cut would not be visible due to topography and intervening trees. North of the driveway intersection, woodland to the west would be reduced, as trees would be removed to allow highway widening. However, these changes, plus the widening of the highway, would not be expected to be particularly noticeable to those driving at fairly high speeds along the approximately 1,700-foot long section of highway. The expansion of the quarry itself would change views from the highway, and the highway widening and improvements to the access driveway intersection would add to this change.

Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.7-E. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, while Mitigation Measure 4.7-E.1 and 4.7-E.2 would reduce the impact of changed views, it is not possible to substantively screen the quarry expansion for northbound travelers. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project, which mitigate the potentially significant aesthetic effects of Project to the extent feasible, however, the impact remains significant and unavoidable after mitigation.

Rationale

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Mitigation Measure 4.7-E.1 and 4.7-E.2 would reduce the impact of changed views, but it is not possible to substantively screen the quarry expansion for northbound travelers. The Project would make a short-term cumulatively considerable contribution to a significant and unavoidable cumulative impact, and it would also be a contribution to the long-term impact if the quarry were expanded in the future.

DETAILED ISSUES DISCUSSION FOR SIGNIFICANT AND UNAVOIDABLE INDIRECT IMPACTS

Impact 4.6-C. Indirect operational emissions of NO_x would exceed its applicable significance level.

Project operations would exceed the daily MCAQMD threshold for NO_x emissions during the initial years of supplying aggregate, but not under long-term projections. For all other pollutants, the Project's daily emissions are below the applicable MCAQMD thresholds both under initial and long-term projections.

99% of NO_x emissions would be from haul trucks associated with the Project. NO_x emissions from heavy-duty diesel trucks are projected to significantly decrease in the future due to State and Federal engine emission standards applied to new trucks. NO_x emissions will decrease over time as older, higher-emitting trucks are replaced with new trucks meeting current emission standards. Project NO_x emissions are projected to decrease from 179.7 lb/day under the three-year metric to 34.8 lb/day under the twenty-year metric.

Since the Project does not own the fleet of haul trucks accessing the site, and specific trucks accessing the site may vary over time, the Applicant does not have control over these trucks. As such, implementing mitigation measures to reduce indirect NO_x emissions of the Project is not feasible. Consistent with the conclusion in the 2011 RDEIR, the County conservatively assumes that it may take about six or seven years for enough older, higher-emitting trucks to be replaced with new trucks meeting current emission standards for average daily NO_x emissions would decline to satisfy MCAQMD's emissions standards.

Furthermore, when assessing emissions from the total number of VMT to haul aggregate and asphalt in the County, Project development would decrease emissions overall through a net decrease in VMT. There is a finite demand for aggregate and asphalt within a geographic area. That demand is met by hauling aggregate or asphalt from the most economically feasible (usually closest) quarry. The Project has the potential to decrease total VMT associated with hauling aggregate and asphalt by providing a local (economically feasible) option to satisfy aggregate demand in the Project's market reach. The possible reduction in VMT due to the expansion of the Project would result in an overall net reduction in NO_x emissions from transportation sources in the Project's market reach.

Nonetheless, indirect NO_x emissions due to Project-generated truck trips under initial operation projection exceed MCAQMD's significance threshold for NO_x. This is considered a significant and unavoidable impact. Emissions could be reduced by reducing the allowable output of the asphalt facility. However, even if the maximum production was reduced by 50% to 75,000 tons per year, this would only reduce the NO_x emissions by about 13% (because 99% of NO_x emissions are from haul trucks, and only 25% of haul trucks are associated with asphalt delivery). Even with output reduction, NO_x emissions would be above the MCAQMD significance threshold for NO_x under initial operation projections.

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Findings

Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, the Project and associated approvals for the Project have not substantively changed from the versions previously considered by Board in 2012. Pursuant to CEQA Guidelines section 15088.5, the Board has considered whether any changes in circumstances since 2012 or any other considerations require the County to recirculate portions of the 2012 EIR relating to Impact 4.6-C. The Board finds that recirculation is not required.

Furthermore, based upon the 2012 EIR and the entire record, because the Project does not own the fleet of haul trucks accessing the site, and specific trucks accessing the site may vary over time, the Applicant does not have control over truck emissions. As such, implementing mitigation measures to reduce indirect NO_x emissions from trucks in the near term are not feasible. Accordingly, Impact 4.6-C remains significant and unavoidable after mitigation.

Rationale

There are no feasible Mitigation Measures identified which would reduce significant indirect air quality impacts to a less than significant level during the initial years of Project operation. The Project would result in increased diesel truck trips to and from the site and cause a significant indirect operational impact on NO_x emissions during the initial years of Project operation. Accordingly, impacts associated with the indirect operational emissions NO_x would remain significant and unavoidable.

However, over time, the Project would divert truck trips hauling aggregate from quarries farther from the Project site, would replace truck trips servicing the Project's market reach from more distant quarries, and older, higher-emitting trucks would be replaced with new trucks meeting current emission standards. This would reduce both VMT as well as individual truck emissions over time, which would have a beneficial effect on air quality overall.

GROWTH INDUCEMENT

As required by Section 15126.2(d) of the CEQA Guidelines, an EIR must discuss ways in which a proposed project could foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment. Also, the EIR must discuss the characteristics of the project that could encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. Growth can be induced in a number of ways, such as through the elimination of obstacles to growth, the stimulation of economic activity within the region, or the establishment of policies or other precedents that directly or indirectly encourage additional growth. Under CEQA, this growth is not to be considered necessarily detrimental, beneficial, or of significant consequence. Induced growth would be considered a significant impact if it can be demonstrated that the potential growth, directly or indirectly, significantly affects the environment.

In general, a project could foster spatial, economic, or population growth in a geographic area if the project removes an impediment to growth (e.g., the establishment of an essential public service, the provision of new access to an area, or a change in zoning or General Plan amendment approval), or economic expansion or growth occurs in an area in response to the project (e.g., changes in revenue base, employment expansion).

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The Project would provide various forms of aggregate, including asphalt, that would be used in a variety of building projects, including highways, roads, driveways, parking lots, leachfields, stream repair and restoration, and construction of most types of buildings. Without this aggregate being produced by some operator, it would be difficult for the local population to construct new facilities or repair existing facilities.

Aggregate, and asphalt are produced when there is a demand for it. The general plans of the County and the four incorporated cities in the County allow a certain amount of growth and describe where that growth can occur. Future aggregate mining and mineral processing are not expected to encourage any development or growth that is in conflict with adopted general plans. Even in those cases where growth in certain parts of the County may exceed general plan-projected growth levels, this growth is a result of market forces for new housing and employment opportunities. This growth is not induced by the availability of aggregate and asphalt. Further, if aggregate and asphalt were not available from Harris Quarry, it would be available from other sources in the County or, if there was a shortage of these materials in the County, from sources outside the County. While the cost of aggregate and asphalt from more distant sources might increase if the proposed Project were not approved, there is no evidence that this price increase would substantially slow or stop new development in the County.

Indirectly, the Project would result in the hiring of four additional on-site employees and five additional off-site employees. This small increase in employment would not have any measurable effect regarding an increased demand for housing or public services and utilities.

The Mineral Processing Combining District could induce additional quarry owners to seek a rezoning to this district in order to allow them to develop asphalt facilities near their quarries. If such rezonings were sought, the projects would need to first undergo CEQA review. Approval of the Project would not be expected to substantially induce the development of additional asphalt facilities in the County. In summary, the Project would have less-than-significant growth-inducing impacts.

CHANGES IN THE SURROUNDING AREA SINCE 2012

Several commenters on the 2019 RDEIR expressed concern that changes in the project area between certification of the 2012 FEIR and today constitute significant new information requiring recirculation of the 2019 RDEIR. These comments are incorrect. First, these comments constitute challenges to the adequacy of the cumulative impact analysis included in the 2012 FEIR. Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Jone Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.)

Second, the 2011 RDEIR included a conservative analysis of the proposed project's cumulative impacts. Specifically, Caltrans traffic projections were used to evaluate cumulative impacts, including cumulative noise and air quality impacts. (See, e.g., 2012 FEIR, pp. 90, 98.) The Caltrans traffic projections assume a 50 percent increase in area traffic from 2006 to 2025. (2011 RDEIR, p. 215.) The 2011 RDEIR conservatively assumed that traffic on Black Bart Drive would also increase by 50 percent by 2025 to reflect assumptions in planned growth in the area. (2011 RDEIR, pp. 215, 242.) As explained in the 2019 FEIR, actual population and traffic growth between certification of the 2012 FEIR and today has been substantially lower than the cumulative conditions assumed in the 2011 RDEIR.

Third, the locations of sensitive receptors surrounding the project site have not significantly changed since the County certified the 2012 FEIR. (2011 RDEIR, App. D (Air Quality Data) [stating that "[t]he sensitive receptor areas included in the modeling were the Church of the Golden Rule, the

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Golden Rule Mobile Village, residents in the Black Bart Road area and the old commercial area at Black Bart Road and Highway 101, and at the Mendocino CAL FIRE Headquarters north of the site and on the east side of Highway 101”]; see also 2011 RDEIR, p. 288 [“The greatest risk would be for people renting units at the old motel/restaurant location on the west side of Highway 101.”].) Specifically, to the north, the 2011 RDEIR explains:

Five to six residential units and several former commercial businesses including a motel, service station, and restaurant are located to the north of the quarry site, along Highway 101, and northeast of the asphalt plant site. This development is as near as 1,000 feet of the asphalt plant site. North of the asphalt plant site (and west of the highway commercial area) is open space land owned by the Applicant.

(2011 RDEIR, p. 263; see also 2011 RDEIR, p. 131 [stating the motel includes 30 units].)

To the east, the 2011 RDEIR explains:

Across the highway and about 3,000 feet northeast of the asphalt plant site is the California Department of Forestry Howard Forest Fire Station. Further north and northwest are rural residential properties; the property boundary of the nearest rural residential property is about 3,000 feet north of the asphalt plant site, with the nearest home located approximately one mile away.

(2011 RDEIR, p. 263.)

To the west, the 2011 RDEIR explains:

[There] is undeveloped land owned by the Applicant. Further west and southwest there is rural residential development. The nearest residence to the west is about 1.4 miles west of the quarry. The nearest residence to the asphalt plant site is about one mile to the west.

(2011 RDEIR, p. 263.)

To the south, the 2011 RDEIR explains:

[There] is undeveloped open space on the Ridgewood Ranch belonging to the Church of the Golden Rule. The Church’s compound (off Ridgewood Road) is located about two miles south of the quarry. La Vita School is located about 2.3 miles south of the quarry. A mobile home park (Golden Rule Mobile Village) is located about 3 miles south of the quarry.

(2011 RDEIR, p. 263.)

The ranch is the “Home of Seabiscuit”, and the Seabiscuit Heritage Foundation, which is based on the ranch, provides nature walks open to the public 20 days a year to tour the areas under conservation easements. In addition, the Foundation provides historic tours of the ranch from May through October.

The GRCA also sponsors a horse therapy program, TRAIL, for handicapped children on the ranch. TRAIL has about 20 children and their families every week caring for and riding horses in an outdoor setting on the ranch.

There is also a charter school located on the ranch, La Vida School, which serves about 150 students from grades 1-12 who attend on the average of 2 times per week and are also home-schooled during the school year.

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There are 250 residences, comprised of apartments, homes and mobile homes, on the ranch and about 450 residents. The main Church complex contains 146 residences, a church, school, historic buildings, dining facility, bathhouse and swimming pool, and numerous barns, garages, and other ranch buildings. The Golden Rule Mobile Home Village, a senior residential development, contains 94 permanent mobile homes, plus a Recreation Vehicle park for seasonal visitors open Memorial Day through Labor Day. There are also ten other residences on the ranch.

(2011 RDEIR, pp. 334-335; see also May 17, 2012 Planning Commission hearing comments by Cynthia Raiser Jeavons [stating the area includes “over 100 seniors who live at the trailer park; the 70 church members and renters who live at Ridgewood Ranch; the hundreds of interns, workshop attendees and visitors to the bio-intensive garden program; the over 1,000 annual visitors who come to a Seabiscuit tour; the countless community members who enjoy Ridgewood Ranch for scheduled nature walks and other programs; as well as the owners of the 346 properties at the Ridgewood subdivision”]; see also Norton Heath comment (Aug. 31, 2011) [stating over 500 people including seniors and children live in the area surrounding the project site].)

Changes in development surrounding the proposed project between certification of the 2012 FEIR and today, as well as future development anticipated by some commenters on the 2019 RDEIR, such as GRCA’s current concept to remodel the restaurant and gas station in the White Deer Lodge area to use it as a commercial kitchen and retail space as well as the plan to convert the motel into an assisted living facility, are consistent with the cumulative growth projections assumed in the 2011 RDEIR. Furthermore, the presence of the commercial uses in the White Deer Lodge area and the potential future development of a senior living facility were known when the County certified the 2012 FEIR. (See, e.g., March 15, 2012 Planning Commission hearing comments by Cody Bartholomew and Ellen Bartholomew [stating that GRCA anticipated the future development of assisted living centers in the project area]; 2011 RDEIR, p. 334 [the 2011 RDEIR also stated that anticipated changes in the project area included the future preservation of the 5,000-acre Ridgewood Ranch as a working landscape, including expanded educational programs that reflect the cultural heritage and conserve the natural resources of the ranch].) Therefore, commenters have not identified any changes in circumstances with the potential to result in a substantial increase in the severity of environmental impacts disclosed and analyzed in the 2012 FEIR.

For example, in *Committee for Re-Evaluation of T-Line Loop v. San Francisco Municipal Transportation Agency* (2016) 6 Cal.App.5th 1237, 1255, the court held that “changes in a neighborhood do not constitute a change in circumstances that requires a new EIR under section 21166, unless the changes require ‘major revisions’ to an existing EIR.” There, the agency certified an EIR in 1998 for a light rail project in San Francisco and, in 2014, approved a subsequent project that it concluded was covered by the analysis in the certified EIR. The petitioner argued that new development in the project area, including two new housing developments and a proposal to construct an arena for the Golden State Warriors nearby, constituted significant new information requiring preparation of a supplemental EIR. (*Id.* at p. 1253.) The court disagreed because the original EIR anticipated an increase in residential use and other development and analyzed the impacts of constructing and operating the light rail project including, among other things, the potential impacts that the petitioner alleged required preparation of a supplemental EIR including noise and vibration, dust, air quality, parking, and roadway capacity. (*Id.* at p. 1255.) Here, as in *Committee for Re-Evaluation of T-Line Loop*, the 2012 FEIR anticipated an increase in development surrounding the project site and analyzed each of the potential impacts that some commenters have requested the County reevaluate.

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For all of the above reasons, the Board finds that changes in development in the Project area since 2012, and/or potential future development in the Project area identified by commenters, do not require recirculation of the 2019 RDEIR.

SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL EFFECTS

Section 15126.2 (c) of the CEQA Guidelines requires a discussion of any significant irreversible environmental change that would be caused by the Project. Generally, a project would result in significant irreversible changes if:

- The primary and secondary impacts would generally commit future generations to similar uses (such as highway improvement that provides access to a previously inaccessible area);
- The project would involve a large commitment of nonrenewable resources (CEQA Guidelines Section 15126.2(c));
- The primary and secondary impacts would generally commit future generations to similar uses;
- The project would involve uses in which irreversible damage could result from any potential environmental accidents associated with the project;
- The project would involve a large commitment of nonrenewable resources; or
- The proposed consumption of resources is not justified (e.g., the project involves the wasteful use of energy).

Development of the Project would irrevocably commit financial resources, energy, raw materials, and labor. The use of nonrenewable resources during the construction and use phases of the Project would be irreversible since a large commitment of such resources makes removal or non-use thereafter unlikely. These irreversible impacts are described in detail in the appropriate sections of the EIR and summarized above in these findings.

ALTERNATIVES

The discussion of Alternatives 4 and 5 as included in the 2011 RDEIR have been modified and recirculated as part of the 2019 RDEIR in response to the trial court's judgment in *Keep the Code v. County of Mendocino* [SC UK CVPT 1260196].) The CEQA Guidelines provide that lead agencies "need not expand the scope of analysis on remand beyond that specified by the Court" [CEQA Guidelines Section 15234(d)]. Accordingly, relevant portions of Section 5.2, Project Alternatives, from the 2011 Revised Draft EIR have been reproduced as they appeared in the original document. For each of the alternatives other than Alternatives 4 and 5, this section of the findings contains the original findings presented as part of the 2012 EIR approval process with minor clarifying and grammatical changes. For Alternatives 4 and 5, the discussion below includes updated analyses that demonstrates that Alternatives 4 and 5 are not feasible for the purposes of CEQA.

CEQA requires that the EIR assess alternatives to the project if the project will have significant environmental impacts, even if these impacts can be mitigated to a level that is less than significant. As discussed above and in the EIR, the Project will result in five significant impacts after mitigation. The pertinent CEQA Guidelines requirements and recommendations for an alternatives analysis are summarized as follows:

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- A range of reasonable alternatives must be assessed. The range must be sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned. The EIR need not assess multiple variations of alternatives. The range of alternatives to be assessed is governed by the rule of reason.
- Alternatives must be ones that could feasibly attain most of the basic objectives of the proposed Project. While alternatives can impede the attainment of the objectives, they should not substantially impede those objectives. Alternatives that fundamentally change the nature of the project do not meet the basic objectives of the project.
- The alternatives must be potentially feasible. Feasibility takes into account factors such as site suitability, economic viability, infrastructure availability, consistency with the General Plan, other plans and regulatory limitations, jurisdictional boundaries, and ability to acquire, control, or gain access to alternative sites.
- The analysis of an alternative must determine whether the alternative reduces the significant impacts identified for the project. If the alternative would generate additional significant impacts, those must be identified and discussed.
- One of the alternatives to be assessed must be the “no project” alternative.
- The EIR must assess the identified alternatives and determine which among the alternatives (including the project as proposed) is the environmentally superior alternative. If the no project alternative is identified as the environmentally superior alternative, then another of the alternatives must be identified as the environmentally superior alternative among the remaining alternatives.

The purpose of the discussion of alternatives in an EIR is to provide a reasonable range of potentially feasible alternatives that are capable of avoiding or substantially lessening any significant environmental effects of a project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly. The range of alternatives describes those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.

A feasible alternative is an alternative capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. A feasible alternative is also one that accomplishes the Project’s “underlying fundamental purpose.” (See *In re: Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1164-67.) An alternative is infeasible if it is “impractical or undesirable from a policy standpoint.” (*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1003; see also *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1270; *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417.)

The seven alternatives included in the EIR were selected to reduce as many impacts as possible, with emphasis on reducing the remaining four significant and unavoidable visual impacts and one significant and unavoidable indirect air quality impact. The alternatives selected for analysis provide a wide range of alternatives, which can be used to test effects against the proposed Project as well as one another. Undoubtedly, other combinations of project components and phasing could be developed to create additional alternatives. However, CEQA Guidelines Section 15126.6 provides that an EIR need not consider every conceivable alternative to the project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. “The discussion of alternatives is subject to a construction of

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reasonableness.” (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal.App.3d 274.)

In *Keep the Code v. County of Mendocino*, the petitioner challenged the alternatives included in the 2011 RDEIR for several reasons. The court held that the alternatives analysis included in the 2012 EIR complied with CEQA in all respects except for the County’s findings concerning the feasibility of Alternatives 4 and 5. Specifically, the court found: “The seven alternatives addressed in the EIR are 1) No project-No future development; 2) No project-Future development consistent with land use classification; 3) Quarry only; 4) Quarry and temporary asphalt plant; 5) Project redesign; 6) Reduced production; and 7) Alternate location. The range of alternatives considered by Respondent was reasonable and appropriate under the circumstances, as they addressed both the Harris Quarry expansion and to a lesser but adequate degree, the proposed zoning amendment.” (*Keep the Code v. County of Mendocino* [SC UK CVPT 1260196], at p. 20.) Petitioner challenged the Board’s rejection of Alternatives 3 through 5 and Alternative 7. The court found that the Board’s finding that Alternative 3 did not meet project objectives was supported by substantial evidence and that “[t]he Board was justified in rejecting Alternative 7.” (*Ibid.*) However, the court found that “there is insufficient evidence in the record to support a finding that reducing operations [Alternative 4] or redesigning the project [Alternative 5] are economically infeasible” and directed the County to vacate certification of the 2012 EIR and project approvals and to reconsider Alternatives 4 and 5. (*Id.* at pp. 2-3, 20, 28.)

Statement of Project Objectives

The Project Objectives, set forth in the 2012 EIR, and maintained in the 2019 Revised EIR, are as follows:

1. To secure a permit that will allow for the continued operation of the Harris Quarry mine for 30 years;
2. To expand the maximum allowable annual extraction from the quarry to 200,000 cubic years (in situ) per year;
3. To add a new asphalt processing facility to the site;
4. To locate the asphalt processing facility as close as possible to the aggregate source and the market demand;
5. To locate the project between Willits and Ukiah, the main aggregate consumption areas.

Findings Regarding the Alternatives

The EIR assesses the following alternatives:

1. No Project – No Future Development
2. No Project – Future Development Consistent with Land Use Classification
3. Quarry Only
4. Quarry and Temporary Asphalt Plant
5. Project Redesign
6. Reduced Production
7. Alternate Location

Additionally, multiple commenters on the 2019 RDEIR suggested additional alternatives for consideration and analysis, including (unspecified) off-site locations made feasible by the Willits Bypass and use of a mobile asphalt plant. Consistent with the principle of *res judicata*, the County is not required to reconsider issues that were litigated and resolved, or could have been litigated and resolved, in connection with the prior petition. (*Ione Valley Land, Air, & Water Defense Alliance, LLC v. County of Amador* (2019) 33 Cal.App.5th 165, 170.) Moreover, as stated above, in the prior

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litigation both the trial court and Court of Appeal held that the seven alternatives included in the 2011 RDEIR constituted a reasonable range of alternatives pursuant to CEQA, and the Board finds that commenters have not demonstrated that there is a specific, potentially feasible alternative considerably different from the seven previously analyzed alternatives that would clearly lessen the significant environmental impacts of the Project.

The EIR designates Alternative 6 as the environmentally superior alternative in compliance with CEQA Guidelines Section 15126.6(e). For the reasons set forth herein, the Board finds that specific economic, legal, social, technological or other benefits render the alternatives set forth in the EIR infeasible pursuant to CEQA.

Alternative 1 – No Project – No Future Development

Under this alternative, the existing quarry would terminate and the site would be reclaimed in accordance with the existing Reclamation Plan. There would be no future development on the Project site. This alternative does not meet any of the five objectives set forth in the EIR. There would be no continued operation of the Harris Quarry, no expansion in the allowable annual extraction from the quarry, and no asphalt facility. The asphalt facility would not be located as close as possible to the aggregate source and market demand, and the asphalt facility would not be located between Willits and Ukiah. Additionally, Alternative 1 would have a secondary effect because aggregate and asphalt demand would have to be met at other quarries and processing facilities, potentially outside of Mendocino County. These other facilities could have site specific effects, as well as regional impacts, including VMT, resulting in increased emissions of air pollutants, greenhouse gasses, and energy use. As is discussed in the Statement of Overriding Considerations, there is a statewide shortage of aggregate resources throughout the State of California and in Mendocino County. In the event that aggregate is not mined from the Project site, any deficit in demand may have to be satisfied by importing aggregate from out of County or increased production from existing quarries or asphalt plants.

Currently, Harris Quarry is the only quarry in the County whose aggregate products can meet the State's asphalt and concrete specifications, as well as other rock product specifications. As with in-County mining sources, the use of out-of-County mining sources to replace the deficit created from not mining the Harris Quarry site, would have the potential to result in their own site-specific environmental effects at those locations. If trucking were to be the predominant form of transportation from out-of-County sources into the County, some transportation and air emissions associated with haul trucks would be greater than that estimated for the proposed Project. There is evidence in the record that the cost of aggregate substantially increases with the length of trucking associated with the delivery of the aggregate. For the reasons stated herein, and each of them independently of the others, Alternative 1, No Project- No Future Development, is not feasible.

Alternative 2 – No Project – Future Development Consistent with the Land Use Classification

Under this alternative, the quarry activities would terminate, the site would be reclaimed, no improvements would be made to Highway 101, and one new residence would be developed near the location of the proposed asphalt processing facility. Another new residence would be constructed to the west, with access via Black Bart Drive.

This alternative does not meet any of the five objectives set forth in the Project. Additionally, this alternative would result in the proposed improvements to Highway 101 not being constructed. While Alternative 2 would avoid almost all environmental impacts associated with the proposed Project, this alternative would result in the same indirect environmental impacts identified above for Alternative 1.

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For the reasons articulated in conjunction with Alternative 1 and for each of those reasons independently of the others, Alternative 2 is not feasible.

Alternative 3 – Quarry Only

Under Alternative 3, the use permit would extend quarry activities for 30 years at a rate of 200,000 cubic yards (in situ) per year. This alternative does not include the proposed Mineral Processing Combining District, zoning amendments or zoning overlay being applied to 18 acres of the Project site. This alternative meets two of the Project's objectives, operating the quarry for 30 years and increasing the production rate to up to 200,000 cubic yards per year.

Alternative 3 would have many of the same impacts as the proposed Project. For example, there would be slope stability and soil erosion concerns that could be mitigated. Likewise, quarry runoff would continue to be captured on the quarry floor. There may be a small reduction in peak flows to Forsythe Creek. The hydrologic impacts of Alternative 3 would be less than those of the proposed Project. Alternative 3 would remove the same amount of vegetation with the quarry expansion as the proposed Project but would eliminate any impacts to vegetation and Oak trees at the asphalt processing facility.

However, Alternative 3 would increase VMT on Highway 101 by at least 153,000 miles per year because the aggregate would have to be hauled to a different asphalt processing site. Because increases in VMT are expected, Alternative 3 would be worse than the proposed Project. Additionally, Alternative 3, the quarry only alternative, would cause the quarry to continue to be visible from some vantage points on Highway 101, and would still have a significant and unavoidable aesthetic impact. However, elimination of the asphalt processing facility would eliminate the visual impacts to the views from Black Bart Drive.

Alternative 3 would substantially reduce many of the potential impacts from the proposed Project. Since Alternative 3 would reduce many of the environmental impacts below those associated with the proposed Project, Alternative 3 is environmentally superior to the proposed Project. However, for the reasons articulated in connection with Alternatives 1 and 2, dealing with increased cost for asphalt products that are trucked from varying distances, Alternative 3 would result in secondary effects because demand for asphalt would have to be met at other quarries or processing facilities.

For the reasons stated herein, and each of them independently of the others, Alternative 3 is not feasible.

Alternative 4 – Quarry and Temporary Asphalt Plant

Alternative 4 is identical to the proposed Project, including all EIR-recommended mitigation measures, except that the asphalt plant would be issued a temporary use permit for a period of only five years. Under the existing County Zoning Code, a temporary asphalt plant is allowed, in conjunction with and only for the duration of a specific construction project. This alternative would include a zoning variance to allow the asphalt silo to be 75 feet high. The alternative would modify the proposed Mineral Processing Combining District to allow temporary asphalt production for one five-year period during the thirty-year permit process. The asphalt facility site would be reclaimed after five years, consistent with the Reclamation Plan for the proposed Project. The intent of including this alternative is to allow comparison of the proposed Project with an alternative that meets most of the Project objectives but eliminates the long-term impacts from the asphalt facility.

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Alternative 4 meets two of the Applicant's five objectives (maintain the quarry and expand the maximum rate of production), and partially meets three other objectives (develop an asphalt facility, locate processing facilities adjacent to the quarry, and locate the project in a central location between Willits and Ukiah). Alternative 4 would reduce environmental impacts associated with the proposed asphalt plant because it would not be a permanent facility and would have reduced visual impacts from Black Bart Drive. Additionally, noise and air quality impacts would be reduced because the life of the asphalt plant would be five years, rather than thirty years. Finally, given the temporary nature of the asphalt plant, the asphalt processing facility will likely be smaller, which would reduce several impacts, including erosion, slope stability, and loss of native vegetation.

However, given the significant cost of processing applications for the proposed Project, purchasing and installing a temporary asphalt plant, and reclaiming the asphalt plant site, the economic feasibility of this alternative was evaluated.

The Applicant has submitted an economic feasibility analysis which evaluates both this Alternative and Alternative 5. (Economic Analysis of the Proposed Harris Quarry Expansion Project; An Evaluation of Alternatives 4 & 5 by EnviroMINE, March 2019 (EnviroMINE Report).) The analysis calculates the profitability of this alternative using Phase II of the Willits Bypass project. This is the largest project currently planned within the market reach of the quarry and therefore most likely to justify the capital investment required to supply the asphalt. Under the EnviroMINE analysis it is assumed that asphalt paving for Phase II of the Willits Bypass project would be required for two years, with the asphalt plant producing a total of 71,300 tons for the project. By year three, the plant will have fully supplied the project's asphalt needs.

Under the profitability projection in the analysis, this alternative would result in a net loss for the Applicant. The revenue would exceed the operating costs for those two years, but the capital costs involved in setting up the plant far exceed those profits, even combined with the salvage value of the plant after it ceases operations in year three.

The EnviroMINE Report uses both Net Present Value (NPV) and Internal Rate of Return (IRR) budgeting methods to evaluate profitability. Under the analysis, the IRR of Alternative 4, which represents the ratio of initial investment to profit, is negative 11%. That is, for every dollar of initial investment in the project, the analysis projects that the Applicant will receive back 89 cents, a net loss. Additionally, the economic analysis concludes that a minimum 30% rate of return is necessary to justify investing capital in this alternative but, even if a 15% discount rate were assumed, the economic analysis provides that the alternative would operate at a loss of more than \$2 million.

EnviroMINE also produced a supplemental memo analyzing another scenario for Alternative 4. (Extending Analysis of Alternative 4 over 5-years and Including a Portable Plant Scenario, November 14, 2019 (Supplemental Report).) This Supplemental Report analyzes a scenario where the asphalt plant could serve a project larger than the Willits Bypass project, one which would allow operations to continue for five years instead of two, with reclamation occurring in the sixth year.

Under this assumption, the Supplemental Report concludes that the five-year project would result in \$1.6 million in losses even before considering a reasonable discount rate. (Supplemental Report, at p. 2.) It therefore concludes that the alternative would be infeasible even if a five-year project were identified.

Mendocino County elected to commission an independent analysis of EnviroMINE's Report and Supplemental Report to further evaluate the conclusions. (Review of Harris Quarry Economic Analysis for Alternatives 4 and 5 as Evaluated by EnviroMINE, November 20, 2019 (Hatch Report).) The Hatch Report reviews the methodology used by EnviroMINE and reviews the substantive conclusions they reached.

The Hatch Report confirms the validity of EnviroMINE's methodology. "It is Hatch's opinion that EnviroMINE reasonably evaluated the project economics of Alternatives 4 & 5 using a

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methodology aligned with best practices for resource project economic evaluation at the option screening stage.” (Hatch Report, at p. 2; see also Hatch Report at pp. 3 – 4 for the detailed analysis of EnviroMINE Report’s methodology.) Specifically, the report noted that EnviroMINE’s use of discounted cash flow (DCF) as well as IRR and NPV “is the standard approach used to economically evaluate extraction projects at the development and production stages.” (Hatch Report, at p. 3.)

Furthermore, Hatch concluded, based on “its own version of the cash flows” that “the IRR and NPV results obtained by EnviroMINE are consistent with the inputs and assumptions provided.” (Hatch Report, at p. 4.) In fact, the Hatch analysis of Alternative 4 produced the same NPV and IRR figures. (Compare EnviroMINE Report, at p. 114 (Alternative 4 Analysis) with Hatch Report, at p. 5 (Figure 3-1 Hatch reconstruction of EnviroMINE Alternative 4 cash flow model).) The Hatch Report found “the only notable omission was working capital” in the Alternative 4 analysis, but adding this item “to the existing assumptions would only worsen economics,” such that Alternative 4 would remain economically infeasible. (Hatch Report, at pp. 7, 17.)

The Hatch Report also addresses the options discussed in the Supplemental Report. As for the five-year option, Hatch confirms the analysis of EnviroMINE’s Supplemental Report. (Compare Hatch Report, at p. 8 with Supplemental Report, at p. 2.) In sum, the independent Hatch Report commissioned by the County for the purpose of evaluating the validity of EnviroMINE’s analysis confirms that Alternative 4 would be economically infeasible.

The Board finds the economic conclusions reached by EnviroMINE and Hatch are credible. The Board, therefore, concludes that limiting operation of the asphalt plant to 5 years, instead of permitting the asphalt plant to operate for the 30-year life of the use permit as proposed by the Project, renders Alternative 4 economically infeasible.

Furthermore, in addition to concluding that Alternative 4 is economically infeasible, the Board concludes that Alternative 4 is infeasible from a public policy standpoint. Specifically, substantial evidence demonstrates that the availability of a local source of asphalt is desirable for numerous reasons. First, when a local source is unavailable, aggregate and asphalt demand must be met by other quarries and processing facilities, potentially outside of Mendocino County. These other facilities could have site specific effects, as well as regional impacts, including increased VMT, resulting in increased emissions of air pollutants, greenhouse gasses, and energy use. (See, e.g., Pub. Resources Code, § 2711 [the Legislature has found that “the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the state’s infrastructure are vital to reducing transportation emissions that result from the distribution of hundreds of millions of tons of construction aggregates that are used annually in building and maintaining the state”].) Second, a local source of AC-grade aggregate is critical to maintaining stable construction costs and, without such a source, the costs of local public improvement projects requiring asphalt would likely increase.

By limiting the operating life of the asphalt plant to 5 years, Alternative 4 would only provide a local source of asphalt for a short period of time. For the remainder of the 30-year lifespan of the use permit, asphalt would not be produced at the quarry. As a result, Alternative 4 would neither provide the environmental nor cost stabilizing benefits associated with a long-term centrally located asphalt plant.

For the reasons stated herein, and each of them independently of the others, Alternative 4 is not feasible.

Alternative 5 – Project Redesign

Alternative 5 is same as the proposed Project, including all EIR-recommended mitigation measures, except that nighttime activities would only be allowed 20 nights per year to serve one or more major road construction projects, and the County would need to authorize this nighttime use. The Applicant would finance its fair share of at least a partial interchange at the quarry access

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road/Highway 101 intersection. This alternative satisfies all of the Project's objectives; however, there would be no Highway 101 improvements constructed immediately. Instead, the Applicant would simply finance its fair share of a partial interchange, and actual construction would be delayed to some unknown future time.

Because the asphalt processing facility would only operate 20 nights per year, at most, Alternative 5 would reduce the significant and unavoidable visual impacts of night lighting of the processing facilities to a less-than-significant level, would reduce nighttime noise impacts, and would eliminate existing and future traffic safety impacts.

The EnviroMINE Report also addresses this alternative. For the fair share portion, the analysis examines data from a number of sources and concludes that the Applicant would be responsible for a fair share of 77% of the costs of the overpass or interchange, and that the interchange would cost a total of \$37.8 million. Therefore, as estimated by the analysis, the Applicant would be responsible for a total of roughly \$28.6 million in fair share contributions towards construction of the interchange.

The analysis considers that, due to the lower risk involved in this Alternative compared to Alternative 4, a break-even discount rate would be 15%. This 15% figure was developed, in part, to account for the prime rate for loans to finance the project, which has ranged from 5.5 to 11%. The analysis states that loan rate for equipment ranges from 8 to 30% depending on the riskiness of the project. Using projections of the alternative's revenue over the next 30 years the analysis estimates the net return to the Applicant over the 30-year period. Under these estimates, the IRR would be 4%. Furthermore, at a minimum required discount rate of 15%, the alternative would have a negative net present value and result in losses of \$23.4 million.

In addition to the economic impact to the Applicant, the analysis also examines the impact to the County. The remaining 23% of the construction costs of the interchange, totaling roughly \$8.5 million, would need to be paid by the County. The analysis estimates that this would constitute 85% of the County's roadway budget over the next ten years. It also notes that the County's actual costs may be higher due to the need to purchase or otherwise obtain a right of way or land for the interchange.

As noted above, the County commissioned an independent analysis of the EnviroMINE Report's methodology and conclusions. Like the EnviroMINE analysis, the Hatch Report evaluates the net return over a 30-year period. Hatch identified some minor errors in the EnviroMINE analysis, such as a "transcription error" on page 17 of the EnviroMINE Report which did not impact the calculations in the report. (See Hatch Report at p. 13.) The Hatch Report concludes that both EnviroMINE's capital estimate and figure for tax depreciation should be increased. The result of the former is an increase in after tax IRR of 2.5% and the latter results in a 1.0% decrease. (Hatch Report, at p. 16.) "Thus, even after adjusting for potential omissions in EnviroMINE methodology, Alternative 5 would not achieve the standard benchmark IRR of 8-10% and would remain infeasible." (Hatch Report, at p. 16.) In sum, the independent Hatch Report commissioned by the County for the purpose of evaluating the validity of EnviroMINE's analysis confirms that Alternative 5 would be economically infeasible.

The Board finds the economic conclusions reached by EnviroMINE and Hatch are credible. The Board, therefore, concludes that requiring the Applicant to pay \$28.6 million in fair share contributions towards construction to an interchange renders Alternative 5 economically infeasible.

Furthermore, in addition to concluding that Alternative 5 is economically infeasible, the Board finds that Alternative 5 is infeasible from a public policy standpoint. Specifically, no other major development projects are anticipated within the vicinity of the proposed interchange that could

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provide the additional \$8.5 million in fair share contribution towards the interchange. As no other private project is anticipated to bear those costs, the Board finds that the County would need to fund all, or a substantial portion, of the additional amount required to construct the interchange. Moreover, the 2011 RDEIR concluded that with implementation of required roadway improvements would improve conditions as compared to baseline conditions (see pages 221 and 222 in the 2011 RDEIR). As discussed further in the 2019 FEIR (see pages 2-13 and 2-14) after the applicant completed roadway improvements, W-Trans completed traffic monitoring reports in 2016 and 2017. The County's environmental consultant concluded that the W-Trans reports and other data, including the California Highway Patrol's Statewide Integrated Traffic Records System data, constitute substantial evidence that "safety conditions have improved over the last five years, and the incidence of collisions has decreased." (2019 RFEIR, p. 2-15.) In consideration of the County's limited roadway improvement budget, the large number of improvement and maintenance projects that already require public funding within the County, and evidence supporting the conclusion that the completed traffic improvements have decreased traffic conflicts in the project area, the Board finds that Alternative 5's anticipated need for substantial public funding to complete the interchange renders the alternative infeasible.

For the reasons stated herein, and each of them independently of the others, Alternative 5 is not feasible.

Alternative 6 – Reduced Production

This alternative allows the expansion of the mining area for 30 years with a maximum extraction limit of 75,000 cubic yards per year. It does not include the asphalt plant, Highway 101 widening, or the proposed zoning ordinance amendment. The Board rejects this alternative because it does not meet four of the Project's objectives. Additionally, this alternative would have secondary effects because asphalt demand would have to be satisfied by purchasing asphalt at either other facilities, including out-of-County facilities.

For the reasons stated herein, and each of them independently of the others, Alternative 6 is not feasible.

Alternative 7 – Alternate Location

This alternative would site the quarry expansion and asphalt plant at the Blue Ridge Rock Quarry. The Board rejects this alternative because the Blue Ridge Rock Quarry is not for sale and there is no evidence that the owner of the Blue Ridge Rock Quarry has any interest in installing an asphalt facility.

For the reasons stated herein, and each of them independently of the others, Alternative 7 is not feasible.

Conclusion

Determining the feasibility of project alternatives involves a reasonable balancing of various economic, environmental, social, and technological factors. (*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001; *City of Del Mar v. City of San Diego* (1982), 133 Cal.App.3d 401, 417.) The Board has carefully conducted a reasonable balancing of those factors in determining the feasibility of alternatives to the proposed Project. After conducting a thorough and careful determination, Alternatives 1, 2, 3, 4, 5, 6, and 7 are not feasible for the reasons stated herein, and each of them independently of the others.

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STATEMENT OF OVERRIDING CONSIDERATIONS

Introduction

As discussed, pursuant to CEQA Guidelines Section 15234(d) and consistent with the judgment in *Keep the Code v. County of Mendocino* [Judgment Granting Petition for Writ of Mandate November 11, 2013, SC UK CVPT 1260196], the focus of the County's 2019 RDEIR concerns the CEQA analysis germane to consideration of Alternatives 4 and 5. Taking this context into consideration, in approving the Project, the Board makes the following findings and Statement of Overriding Considerations pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093. The Board has considered the information contained in the original 2012 EIR and 2019 Revised EIR and has fully reviewed and considered all of the public testimony, documentation, exhibits, reports, and presentations included in the record of these proceedings. The Board specifically finds and determines that this Statement of Overriding Considerations is based upon and supported by substantial evidence in the record.

A. The Board has carefully weighed the benefits of the Project against any adverse impacts identified in the EIR that could not be feasibly mitigated to a level of insignificance. As is summarized above and set forth more fully in the 2012 EIR, the significant impacts of the Project that the Board finds cannot be mitigated to levels of insignificance include:

- (i) Impact 4.6-C. Indirect operational emissions of NO_x would exceed its applicable significance level (the remaining criteria pollutants, CO₂, VOCs, PM10, and PM2.5, would not exceed applicable significance levels and NO_x would not exceed its applicable significance level under long-term projections);
- (ii) Impact 4.7-A. (aesthetics) The processing site will change views from Black Bart Drive and the Ridgewood Subdivision;
- (iii) Impact 4.7-B. (aesthetics) The expansion will change views from vantage points on the Ridgewood Ranch;
- (iv) Impact 4.7-C. (aesthetics) Lighting of the processing facilities will impact night views in the area; and
- (v) Impact 4.7-E. (aesthetics) The expansion and highway improvements will change views from Highway 101.

B. Notwithstanding the identification and analysis of the impacts identified in the 2012 EIR as being significant and potentially significant which arguably may not be avoided, lessened, or mitigated to a level of insignificance, the Board, acting pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines, hereby determines that specific economic, legal, social, technological and other benefits of the Project outweigh any of its unavoidable, adverse impacts and that the Project should be approved.

C. This Statement of Overriding Considerations applies specifically to those impacts found to be significant and unavoidable, and potentially significant and unavoidable, as set forth in the 2012 EIR and the record of these proceedings. In addition, this Statement of Overriding Considerations applies to those impacts which have been substantially lessened but not necessarily lessened to a level of insignificance.

D. Based upon the objectives identified in the EIR and the detailed mitigation measures imposed herein on the Project, and following extensive public participation and testimony, the Board has determined that the Project, as recommended for approval by the Planning Commission, should be approved as mitigated and that any remaining unmitigated environmental impacts are outweighed by the following specific economic, fiscal and other overriding considerations, any one of which is sufficient, in the Board's view, to approve the Project.

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Benefits of the Project

The Project will provide an important source of high-quality local aggregate in furtherance of State and County planning goals.

California's permitted aggregate supplies are running out. The Department of Conservation and Department of Transportation note that there is an overall shortage of aggregate in California. (See, e.g., Department of Transportation Memorandum: 2018 Aggregate Resource Policy Statement and Tools (March 2018) (DOT Memorandum), Attachment 2 [Construction Aggregate Supply Limitations Fact Sheet (Fact Sheet)], pp.1-2.) High quality aggregate is limited locally, and state specification aggregate for asphalt and concrete is found in very limited supply throughout Mendocino County. According to CalTrans District 1 Materials Lab, Harris Quarry is the only known and approved asphalt concrete (AC) aggregate source in Mendocino County, one other operation existed at the Humboldt/Mendocino County Line, but that operation has closed and is now performing the required reclamation. Historic material testing confirms that Harris Quarry's products will meet the state's asphalt and concrete aggregate specifications, as well as baserock and other rock product specifications like rock slope protection, critical for erosion control used for emergency road work.

Mendocino County's residential, business and industrial construction, particularly road construction and re-construction, depends on a good quality, local source of construction grade aggregates and locally available asphalt. (See, e.g., DOT Memorandum, p. 1 .) Harris Quarry and the asphalt plant will help fulfill the demand. A local source of Portland cement concrete (PCC)-grade and AC-grade aggregate is critical to maintaining stable construction costs. The proposed quarry and asphalt plant would provide a convenient, local source of aggregate and asphalt for planned roadway and highway improvements in Mendocino County and cities within the County over the next several decades.

There remains a steady demand for a local source of hard rock and asphalt, primarily as a result of on-going roadway and highway infrastructure improvements. The demand for rock and asphalt for all types of construction projects is expected to increase as development continues in the Mendocino region. However, given the level of production and the quality/type of mined materials, existing local quarries are not expected to be able to meet the demand for PCC-grade and AC-grade aggregate. Additionally, there is no other centrally located aggregate source in Mendocino County whose product can meet the AC/PCC standard. Therefore, the proposed quarry's accessible supply of PCC-grade and AC-grade aggregates is vital to the local economy. This is a benefit to the County as a whole.

According to the DOT Memorandum, there are a number of positive economic and environmental benefits in permitting rock quarries in proximity to the work needed to be performed. These benefits include:

- A shorter hauling distance, which would reduce aggregate-truck miles of travel and the cost of the materials. Assuming that permitting additional mining facilities would reduce the average hauling distance from 50 to 35 miles statewide, it would result in an estimated reduction in truck miles of travel of 178 million miles per year and diesel fuel consumption by 23 million gallons per year, leading to transportation cost savings of 30 percent or \$446 million annually.
- A reduction in emissions from trucks due to the reduction in truck miles of travel for hauling aggregates. Assuming that permitting additional mining facilities would reduce the average hauling distance from 50 to 35 miles statewide, carbon dioxide emissions would be reduced by approximately 223,800 tons per year.

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- A reduction in emissions of other air pollutants.
- A reduction of pavement deterioration from fewer truck miles traveled, which would allow rehabilitation resources to be available for other critical maintenance improvements. Specifically, a reduction in aggregate related truck miles could result in approximately \$45 million in cost savings in pavement rehabilitation annually, which could be directed elsewhere.
- A reduction in project delays due to lack of aggregate supply in the area, which leads to increased project costs.
- A reduction in aggregate-related truck miles of travel would also reduce traffic congestion and traffic accidents on roads.

(DOT Memorandum, p. 1 & *id.*, Attachment 1 [Policy Statement Letter], pp. 1-2 & Attachment 2 [Fact Sheet], pp. 1-2.)

According to a 2010 document obtained from CalTrans District 1, more than three-quarters of all asphalt aggregate used on state highways in Mendocino County during 2005-2010 was from out-of-county. There are only two other existing asphalt plants in Mendocino County. One was constructed in approximately 1960 and is located in Fort Bragg and the other is located in Ukiah. The lack of hot-mix asphalt plants in the County has increased the price of asphalt and the transportation costs of asphalt. According to the County's Department of Transportation, availability of a variety of road material sources, such as asphalt, will result in cost savings and reduced diesel emissions.

In addition, the Legislature has found that "the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the state's infrastructure are vital to reducing transportation emissions that result from the distribution of hundreds of millions of tons of construction aggregates that are used annually in building and maintaining the state." (Pub. Resources Code, § 2711.)

There will be economic benefits to the County from the Project, including, but not limited to sales taxes and vehicle license fees. It is especially important that the County continue to support the creation of jobs and the establishment of independent revenue sources to help fund needed County services.

Conclusion

A. The Board finds that the Project has been carefully reviewed and that the Mitigation Monitoring and Reporting Program will be imposed to implement the mitigation measures identified in the EIR. Nonetheless, the Project may have certain environmental effects which cannot be avoided or substantially lessened. The Board has carefully considered all of the environmental impacts which have not been mitigated to an insignificant level. The Board has carefully considered the fiscal and economic benefits of the Project. The Board has balanced the fiscal and economic benefits of the Project against its unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects.

B. Based on the foregoing and pursuant to Public Resources Code Section 21081 and State CEQA Guidelines Section 15093, the remaining significant unavoidable impacts of the Project are acceptable in light of its economic, fiscal, and social benefits. Such benefits outweigh the significant and unavoidable impacts and provide the substantive and legal basis for this Statement of Overriding Considerations.

C. Last, to the extent that any impacts remain significant, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less-than-

EXHIBIT A

significant level. Accordingly, when deciding to approve the Project, the Board is faced with presumed unmitigated impacts which are limited in nature. When considering the significant benefits outlined in this Statement of Overriding Consideration against limited impacts, the balance of weight clearly falls in favor of the merits of the Project and its benefits.

For the reasons stated herein, and each of them independently of the others, the Board has adopted a Statement of Overriding Considerations.

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	MITIGATION	IMPLEMENTED BY	WHEN IMPLEMENTED	MONITORED BY	VERIFIED BY AND DATE
4.1 Geology and Soils					
Impact 4.1-A: Quarry activities could result in unstable slopes.	4.1-A.1 Prior to the start of the second year of grading in the quarry expansion area, and biannually thereafter, a licensed Geotechnical Engineer and Certified Engineering Geologist shall inspect the slopes of the quarry excavation in accordance with then current Mine Safety and Health Administration (MSHA) requirements as the quarry progresses, and a final slope stability analysis will be performed prior to the quarry face progressing within 150 feet of the proposed final slope face.	Applicant's geo-technical consultant	Biannually	Applicant's geo-technical consultant Final slope stability – DPB & OMR	DPB Final slope stability analysis would be approved after meeting all SMARA requirements
	4.1-A.2 The uppermost 20-foot quarry cut shall be sloped no steeper than 1.5h:1v in accordance with recommendations of the report prepared by Blackburn Consulting (Cut Slope Evaluation for Harris Quarry Haul Road (BCI) February 2007, with addendum dated July 2008).	Applicant	Final reclamation grading	DPB	DPB Completion of mining under the permit
	4.1-A.3 Final cut slopes on the quarry walls shall be cut at the gradient required to attain a factor of safety of 1.3, with intervening 12-foot benches every 40 vertical feet.	Applicant	Final reclamation grading	DPB	DPB Completion of mining under the permit
Impact 4.1-B: Unstable geology and slopes at the asphalt processing facility site could cause failure of improvements at that site.	4.1-B.1 A Certified Engineering Geologist and a Geotechnical Engineer shall be identified to conduct the mitigation measures recommended below. The choice of Certified Engineering Geologist and Geotechnical Engineer shall be approved by the County Department of Planning and Building Services.	Applicant	Prior to pad construction	DPB	DPB Prior to asphalt facility pad construction
	4.1-B.2 The processing building pad will be designed and constructed to be stable for the maximum credible earthquake for the area. A supplement to the previous design level study prepared by BCI shall be performed in the area	Applicant's geo-technical consultant	Prior to construction	Applicant's geo-technical consultant and	DPB Prior to approval of Plan Sheets

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	<p>of the proposed asphalt processing area that will verify design measures needed to ensure building pad stability, including for the design seismic event. The following will be included in the supplement.</p> <p>1) The investigation shall specifically address the feasibility and long-term stability of 1h:1v cut slopes and 1.5h:1v fill slopes. A slope stability analysis of proposed cut and fill slopes will be performed. Recommended maximum gradients for cut slopes and engineered fill slopes required to maintain a 1.3 static factor of safety will be determined.</p> <p>2) The potential for settlement shall also be addressed and the analysis shall include characterization of gross settlement, differential settlement, and dynamic (earthquake induced) settlement within and between adjacent materials. The study will include design recommendations for structural footings and foundations to minimize future settlement.</p> <p>3) Design Review and Approval of Plan Sheets will be done by the Mendocino County Public Works and Building Departments to ensure conformance with Grading and Drainage Ordinances and the recommendations of the final geotechnical report.</p> <p>4) Construction observation and testing (special inspections) will be done during construction to ensure conformance with design requirements and geotechnical recommendations.</p>			DPB	

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	4.1-B.3 The site of proposed fills in the west-southwestern portion of the expansion area will also be evaluated and appropriate measures to stabilize proposed fills shall be determined and incorporated into project design, consistent with the requirements of Section 3704(d) of the State Mining and Geology Board Reclamation Regulations. Proposed fills shall be properly compacted to a minimum 90% compaction relative to the maximum dry density and shall be no steeper than 2h:1v unless measures to reinforce the fills are included in project plans and a slope stability analysis is completed by the Project Geotechnical Engineer and Certified Engineering Geologist which finds that proposed fills will be stable.	Applicant's geo-technical consultant	Prior to construction of fills	Applicant's geo-technical consultant and DPB	DPB Completion of reclamation
Impact 4.1-C: The project site is subject to seismic events and strong seismic ground shaking.	The mitigations recommended for Impacts 4.1-A and 4.1-B also apply to this impact.	See the cited mitigations			
Impact 4.1-D: The new access road and the new road to the water tank could fail if not properly constructed.	4.1-D.1 A Certified Engineering Geologist and a Geotechnical Engineer shall be identified to conduct the mitigation measures recommended below. The choice of Certified Engineering Geologist and Geotechnical Engineer shall be approved by the County Department of Planning and Building Services.	Applicant	Prior to road construction	DPB	DPB Prior to road construction
	4.1-D.2 The supplement described in Mitigation Measure 4.1-B.2 shall include slope stability analysis for the proposed road cuts to confirm that the proposed slopes meet minimum standards of stability such as factor of safety calculations. This study shall be performed by a Certified Engineering Geologist or Geotechnical Engineer.	Applicant's geo-technical consultant	Prior to road construction	Applicant's geo-technical consultant and DPB	DPB Prior to approval of Plan Sheets

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	4.1-D.3 A Civil Engineer shall design any required retaining walls, gravity walls, buttress fills, or other slope stabilization technique in accordance with recommendations of the geotechnical investigations and slope stability analysis and in accordance with County and State Guidelines.	Applicant's civil engineer	Prior to road construction	Applicant's civil engineer and DPB	DPB Prior to approval of Plan Sheets
Impact 4.1-F: Improper construction and operation of the project could result in soil erosion and the loss of topsoil.	The project shall comply with Mitigation Measures 4.2-A.1 through 4.2-A.6 and 4.2-B.1 through 4.2-B.4.	See the cited mitigations			
4.2 Hydrology and Water Quality					
Impact 4.2-A: Stormwater runoff containing sediments, metals, dust suppressants, total petroleum hydrocarbons, oil and grease, and other pollutants associated with mining activities and vehicle and equipment use would potentially violate water quality standards and/or impact habitat.	4.2-A.1 The project shall comply with the RWQCB's Construction General Permit conditions.	Applicant	Throughout project construction	Applicant's contractors DPB	DPB Termination of construction
	4.2-A.2 The applicant shall not cause or contribute to a violation of an applicable water quality standard. The applicant shall comply with the NPDES Permit Requirements for the Industrial General Permit (Order No. 97-03-DWQ). The specific elements of this mitigation measure are: <i>Water Quality Monitoring and Sampling</i> The applicant shall develop and implement a facility-specific monitoring program to provide indicator monitoring information for the following: (1) BMPs addressing pollutants in stormwater discharges and authorized non-stormwater discharges comply with the	Applicant	Annually throughout the use permit period	Applicant DPB RWQCB	DPB Annual quarry review and report RWQCB When reviewing project compliance with NPDES Permit Requirements for the Industrial General Permit

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	<p>Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of this General Permit, (2) the presence of pollutants (and their sources) in stormwater discharges and authorized non-stormwater discharges that may require immediate corrective action, additional BMP implementation, or SWPPP revisions, and (3) the effectiveness of BMPs to prevent or reduce pollutants in stormwater discharges and authorized non-stormwater discharges.</p> <p>The applicant shall be required to:</p> <ol style="list-style-type: none"> 1. Collect and analyze stormwater samples from the first two qualifying storm events of the wet season. Analysis must include: (a) the minimum indicator parameters: pH, total suspended solids (TSS), total organic carbon (TOC) or Oil and Grease, and specific conductance, (b) parameters that indicate the presence of materials that are mobilized by contact with stormwater (such as rock salt) and are likely to be exposed to stormwater (based upon the discharger's pollutant source assessment required in the SWPPP), (c) parameters listed in Table VIII "Additional Analytical Parameters" (these parameters are dependent on the facility's SIC code), and (d) parameters indicating the presence of industrial materials that may be causing or contributing to an exceedance of a water quality standard in the receiving waters. Water sampling shall be conducted by a third-party consultant and water samples shall be submitted to a California-certified analytical laboratory for analysis. 				

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	<p>2. Visually observe the facility before every anticipated storm event to locate and manage obvious pollutant sources.</p> <p>The Industrial General Permit requires dischargers to collect samples from all drainage areas. The following actions are required:</p> <ol style="list-style-type: none"> 1. Facility operators shall visually observe and collect samples of stormwater discharges from all project drainage areas. The samples shall represent the quality and quantity of the facility's stormwater discharges from the storm event. 2. If the facility's stormwater discharges are commingled with run-on from surrounding areas, the facility operator shall identify other visual observation and sample collection locations where project discharges have not been commingled by run-on and that represent the quality and quantity of the facility's stormwater discharges from the storm event. 3. If visual observation is not possible or sample collection locations are difficult to sample (e.g., sheet flow, submerged outfalls), facility operators shall identify and collect samples from other locations that represent the quality and quantity of the facility's stormwater discharges from the storm event. 4. If facility operators determine that the industrial activities and BMPs within two or 				

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	<p>more drainage areas are substantially identical, they may either (i) collect samples from a reduced number of substantially identical drainage areas, or (ii) collect samples from each substantially identical drainage area and analyze a combined sample from each of these drainage area. Facility operators must document such a determination in the annual report.</p> <p>Sample collection sites shall include, at a minimum:</p> <ol style="list-style-type: none"> 1. Due to the steep slope and associated inaccessibility for sampling at the existing 36-inch CMP outfall from the existing sump pond at the southeast corner of the quarry site, another point upstream shall be used for sampling. This location shall be the outlet of the proposed 48-inch pipe entering the sump pond, or sampling can be conducted via installation of a vertical CMP clean-out in the proposed 48-inch pipe within the quarry site. 2. Outfall of the proposed 12-inch pipe outlet for the bio-retention area at the processing site. <p>All associated records of stormwater quality monitoring, sampling, and analyses shall be retained and submitted per RWQCB permit requirements. The applicant shall submit a monitoring report to the RWQCB with a copy submitted to the County Department of Planning and Building Services. Frequency of reporting shall be determined by the RWQCB</p>				

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	<p>but shall not be less frequent than twice each rainy season. The qualified water quality professional conducting the monitoring shall provide an analysis of the data and an evaluation of the overall effectiveness of the sediment control system. If the water quality objectives have been exceeded, the report shall include analysis as to the specific causes of the exceedances and recommended measures to bring the discharges into compliance.</p>				
	<p>4.2-A.3 If necessary, implement corrective measures to meet water quality objectives. Once mining commences, if annual surface water monitoring indicates that discharges from the quarry exceed the water quality objectives, the applicant shall propose changes to the sediment control program that will improve its performance sufficiently to meet the performance criteria. Corrective action may include, but is not limited to, implementation of additional source control BMPs, use of chemical flocculation, installation of mechanical filtration of the discharge, and/or construction of extended wet ponds and/or treatment wetlands. The proposed changes shall be submitted to the RWQCB for comment, revised as needed to address their comments, and then implemented by the applicant. If the performance criteria are not met for two consecutive years, the County Department of Planning and Building Services will confer with the applicant and the RWQCB to determine whether further changes in the sediment control plan are likely to result in compliance. If suitable changes are not identified, then the</p>	Applicant	Throughout the use permit period	Applicant DPB RWQCB	<p>DPB Annual quarry inspection and report</p> <p>RWQCB When reviewing project compliance with NPDES Permit Requirements for the Industrial General Permit</p>

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	County shall require the quarry to reduce production as needed to meet the performance criteria.				
	<p>4.2-A.4 The applicant shall revise and implement an updated Storm Water Pollution Prevention Plan (SWPPP) for the project. The erosion control portion of the SWPPP shall include an aggressive sediment source and delivery control program. It shall place greater emphasis on establishing temporary and permanent protection of disturbed fill slopes and drainages in the processing areas that drain to Forsythe Creek. Most importantly the plan must include an annual winterization report that documents the location and application of best management practices to mitigate reduction in water quality due to sediment in storm runoff. The SWPPP shall be regularly updated as BMPs are updated and new BMPs are constructed and/or the quarry operation changes. The SWPPP shall be implemented during the initial stage of quarry construction and stay in effect through the completion of reclamation.</p> <p>The required detailed SWPPP, including the erosion control plan shall also include:</p> <ol style="list-style-type: none"> 1. A formal plan for preventing the inadvertent side cast of materials from the quarrying area entering Forsythe Creek and its tributary shall be developed. 2. All fill slopes draining to Forsythe Creek shall be stabilized prior to October 15 of each year. The plan shall include a 	Applicant	Throughout the use permit period	Applicant DPB RWQCB	<p>DPB Annual quarry inspection and report</p> <p>RWQCB When reviewing project compliance with NPDES Permit Requirements for the Industrial General Permit</p>

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	<p>detailed design plan for annual stabilization. Stabilization measures include fill slopes suitable for hydraulic application of surface stabilizing compounds, hydroseeding, mulching, or other measures to prevent erosion, and the application thereof. It shall include a description of the erosion control materials to be used and application rates. Seed mixes shall be specified. A schedule for completion of stabilization shall be included, and the stabilization shall be completed by October 15 each year.</p> <p>3. Silt fences, fiber rolls, and straw bale barriers shall be used on bare slopes not being actively mined to intercept and trap sediment carried by sheet flow.</p> <p>4. The site plan shall show work areas, indicating the year the initial reclamation occurred, active mining, stockpiling, work areas, and areas to be mined the following year.</p> <p>5. The site plan shall show erosion and drainage problem areas, and proposed emergency stormwater runoff flow directions, in addition to the planned retention, bio-retention, and treatment areas.</p> <p>6. The applicant shall place all hazardous materials and fueling areas above predicted 100-year 24-hour flood elevations and above observed seasonal high-water elevations.</p>				

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	<p>7. A plan to annually monitor and treat stormwater outlets that discharge to slopes and drainages to insure that gullyng, incision, or other erosion and mass wasting processes are not occurring as a result of project area operations and site drainage will be implemented.</p>				
	<p>4.2-A.5 During mining and reclamation activities, the following measures shall be included in the SWPPP required under the General Construction Permit and implemented to reduce the potential for erosion and sediment discharge:</p> <p>1. Topsoil suitable for use in revegetation shall be stockpiled in a stable manner for use in reclamation and replanting of cut slopes. Prior to October 15 of each year, all topsoil stockpiled for future use in revegetation shall be seeded and mulched in order to prevent soil loss through erosion. Topsoil shall be stored in locations that are not immediately above or adjacent to stream drainages..</p>	Applicant	Throughout the use permit period	Applicant DPB RWQCB	<p>DPB Annual quarry inspection and report</p> <p>RWQCB When reviewing project compliance with General Construction Permit Requirements</p>
	<p>4.2-A.6 The applicant shall implement best management practices to reduce the potential for discharge of contaminants to stormwater runoff. These BMPs shall be included in the General Construction Permit SWPPP and shall be designed by a civil engineer, and the design engineer shall oversee BMP installation. To minimize the introduction of contaminants, which may degrade the quality of water discharged from the site, the following measures shall be taken:</p>	Applicant	Throughout the use permit period	Applicant DPB RWQCB	<p>DPB Annual quarry inspection and report</p> <p>RWQCB When reviewing project compliance with General Construction Permit and Industrial General Permit Requirements</p>

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	MITIGATION	IMPLEMENTED BY	WHEN IMPLEMENTED	MONITORED BY	VERIFIED BY AND DATE
	<ul style="list-style-type: none"> • Runoff from all access roads shall be collected and passed through a treatment swale or trap system prior to entering the existing or planned drainage features for the highway improvements that outfall to the secondary channel of the Forsythe Creek tributary. • Fueling and maintenance of all rubber-tired loading, grading, and support equipment shall be prohibited within 100 feet of drainage ways. Fueling and maintenance activities associated with other less mobile equipment shall be conducted with proper safeguards to prevent releases of hazardous material. All refueling and maintenance of mobile vehicles and equipment shall take place in a designated area with an impervious surface and berms to contain any potential spills. • All chemical dust suppressants, slope stabilization chemicals or polymers, and sediment detention basin enhancement chemicals or polymers shall be used strictly according to the manufacturer's specifications. An accurate accounting of all these materials purchased and used on the site shall be maintained, including kinds and quantities of material. • The bio-retention swale shall be designed to meet all RWQCB requirements, including being able to handle the 100-year storm event with 6 inches of freeboard. 				
Impact 4.2-B: Quarry	4.2-B.1 The bio-retention basin will be	Applicant	Throughout the use	Applicant	DPB

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<p>expansion and use will alter the runoff regime to Forsythe Creek.</p>	<p>designed to minimize erosion at the point of outlet. To meet this standard, the following actions will be taken:</p> <ol style="list-style-type: none"> 1. The flow from the basin must be attenuated via an increase in basin size and/or decrease in pipe outlet sizing to match post-construction runoff volume to pre-construction runoff volume for the smallest storms up to the 85th percentile storm event (or the smallest storm event that generates runoff, whichever is larger). 2. A slotted pipe dissipater shall be designed to capture and disperse outflow from the basin to the hillslopes below. The design will be provided by the applicant engineer and is subject to review and approval by RWQCB per the NPDES discharge requirements. 3. Visual observations shall be made at the bio-retention basin outlet after each rain event. Photos from two photo points (one upslope and one downslope of the pipe outlet) shall be taken before (October-November) and after (March-April) the rainy season of each year of quarry operation. Photos shall be available for review by RWQCB and will be submitted with the Construction and Industrial General Permits' annual reporting. 		<p>permit period</p>	<p>DPB RWQCB</p>	<p>Annual quarry inspection and report RWQCB When reviewing project compliance with General Construction Permit and Industrial General Permit Requirements</p>

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Impact 4.2-D: <i>Cumulative impact</i> - The project in combination with other projects would generate sediments and other pollutants that could potentially violate water quality standards and/or impact habitat.	The mitigation measures listed under Impact 3.3-A also apply to this impact.	See the cited measure			
Impact 4.2-E: <i>Cumulative impact</i> - Future mining of the quarry could generate sediments and other pollutants that could potentially violate water quality standards and/or impact habitat.	The mitigation measures recommended for Impact 4.2-A apply to this impact.	See the cited measure			
4.3 Biological Resources					
Impact 4.3-A: Project development could impact special status plant species, either directly or through habitat modification.	4.3-A.1 Project construction or operation shall not adversely affect special status species of plants. If feasible, surveys for special status species of plants will be conducted by a qualified biologist approved by the County prior to certification of the Final EIR or project approval. Otherwise, surveys will be conducted prior to project-related vegetation removal. New surveys shall be conducted every three years in areas that have not yet been mined. If special status species of plants are found, the plant will be avoided, or, if that is not feasible, the biologist will confer with the Department of Fish and Game to identify suitable mitigation. The applicant will abide by the decision of the Department of Fish and Game concerning the	Applicant's biologist	Prior to initial vegetation removal and then every 3 years	DPB	DPB Annual quarry inspection and report CDFG (if special status species found)

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	special status species.				
<p>Impact 4.3-B: Project development could impact special status wildlife species, either directly or through habitat modification.</p>	<p>All mitigations required for 4.1-E and 4.2-A are required for this impact.</p>	<p>See the cited measures</p>			

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	4.3-B.1 As required by law, the project applicant shall not remove nests or den sites of any special status species of wildlife when constructing the project or expanding the quarry. Because special status species may move into the project area in the following years, additional biological surveys will be conducted at least every 3 years to ensure that special status species are not present in the area where vegetation will be removed. The surveys shall be conducted by a qualified biologist, during the spring, in the specific area proposed for vegetation removal. If dens or nest sites of special status species of wildlife are found, the den or nest site will be avoided, or, if that is not feasible, the biologist will confer with the Department of Fish and Game to identify suitable mitigation. The applicant will abide by the decision of the Department of Fish and Game concerning the special status species.	Applicant's biologist	Every 3 years	DPB	DPB Annual quarry inspection and report CDFG (if special status species found)
Impact 4.3-C: Project development would result in the loss of about 24 acres of native vegetation.	4.3-C.1 The Final Reclamation Plan shall be submitted to the State Office of Mine Reclamation for review. All conditions recommended by OMR during that review shall become part of the final Reclamation Plan for the project..	Applicant	Prior to initiation of project	DPB	OMR Review of Final Reclamation Plan DPB Approval to construct the proeject and mine the expansion area
Impact 4.3-D: Project development could impact wetlands and "waters of the U.S."	4.3-D.1 The applicant shall conduct all improvements set forth on EIR Figures 3-11 through 3-13. The applicant shall prepare a final improvement plan describing how and when these improvements will be done and monitored and the responsibility for follow-up work if monitoring finds that the improvements are failing or not operating as planned. This plan shall be submitted to the Army Corps and	Applicant	Prior to filing wetlands or waters of the U.S.	DPB CDFG USACE	Army Corps Approval of delineation and permit if needed) CDFG Streambed Alteration Permit

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	DFG when applying for required permits/agreements.				DPB Approval of Plan Sheets
	4.3-D.2 When constructing the on-site haul road, no construction shall occur within the wetland between the haul road and Black Bart Drive. Drainage improvements will be incorporated to allow the area above the road that currently drains to the small on-site wetland to continue to do so. Level spreaders or other structures shall be installed below the road to spread runoff before it enters the wetland.	Applicant's contractor	Prior to haul road construction	DPB	DPB Prior to approval of road construction
Impact 4.3-E: Project development could conflict with the State law regarding oak woodland conversion (Public Resources Code 21083.4).	4.3-E.1 During site preparation for the access road to the asphalt processing facility, the access road to the water tank, and the asphalt processing facility itself, the applicant shall flag the actual area to be graded or disturbed. A qualified biologist shall inventory the species and number of true oaks that will actually be removed or encroached in such a fashion that could lead to future mortality. Similar inventories shall be done when trees are removed for quarry expansion.	Applicant's biologist	Prior to road and asphalt pad construction	DPB	DPB Prior to road and pad construction

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	<p>4.3-E.2 Plant replacement oaks on the applicant's property (Assessor's Parcel Nos. 147-180-07, & -08 and/or 147-140-07) within three years of project approval or tree removal, whichever is later. The new oaks will be replanted at a ratio of 3:1 for each oak removed. New seedlings will be the same species as the tree removed except that canyon live oak will be used instead of interior live oak. If black oak in the area become infected with SOD, then a non-susceptible species of oak will be used to replace black oak. The oaks shall be fertilized, irrigated, protected, and maintained until they are 5 years old. Any trees dying within that period shall be replanted until there are new live trees at the 3:1 ratio described above on the property that have been alive for at least 7 years. Tree seedlings should be planted no closer than 10 feet apart from other tree seedlings and no closer than 20 feet apart from the trunk of any mature tree. Compacted ground shall be broken to an area three times the diameter of the root ball prior to planting to allow root growth. Trees shall be watered weekly by the property owner in weeks with no natural precipitation (usually April 15 through October 15 of each year) and shall be watered three times per week when temperatures exceed 100 F° for the first three years after planting. During site reclamation, additional oaks will be planted at a 2:1 ratio. So, at least 5 new oaks will be established for each one removed by the end of site reclamation.</p>	Applicant	<p>Plant within 3 years of project approval</p> <p>Maintain as stated though the end of reclamation</p>	DPB	DPB Annual mine inspection and report
<p>Impact 4.3-K: <i>Secondary Impact -</i> <i>Widening Highway 101</i></p>	<p>Mitigation Measures 4.3-E.1 and 4.3-E.2 also apply to this impact.</p>	See the cited measures			

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<p>Widening Highway 101 per Mitigation Measure 4.4-B.1 will impact biological resources.</p>	<p>4.3-K.1 The applicant shall implement the proposed expansion and improvements of the vernal pool as shown on Figure 3-14. Final improvement plans will be approved by the Army Corps and the Department of Fish and Game, and the applicant shall be responsible for implementing any changes or additions the Corps and/or Department make to the improvement plan. It is expected that the Corps or the Department of Fish and Game will require a functional or qualitative assessment of the vernal pool that will be expanded to ensure that it is considered a “higher resource” than the two small roadside wetlands that would be filled. At least the following additional conditions will apply:</p> <ul style="list-style-type: none"> • To ensure success of the vernal pool expansion, a water budget for the given drainage area shall be developed to ensure the site can support a larger pool feature. If it cannot, then runoff from other nearby slopes shall be directed to the vernal pool. • Prior to construction, baseline data shall be gathered at the vernal pool mitigation site, over multiple hydrologically different years (three years minimum), to determine characteristics such as the size, depth, duration of inundation, slope, and biologic species present before construction. This will ensure existing wetlands are not damaged and provide a reference for the performance of the new wetlands. After construction, monitoring shall occur every year for at least 7 years or until specific performance standards are met. 	<p>Applicant</p>	<p>Prior to filing wetlands or waters of the U.S.</p>	<p>DPB CDFG USACE</p>	<p>U. S. Army Corps Approval of delineation and permit (If needed) CDFG Streambed Alteration Permit</p> <p>DPB Approval of Plan Sheets</p>

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	<ul style="list-style-type: none"> • Pool expansion shall mimic existing habitat characteristics. Construction plans shall be adjusted based on baseline data collection. • Maintain the hydrology of the pool after construction by preparing horizontal and vertical relief plans for the contractor-operator. The plan should mimic the existing pool as much as possible as regards the depth, no berm, and the back slope, and ensuring the soil type is continuous. A final plan shall describe all details and operation of the pool. • Written protocols shall be developed for each stage of construction. Protocols shall cover the collection of baseline data, post construction hydroperiod, and the establishment of vegetation and wildlife. • Inoculation materials shall be raked from the existing vegetation during the end of the dry season and then spread over the raked constructed pool during the beginning of the wet season. • A conservation easement shall be established to ensure the vernal pool is protected. 				
4.4 Traffic and Circulation					
Impact 4.4-B: The project would increase traffic turning in and out of the project access, and this would increase	4.4-B.1 The applicant shall construct the following improvements prior to increasing aggregate production or selling asphalt: <ul style="list-style-type: none"> • Highway 101 Northbound Approach – 	Applicant	Prior to increasing aggregate production or selling asphalt	DPB	Caltrans Improvements meet all Caltrans requirements DPB

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<p>the existing safety hazard in the area.</p>	<p>Provide a left-turn deceleration/storage lane on Highway 101 at least 470 feet in length.</p> <ul style="list-style-type: none"> • Highway 101/Southbound Approach – Provide a right-turn deceleration lane on Highway 101 at least 200 feet in length. • Highway 101 Northbound Departure – Provide a speed change acceleration lane for left turns from the project site extending at least 1,410 feet in length (which would extend through and north of the Black Bart Drive intersection) as well as a 300-foot taper (total length 1,710 feet). • Highway 101 Southbound Departure – Provide a speed change/acceleration lane for right turns extending at least 1,090 feet from the project site as well as a 300-foot taper (total length of 1,390 feet). Although only a 300-foot-long acceleration taper is theoretically warranted, observations of truck driver turns and their disruption to the flow of traffic on southbound Highway 101 indicate the need for the full acceleration lane with Base volumes. • A lighted sign with a flashing beacon (with a solar panel) that warns southbound Highway 101 travelers of slow and turning trucks shall be placed on the west side of Highway 101 about 925 feet north of the project access driveway. A similar sign and beacon that warns northbound Highway 101 travelers shall be placed on the east side of Highway 101 south of the project 				<p>Prior to allowing sale of asphalt or an increased amount of aggregate (over current permitted level)</p>

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	<p>access driveway, at a distance that meets Caltrans' requirements.</p> <p>4.4-B.2 Project-generated traffic shall not result in unsafe operational conditions near the project site as determined by the Mendocino County Department of Transportation and Caltrans. To ensure conformance with this performance standard, the following shall be done:</p> <ul style="list-style-type: none"> • Traffic operational and accident conditions shall be monitored at the Highway 101/Harris Quarry Access and Highway 101/Black Bart Drive intersections every two years after project approval. Counts and evaluation shall be conducted during both July and October. The applicant shall fund each study, and the County shall select the firm to conduct the monitoring. Filming of traffic counts and truck driver behavior will be done to provide a defensible record of actual operations. • If a monitoring report indicates a safety or operational problem at either intersection, an evaluation will be conducted of potential additional mitigation measures that should be considered for implementation. Measures may include: 1) limits on how many trucks can be loaded during peak hours; 2) limits on trucks making left turns in and/or out of the access driveway during peak hours; and 3) provision of a partial or full interchange at the Harris Quarry Access intersection and the possible connection of Black Bart Drive to that new interchange in 	Applicant's traffic engineer	Biannually throughout the permit period (or until an interchange is constructed)	DOT Caltrans	DOT and DPB Annual quarry inspection and report Caltrans Approval of any additional highway improvements

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	<p>conjunction with elimination of the Highway 101/Black Bart Drive intersection. If the County and Caltrans agree that such operational changes and/or highway improvements are warranted, then they shall be installed within 2 years of Caltrans' approval of the final design and funding mechanism. The applicant shall be responsible for paying its fair share (as determined by Caltrans and the County) of the improvements.</p>				
	<p>4.4-B.3 Aggregate production and project-generated traffic shall not exceed the levels predicted and assessed in this EIR. Every three (3) years, an aerial survey of the site shall be submitted to the Department of Planning and Building Services to evaluate the volume of material extracted during the 3-year period. The survey shall include topographic mapping developed from aerial photos taken in such a manner as to clearly show the full extent of the extraction area. The aerial survey aerial shall delineate the limits of extraction for the previous 3 years. A report shall be prepared by a licensed engineer or land surveyor or photogrammetrist, and shall quantify the extraction volume based on the aerial survey. Photos and topographic mapping shall include a standard reference scale and north arrow, and shall be of size and quality acceptable to the Department of Planning and Building Services. A baseline aerial photo and topographic map shall be taken and submitted to the Department of Planning and Building Services within 90 days of approval of this permit."</p>	Applicant	Every 3 years after project initiation	DPB	DPB Annual quarry inspection and report

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Impact 4.4-C: Nighttime use of the project access would increase the safety hazard in the area.	4.4-C.1 During nighttime operations that will occur more than 5 days a year, the applicant will provide lighting that illuminates the access intersection. The lighting can be permanent lighting or temporary lighting such as Caltrans uses in construction zones.	Applicant	During nighttime operations exceeding 5 nights a year	DPB	DPB During extended nighttime operations
Impact 4.4-D: Use of the project access during times with limited visibility would increase the safety hazard in the area.	4.4-D.1 The southfacing side of the “truck warning sign” located north of Black Bart Drive shall be painted or treated with a reflective surface or have a light installed that can be seen from the project access driveway. During periods of reduced visibility, the quarry operator will monitor the visibility of this sign. When it is not visible from the project access driveway, then trucks will not be permitted to turn left out of the project. Drivers will need to turn right and proceed to the Highway 101/Highway 20 interchange where they can turn and proceed north. Once the Willits Bypass is constructed, northbound drivers wanting to turn left into the project who cannot see the reflective surface of the warning sign will be required to proceed north to the first Bypass interchange where they can turn and access the project from the north. The applicant shall prepare a driver’s training manual for trucks that haul aggregate or asphalt. It shall notify drivers of the requirements described above.	Applicant and haul truck drivers	Throughout the permit process	DOT DPB	DPB Annual quarry inspection and report

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	4.4-D.2 The monitoring done by the County-approved monitor recommended in Mitigation Measure 4.4-B.2 shall include monitoring of safety and compliance with Mitigation 4.4-D.1 during periods of limited visibility.	Applicant's traffic engineer	Biannually throughout the permit period (or until an interchange is constructed)	DOT Caltrans	DOT and DPB Annual quarry inspection and report Caltrans Approval of any additional highway improvements
Impact 4.4-E: <i>Cumulative Impact</i> - The project would increase 2014 traffic volumes at	Mitigation Measures 4.4-B.1, 4.4-B.2, 4.4-C.1 and 4.4-D.1 are required for both 2014 scenarios.	See the cited measures			

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	the intersections of Highway 101 with Black Bart Drive and the quarry access.				
Impact 4.4-F:	Mitigation Measures 4.4-B.1, 4.4-B.2, 4.4-C.1 and 4.4-D.1 are required for both 2030 scenarios.	See the cited measures			
4.5 Noise					
Impact 4.5-B:	4.5-B.1 Blasting shall be done as needed, but no more than ten times per year.	Applicant	Throughout the use permit period	DPB	DPB Annual quarry inspection and report
4.6 Air Quality					
Impact 4.6-A:	<p>Project construction would increase air emissions from equipment operation and fugitive dust from earth-moving activities.</p> <p>4.6-A.1 Implement the measures recommended by MCAQMD under their Rule 430 for Fugitive Dust Emissions as listed below:</p> <ol style="list-style-type: none"> 1. All visibly dry disturbed soil road surfaces shall be watered to minimize fugitive dust emissions. 2. All unpaved surfaces, unless otherwise treated with suitable chemicals or oils, shall have a posted speed limit of 10 miles per hour. 3. Earth or other material that has been transported by trucking or earth moving equipment, erosion by water, or other means onto paved streets shall be promptly removed. 4. Asphalt, oil, water or suitable chemicals 	Applicant	Throughout the use permit period	MCAQMD	DPB Annual quarry inspection and report

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	<p>shall be applied on materials stockpiles, and other surfaces that can give rise to</p> <p>5. All earthmoving activities shall cease when sustained winds exceed 15 miles per hour.</p> <p>6. The operator shall take reasonable precautions to prevent the entry of unauthorized vehicles onto the site during non-work hours.</p> <p>7. The operator shall keep a daily log of activities to control fugitive dust.</p>				
<p>Impact 4.6-B: The quarry project would generate direct emissions of criteria pollutant emissions (NOx, CO, VOCs, PM10, and PM2.5) from on-site activities during operation of the quarry and asphalt plant which could exceed applicable significance levels.</p>	<p>4.6-B.1 The applicant shall not emit criteria pollutants beyond the levels described and analyzed in this EIR. The Mendocino County Air Quality Management District (MCAQMD) shall not issue an Authority to Construct and a Permit to Operate if the equipment installed would cause the emission of pollutants that exceed the levels analyzed herein. If the MCAQMD determines that the final list of equipment and/or the proposed hours of operation per day and per year of any of the equipment would exceed the levels assessed in this EIR, then additional CEQA analysis would be required to assess the air quality and health impacts of that final list of equipment and operating hours prior to considering whether to issue the Authority to Construct and a Permit to Operate.</p>	Applicant	Prior to issuance of an Authority to Construct and a Permit to Operate	MCAQMD	<p>MCAQMD Authority to Construct and a Permit to Operate</p> <p>DPB (if subsequent CEQA review is required) Approval to operate asphalt facility or sell aggregate beyond currently permitted level</p>
	<p>4.6-B.2 MCAQMD will review the final list of equipment and the analysis in this EIR and add any additional equipment or operation mitigations that the District finds are needed to avoid air quality standard exceedances and conform to all District, State, and Federal air quality standards and requirements.</p>	Applicant	Prior to issuance of an Authority to Construct and a Permit to Operate	MCAQMD	<p>MCAQMD Authority to Construct and a Permit to Operate</p> <p>DPB (if subsequent CEQA review is required) Approval to operate asphalt facility or sell</p>

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					aggregate beyond currently permitted level
<p>Impact 4.6-E: Emissions of toxic air contaminants from the project could injure the health of workers and residents living in the area.</p>	<p>4.6-E.1 The applicant shall build and operate the project so that it does not exceed MCAQMD threshold indices for cancer and acute and chronic non-cancer health effects. The applicant shall comply with all MCAQMD requirements all facilities, including for the asphalt facility at least: 1) venting the asphalt storage silos to a Blue Smoke system, and 2) controlling load-out emissions by use of a fiberbed mist collector (part of the Blue Smoke System), unless MCAQMD determines such measures are not required or alternate control measures should be used.</p>	Applicant	<p>Prior to issuance of an Authority to Construct and a Permit to Operate</p> <p>And then throughout the use permit process</p>	MCAQMD	<p>MCAQMD Authority to Construct and a Permit to Operate</p> <p>DPB Annual quarry inspection and report</p>
	<p>4.6-E.2 The asphalt plant will be a facility that meets at least the emission levels and controls used to assess impacts from that facility in this EIR. If MCAQMD determines that the facility selected for installation would exceed pollutant emission standards as stated in Mitigation Measure 4.6-B.1, then additional risk analysis will be conducted as part of the required additional CEQA review prior to MCAQMD issuing any permits for the project.</p>	Applicant	<p>Prior to issuance of an Authority to Construct and a Permit to Operate</p>	MCAQMD	<p>MCAQMD Authority to Construct and a Permit to Operate</p> <p>DPB (if subsequent CEQA review is required) Approval to operate asphalt facility or sell aggregate beyond currently permitted level</p>
<p>Impact 4.6-F: The asphalt plant would generate odors.</p>	<p>4.6-F.1 The asphalt plant shall not result in noxious odors. The plant will be a facility that meets at least the odor emission levels and controls used to assess impacts from that facility in this EIR. If MCAQMD determines that the facility selected for installation would exceed pollutant emission standards as stated in Mitigation Measures 4.6-C.1 and 4.6-E.2, then additional odor analysis will be conducted</p>	Applicant	<p>Prior to issuance of an Authority to Construct and a Permit to Operate</p>	MCAQMD	<p>MCAQMD Authority to Construct and a Permit to Operate</p> <p>DPB (if subsequent CEQA review is required) Approval to operate asphalt facility or sell</p>

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	as part of the required additional CEQA review prior to MCAQMD issuing any permits for the project.				aggregate beyond currently permitted level
Impact 4.6-I: Cumulative Impact - The proposed project could conflict with applicable GHG plans, policies, or regulations of an agency adopted for the purpose of reducing greenhouse gases.	<p>4.6-I.1 The applicant shall reduce greenhouse gas emissions from the project by conducting at least the following actions:</p> <ul style="list-style-type: none"> • Comply with California Air Resource Board standards for light duty and heavy duty vehicles. All vehicles will need to continue to abide by these standards, including possibly stricter standards set in the future. • Restrict idling of diesel engines on the site to less than 5 minutes. • When replacing diesel mobile equipment, purchase new equipment meeting the most recent CARB emission requirements. • Maintain facility mobile equipment in good working order. • Reclaim the site. • Use energy efficient appliances and lighting. All new equipment shall be energy efficient. Except where needed for outdoor work or security, all new lighting shall use fluorescent lighting. • Increase new building efficiency by 20% over Title 24 standards. • Meet Green Building Code standards for new building construction. • If available, use clean alternative fuels. • Use electricity provided by PG&E to the maximum extent possible to replace electricity generated by the on-site generator. • Install solar panels to power the electrical demands of the office and outdoor lighting. 	Applicant And Applicant's energy auditor	<p>Energy audit conducted prior to construction</p> <p>Use PG&E power as soon as it is available to the site</p> <p>Solar panels installed prior to the end of construction</p> <p>All other measures complied with throughout the use permit period</p>	MCAQMD DPB	<p>MCAQMD Authority to Construct and a Permit to Operate</p> <p>DPB Annual quarry inspection and report</p>

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	<ul style="list-style-type: none"> • Install any additional features recommended by the MCAQMD. • Have an energy audit conducted by a qualified individual or firm to identify additional methods to conserve energy (this may include installation of solar panels or other on-site electrical generation facilities). The audit shall be done prior to construction and will confirm that all new equipment and appliances meet accepted standards for energy efficiency. 				
4.7 Aesthetics					
<p>Impact 4.7-A: The processing facilities site would change views from Black Bart Drive and Ridgewood Subdivision.</p>	<p>4.7-A.1 The asphalt processing facility site shall be planted to screen views from Back Bart Drive. Once the asphalt processing site grading is completed, the applicant shall contract with an arborist to develop a final tree planting plan along the frontage of the site. Plantings will start as the applicant has proposed about 500 feet west of the existing driveway and extend to a point opposite the northeast corner of the facility site. The arborist will determine whether the trees the applicant has available are suitable for the site, or, if not what species of trees shall be planted along this frontage to provide rapid screening of the site from the road. The planting should incorporate fast-growing trees that can quickly provide screening. If feasible, native trees and shrubs should be used. Preferably native oaks and Douglas fir will be incorporated in the planting scheme (which would count against the previous requirement for tree replacement), with oaks being planted behind the faster-growing screening plants or intermixed with them so that at the reclamation phase any non-</p>	<p>Applicant Applicant's arborist</p>	<p>Completion of site grading for asphalt facility pad</p>	<p>DPB</p>	<p>DPB Annual quarry inspection and report</p>

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	native species can be removed to leave oak woodland. The plan will detail site preparation, planting, fertilization, irrigation, and performance monitoring as well as replacement standards.				
Impact 4.7-C: Lighting of the processing facilities would impact night views in the area.	<p>4.7-C.1 Final design and construction shall include no lighting of the asphalt processing facility site except when there are active nighttime operations occurring and for security lighting. The lights will be shielded (90 degree cut-off shielding) lights at no greater than 10 feet in height. Operational lighting will be on light poles distributed to have forward-throw lighting and light trespass cut-off shields. No direct lighting shall be visible from off the site.</p> <p>Lights will be selected from the list of approved security lights adopted by the International Dark Sky Association (IDA). No pinkish, yellowish, or bluish colored light sources will be used. The minimum number of security lights needed for security purposes as determined by the Mendocino County Sheriff's Department will be installed.</p>	Applicant	Prior to final design	DPB	DPB Approval of Plan Sheets
Impact 4.7-E: <i>Cumulative Impact</i> - The quarry expansion and highway improvements would change views from Highway 101.	4.7-E.1 The area west of Highway 101 between the highway and the newly constructed access road shall be replanted to screen views of the quarry from Highway 101. The tree planting plan required in Mitigation 4.7-A.1 shall include a plan for replanting the area between the project access driveway intersection with Highway 101 and the south end of the quarry site along the highway frontage. This area shall be planted with fast-growing trees that can quickly provide screening to twenty feet above the highway elevation. These trees shall be	Applicant Applicant's arborist	Completion of road and highway grading	DPB	DPB Annual quarry inspection and report

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	fertilized, irrigated and maintained by the applicant.				
	4.7-E.2 The sign at the quarry entrance off the highway shall be kept small and unobtrusive; it shall not exceed 40 square feet.	Applicant	Prior to sale of asphalt or additional aggregate beyond currently permitted level	DPB	DPB Annual quarry inspection and report
4.8 Public Services					
Impact 4.8-A: The project would generate increased calls for fire response and emergency medical aid.	<p>4.8-A.1 The applicant shall comply with all Little Lake Fire Protection District (LLFPD) requirements, including:</p> <ul style="list-style-type: none"> • A sign that complies with LLFPD signage requirements shall be installed at the project entrance. • Liquid on-site storage tanks (other than water tanks) shall be reviewed and approved by LLFPD. If multiple tanks are placed in close proximity to one another, the spacing between tanks must be reviewed and approved by LLFPD. • LLFPD shall review and approve the final project design to ensure adequate hydrant location and fireflow to the hydrants. • LLFPD will approve the size, type, and number of fire extinguishers for the project. Approved spark arrestors must be installed on all internal combustion engines that require them. These items are required during and after construction. • The water storage tank will be fit with the apparatus that LLFPD and/or CAL FIRE 	Applicant	Prior to sale of asphalt or additional aggregate beyond currently permitted level	LLFPD CAL FIRE	DPB Annual quarry inspection and report

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	require to be able to access the water in the tank.				

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	4.8-A.2 An emergency-only, gated, and paved access shall be provided from the asphalt processing facility site to Black Bart Drive.	Applicant	During construction of the asphalt facility pad	DPB	DPB Prior to sale of asphalt
Impact 4.8-B: The project would increase the risk of igniting wildland fires or being affected by a wildland fire.	The mitigation measures recommended for Impact 4.8-A also apply to this impact.	See the cited measure			
Impact 4.8-D: The project would generate increased demand for water.	4.8-D.1 The quarry shall cease operations if the applicant cannot provide 7,200 gallons of water per day for dust control. The amount of required water for dust control may be reduced by the Mendocino County Air Quality Management District if it determines that the applicant, using alternative methods of dust control, is preventing dust from drifting off the property.	Applicant	Throughout the use permit period	DPB MCAQMD	DPB When apprised by MCAQMD that the project cannot meet dust control requirements
4.9 Hazards and Hazardous Materials					
Impact 4.9-A: Transport, storage, and use of diesel fuels and other chemicals on-site pose a potential safety risk.	All mitigations required for Impacts 4.1-B, 4.1-C, 4.4-B, 4.4-D, and 4.8-A also apply to this impact.	See the cited measures			
	4.9-B.1 Trucks transporting diesel fuel will be restricted to turning left into the site no later than 10 a.m. If deliveries occur after 10 a.m., the delivery truck must access the site from the north.	Applicant and truck drivers	Throughout the use permit period	DPB	DPB Annual quarry inspection and report
4.12 Cultural Resources					
Impact 4.12-A: Future development of the site could damage cultural resources.	4.12-A.1 If cultural resources are discovered on the site during construction activities, all earthmoving activity in the area of impact shall be halted until the applicant retains the services of a qualified archaeological consultant who shall examine the findings, assess their	Applicant Applicant's archae- ologist	Throughout the use permit period	DPB	DPB Annual quarry inspection and report

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	significance, and develop proposals for any procedures deemed appropriate to further investigate and/or mitigate adverse impacts to those resources. The applicant shall abide by the recommended proposals.				
	4.12-A.2 In the event that human skeletal remains are discovered, work shall be discontinued in the area of the discovery and the County Coroner shall be contacted. If skeletal remains are found to be prehistoric Native American remains, the Coroner shall call the Native American Heritage Commission within 24 hours. The Commission will identify the person(s) it believes to be the "Most Likely Descendant" of the deceased Native American. The Most Likely Descendant would be responsible for recommending the disposition and treatment of the remains. The Most Likely Descendant may make recommendations to the landowner or the person responsible for the excavation/grading work for means of treating or disposing of the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.	Applicant	Throughout the use permit period	DPB County Coroner	DPB Annual quarry inspection and report
	4.12-A.3 If any paleontological resources are discovered, work at the place of discovery shall be halted, and a qualified paleontologist shall be consulted to assess the significance of the finds. Prompt evaluations can then be made regarding the finds, and a management plan consistent with CEQA cultural resources management requirements shall be adopted	Applicant Applicant's paleontologist	Throughout the use permit period	DPB	DPB Annual quarry inspection and report

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 20.040.010 (COMBINING DISTRICTS) OF CHAPTER 20.040 (ESTABLISHMENT OF DISTRICTS) OF DIVISION I (INLAND MENDOCINO COUNTY ZONING CODE) OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: The Board of Supervisors of the County of Mendocino (the “Board”) finds and determines, based on the evidence in the record, that:

- A. The zoning amendment has undergone environmental review pursuant to the California Environmental Quality Act (“CEQA”). The County completed a Draft EIR in December of 2007 (“2007 DEIR”) and prepared a Revised Draft EIR in May of 2011 (“2011 RDEIR”). The County released a Final EIR in February of 2012 (“2012 FEIR”), which was certified in April of 2012.
- B. On March 22, 2012, the Mendocino County Planning Commission recommended to the Board approval of the Ordinance Amendment (OA 1-2007), which included the proposed amendment to Section 20.040.010 of Chapter 20.040 of Division I of Title 20 of the Mendocino County Code set forth in Section 2 below.
- C. The County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].
- D. The County released a Final EIR on December 6, 2019 (“2019 FEIR”).
- E. On December 16, 2019, the Board conducted a duly noticed public hearing and received and considered evidence concerning the zoning change, 2019 RDEIR and 2019 FEIR (collectively “2019 Revised EIR”).
- F. By Resolution adopted as part of the same agenda item as this Ordinance, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program.
- G. The zoning amendments are consistent with, and implement, policies of the County of Mendocino’s General Plan.
- H. The zoning amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

Section 2: Section 20.040.010 of Division I of Title 20 of the Mendocino County Code is amended to read as follows:

Sec. 20.040.010 Combining Districts.

In addition to the districts enumerated in Section 20.040.005, combining districts may be established and designated as follows:

- “AH” Special Airport Height Combining District;
- “C” Cluster Combining District;
- “FP” Special Flood Plain Combining District;
- “IS” Isolated Service Combining District;
- “L” Special Minimum Lot Size Combining District;
- “MP” Mineral Processing Combining District;
- “PO” Planned Development Combining District;
- “P” Plan Combining District;
- “SH” Special Hazards Combining District.

Section 3: This ordinance supersedes Ordinance no. 4292, which was rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

AYES:
 NOES:
 ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
 Clerk of the Board

 CARRE BROWN, Chair
 Mendocino County Board of Supervisors

 Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
 CHRISTIAN M. CURTIS,
 Acting County Counsel

BY: CARMEL J. ANGELO
 Clerk of the Board

 Deputy

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 20.036.010 (MINING AND PROCESSING) OF CHAPTER 20.036 (EXTRACTIVE USE TYPES) OF DIVISION 1 (INLAND MENDOCINO COUNTY ZONING CODE) OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: The Board of Supervisors of the County of Mendocino (the “Board”) finds and determines, based on the evidence in the record, that:

- A. The zoning amendment has undergone environmental review pursuant to the California Environmental Quality Act (“CEQA”). The County completed a Draft EIR in December of 2007 (“2007 DEIR”) and prepared a Revised Draft EIR in May of 2011 (“2011 RDEIR”). The County released a Final EIR in February of 2012 (“2012 FEIR”), which was certified in April of 2012.
- B. On March 22, 2012, the Mendocino County Planning Commission recommended to the Board approval of the Ordinance Amendment (OA 1-2007), which included the proposed amendment to Section 20.036.010 of Chapter 20.036 of Division 1 of Title 20 of the Mendocino County Code set forth in Section 2 below.
- C. The County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].
- D. The County released a Final EIR on December 6, 2019 (“2019 FEIR”).
- E. On December 16, 2019, the Board conducted a duly noticed public hearing and received and considered evidence concerning the zoning change, 2019 RDEIR and 2019 FEIR (collectively “2019 Revised EIR”).
- F. By Resolution adopted as part of the same agenda item as this Ordinance, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program.
- G. The zoning amendments are consistent with, and implement, policies of the County of Mendocino’s General Plan.
- H. The zoning amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

Section 2: Section 20.036.010 of Division I of Title 20 of the Mendocino County Code is amended to read as follows:

Sec. 20.036.010 Mining and Processing.

The mining and processing use type refers to places or plants primarily devoted to surface or subsurface mining of metallic and nonmetallic materials, geothermal

development, oil or gas together with essential processing of only nonmetallic mineral products. Except where conducted within a Mineral Processing Combining District, and subject to the requirement for a major use permit, all such processing shall be of a temporary nature and carried on in conjunction with, and only for the duration of a specific construction project (except that portable screening and crushing equipment need not be related to a specific construction project). The sale of additional materials may be allowed for other off-site uses where such materials do not exceed ten percent (10%) of that volume specified for the primary construction project. Typical places or uses include borrow pits, gravel bars, rock quarries, oil and gas drilling rigs, or portable crushing, screening, washing, and mixing plants.

Section 3: This ordinance supersedes Ordinance no. 4293, which was rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

CARRE BROWN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE ESTABLISHING CHAPTER 20.134 (MP- MINERAL PROCESSING COMBINING DISTRICTS) WITHIN DIVISION I (INLAND MENDOCINO COUNTY ZONING CODE) OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: The Board of Supervisors of the County of Mendocino (the “Board”) finds and determines, based on the evidence in the record, that:

- A. The zoning amendment has undergone environmental review pursuant to the California Environmental Quality Act (“CEQA”). The County completed a Draft EIR in December of 2007 (“2007 DEIR”) and prepared a Revised Draft EIR in May of 2011 (“2011 RDEIR”). The County released a Final EIR in February of 2012 (“2012 FEIR”), which was certified in April of 2012.
- B. On March 22, 2012, the Mendocino County Planning Commission recommended to the Board approval of the Ordinance Amendment (OA 1-2007), which included establishment of Chapter 20.134 of Division 1 of Title 20 of the Mendocino County Code set forth in Section 2 below.
- C. The County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].
- D. The County released a Final EIR on December 6, 2019 (“2019 FEIR”).
- E. On December 16, 2019, the Board conducted a duly noticed public hearing and received and considered evidence concerning the zoning change, 2019 RDEIR and 2019 FEIR (collectively “2019 Revised EIR”).
- F. By Resolution adopted as part of the same agenda item as this Ordinance, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program.
- G. The zoning amendments are consistent with, and implement, policies of the County of Mendocino’s General Plan.
- H. The zoning amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

Section 2: Chapter 20.134 of Division I of Title 20 of the Mendocino County Code is established to read as follows:

CHAPTER 20.134

“MP” MINERAL PROCESSING COMBINING DISTRICT

Sec. 20.134.005 Intent.

This combining district is intended to allow, in limited circumstances, the processing of mineral resources near the site of extraction. Processing includes, and is limited to, operation of asphalt and/or concrete batch plants. Since mineral extraction must take place on the physical site where the minerals naturally occur, special controls are needed to minimize conflicts with other land uses. The Mineral Processing Combining District functions as an “overlay district” to be applied to the area where mineral processing activities will take place.

Sec. 20.134.010 Regulations for “MP” Mineral Processing Combining District.

- (A) Objectives: The operation of asphalt and concrete batch plants shall be allowed on properties within the Mineral Processing Combining District, subject to the issuance of a major use permit. “Asphalt and concrete batch plants” are defined as machinery used to process raw gravel, sand, and other materials into either hot asphalt or ready-mix concrete.

- (B) Locational Requirements: The Mineral Processing Combining District shall only be applied to areas with an R-L zoning designation (See Chapter 20.060) within one-half miles of a legally established and active mining or mineral extraction operation. The Mineral Processing Combining District shall not be applied to:
 - (1) Land within any area of special flood hazard established in Section 22.17.210; or
 - (2) Land incorporated into Agricultural Preserves under Williamson Act contract.

- (C) Designation: The Mineral Processing Combining District shall be designated by the symbol (MP) on the County Land Use Plan.

- (D) Development Standards:
 - (1) The operation of asphalt and concrete batch plants shall be limited to areas within one-half mile of surface mining activities that have vested rights or a permit to mine from the County.
 - (2) The general building height limitations for R-L districts shall not apply to mineral processing equipment located within a Mineral Processing Combining District. Instead, asphalt silos and other mineral processing equipment are subject to the seventy-five (75) foot height limitation provided in Section 20.152.025(C).
 - (3) When mining activity ceases, the mineral processing use must cease within one year.
 - (4) The batch plant site shall be reclaimed subject to a Reclamation Plan approved as part of the Use Permit approval provided for in

Section 20.134.015.

- (E) Required Information: A Mining/Reclamation Plan describing the phasing of reclamation, in relation to the phases of the mining operation, shall be submitted for land areas which are to be included within a Mineral Processing Combining District. When approving an MP use permit the County may include a condition of approval requiring the permittee to remove the MP zoning overlay upon expiration of the mining use permit.

Sec. 20.134.015 Uses Subject to a Use Permit.

In addition to the use types specified as uses subject to a use permit by the zoning district with which the "MP" combining district is combined, the onsite use of asphalt and concrete batch plants shall also be permitted upon issuance of a major use permit.

Section 3: This ordinance supersedes Ordinance no. 4294, which was rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

- AYES:
- NOES:
- ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 20.152.025 (HEIGHT EXCEPTIONS) OF CHAPTER 20.152 (GENERAL PROVISIONS AND EXCEPTION DISTRICTS) OF DIVISION I (INLAND MENDOCINO COUNTY ZONING CODE) OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: The Board of Supervisors of the County of Mendocino (the “Board”) finds and determines, based on the evidence in the record, that:

- A. The zoning amendment has undergone environmental review pursuant to the California Environmental Quality Act (“CEQA”). The County completed a Draft EIR in December of 2007 (“2007 DEIR”) and prepared a Revised Draft EIR in May of 2011 (“2011 RDEIR”). The County released a Final EIR in February of 2012 (“2012 FEIR”), which was certified in April of 2012.
- B. On March 22, 2012, the Mendocino County Planning Commission recommended to the Board approval of the Ordinance Amendment (OA 1-2007), which included the proposed amendment to Section 20.152.025 of Chapter 20.152 of Division 1 of Title 20 of the Mendocino County Code set forth in Section 2 below.
- C. The County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].
- D. The County released a Final EIR on December 6, 2019 (“2019 FEIR”).
- E. On December 16, 2019, the Board conducted a duly noticed public hearing and received and considered evidence concerning the zoning change, 2019 RDEIR and 2019 FEIR (collectively “2019 Revised EIR”).
- F. By Resolution adopted as part of the same agenda item as this Ordinance, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program.
- G. The zoning amendments are consistent with, and implement, policies of the County of Mendocino’s General Plan.
- H. The zoning amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

Section 2: Section 20.152.025 (Height Exceptions) of Division I of Title 20 of the Mendocino County Code is amended to read as follows:

Sec. 20.152.025 Height Exceptions.

- (A) Radio and television aerials and antennae, and similar utility structures

and necessary mechanical appurtenances for private reception, may be built and used to a height not more than twenty-five (25) feet above the height limit established for the district in which the structures are located, provided, however, that no such structure in excess of the allowable building height shall be used for any commercial or advertising purposes or any communication transmissions. Wind generators and their associated towers may be built and used to a height of one hundred (100) feet as measured from the ground to the highest point of the system.

- (B) Additional heights for public utility structures may be permitted upon approval by the Planning Commission. Height limitations provided herein shall not apply to electric transmission lines and towers.
- (C) Asphalt silos, and other mineral processing equipment located within Mineral Processing Combining Districts may be built and used to a height not more than seventy-five (75) feet as measured from the ground to the highest point of the equipment.
- (D) The above height limitations shall be subject to laws and regulations of the State and Federal Governments. And in no case may the height of any of the above structures exceed the airport height restrictions set forth in the "A-H" zoning district.

Section 3: This ordinance supersedes Ordinance no. 4295, which was rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF ASSESSOR'S PARCEL NUMBER 147-140-07, REAL PROPERTY IN MENDOCINO COUNTY

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: The Board of Supervisors of the County of Mendocino (the "Board") finds and determines, based on the evidence in the record, that:

- A. The zoning change has undergone environmental review pursuant to the California Environmental Quality Act ("CEQA"). The County completed a Draft EIR in December of 2007 ("2007 DEIR") and prepared a Revised Draft EIR in May of 2011 ("2011 RDEIR"). The County released a Final EIR in February of 2012 ("2012 FEIR"), which was certified in April of 2012.
- B. On March 22, 2012, the Mendocino County Planning Commission recommended to the Board approval of the Rezone (R 4-2011).
- C. The County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].
- D. To address the trial court's directive and following further review and analysis, the County released a Revised Draft EIR in August of 2019 ("2019 RDEIR").
- E. The County released a Final EIR on December 6, 2019 ("2019 FEIR").
- F. On December 16, 2019, the Board conducted a duly noticed public hearing and received and considered evidence concerning the zoning change, 2019 RDEIR and 2019 FEIR (collectively "2019 Revised EIR").
- G. By Resolution adopted as part of the same agenda item as this Ordinance, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program.
- H. The zoning change is consistent with, and implement, policies of the County of Mendocino's General Plan.
- I. The zoning change will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
- J. The property (as shown on attached **Exhibit A**) is physically suitable for the uses authorized by the Rangeland with a Mineral Processing Combining District (RL:MP) zoning classification.

Section 2: Pursuant to Division I of Title 20, Chapter 20.212 of the Mendocino County Code, the zoning of the following real property within Mendocino County is hereby changed as

described below.

Said zoning change encompasses a portion of the property described by Assessor's Parcel Number 147-140-07 which is reclassified Rangeland (RL) to Rangeland with a Mineral Processing Combining District (RL:MP) as shown on attached **Exhibit A**.

Section 3: This ordinance supersedes Ordinance no. 4296, which was rescinded.

This ordinance shall become effective 30 days from the date of its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of December 2019, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

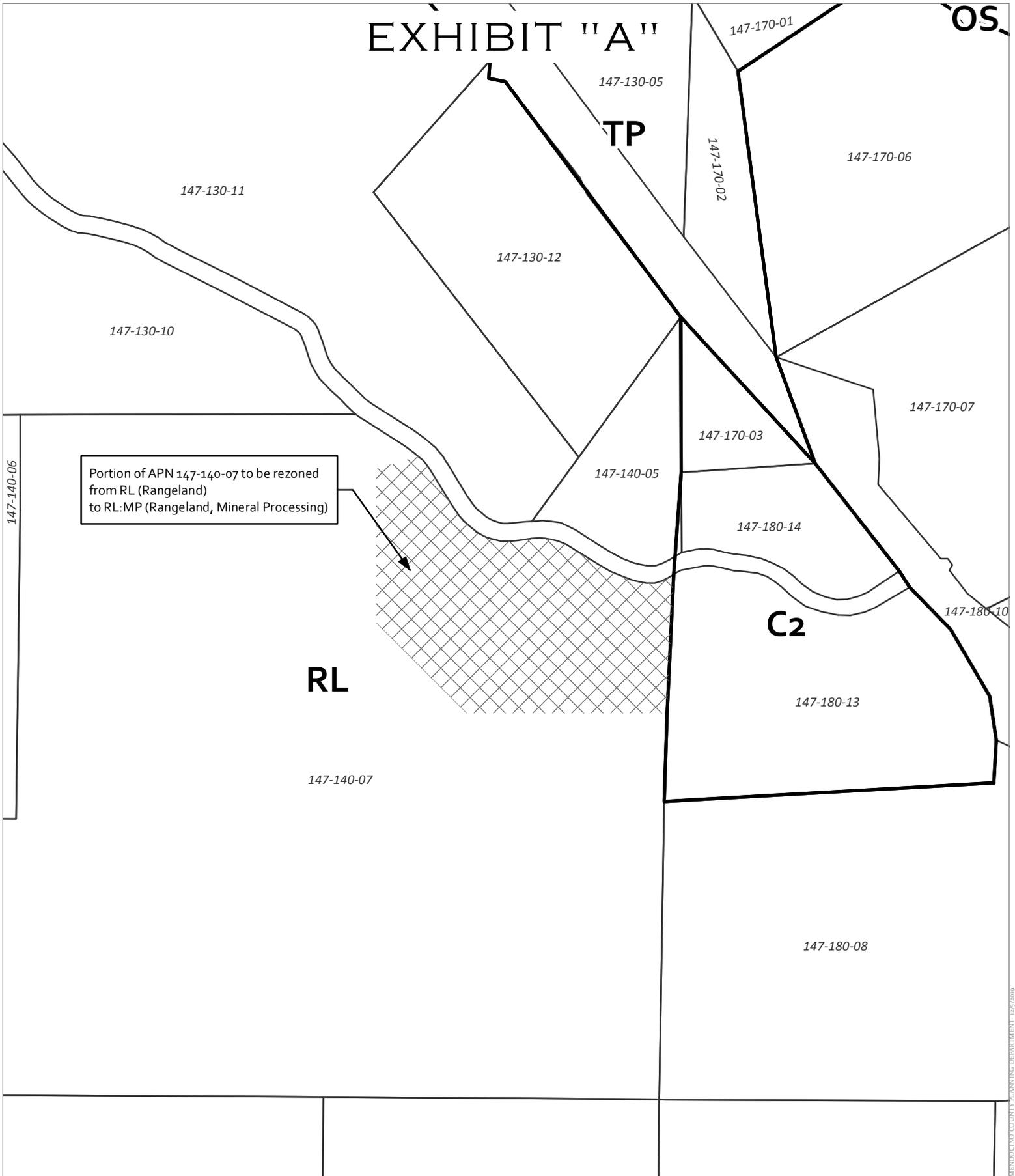
APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

EXHIBIT "A"

OS



Portion of APN 147-140-07 to be rezoned from RL (Rangeland) to RL:MP (Rangeland, Mineral Processing)

147-140-06

RL

C2

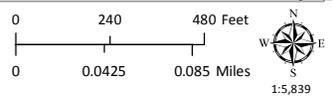
147-140-07

147-180-13

147-180-08

CASE: UR 19-83(05)
OWNER: DUTRA, Frank & Judy
APN: 147-140-07x
APLCT: Frank Dutra
AGENT:
ADDRESS: 16831 Black Bart Drive, Willits

-  REZONE FROM: R-L (Rangeland)
TO: R-L:MP (Rangeland with Mineral Processing combining district)
-  Zoning Districts
-  Assessor's Parcels



REZONE EXHIBIT

MENDOCINO COUNTY PLANNING DEPARTMENT 12/27/2019

RESOLUTION NO. 19-

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING THE HARRIS QUARRY USE PERMIT AND RECLAMATION PLAN RENEWAL (UR 19-83/2005)

WHEREAS, Northern Aggregates, Inc. (“the Applicant”) requested a Use Permit and Reclamation Plan Renewal (UR 19-83/2005) to allow for: 1) the extraction of up to 200,000 in-place cubic yards (cy) of rock from a hillside quarry (approximately 258,000 cy processed); establishment of an asphalt processing facility and production of up to 150,000 tons of asphalt per year from the processed material; and nighttime operations that could occur up to 100 nights per year and 2) a revised reclamation plan for the site (collectively, “the Project”). The Project site includes APNs 147-140-13, 147-180-07, and 147-180-08. Harris Quarry is located immediately west of Highway 101 near the top of the Ridgewood Grade (at mile marker 40.77). The proposed asphalt plant site is located immediately south of Black Bart Drive (County Road No. 370), about 2,000 feet west of the intersection of Black Bart Drive with Highway 101; and

WHEREAS, the Project has undergone environmental review pursuant to the California Environmental Quality Act (“CEQA”). The County completed a Draft EIR for the End of Quarry Life Application in December of 2007 (“2007 DEIR”). In 2010, in response to numerous public comments on the 2007 DEIR, the Applicant submitted a substantially revised project description, so the County prepared a Revised Draft EIR in May of 2011 (“2011 RDEIR”). The County released a Final EIR in February of 2012 (“2012 FEIR”), which was certified in April of 2012; and

WHEREAS, the County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn]; and

WHEREAS, to address the trial court’s directive and following further review and analysis, the County released a Revised Draft EIR in August of 2019 (“2019 RDEIR”); and

WHEREAS, the County released a Final EIR on December 6, 2019 (“2019 FEIR”).

WHEREAS, on December 16, 2019, the Board of Supervisors (the “Board”) conducted a duly noticed public hearing and received and considered evidence concerning the Project, 2019 RDEIR, and 2019 FEIR (collectively “2019 Revised EIR”).

WHEREAS, by Resolution adopted as part of the same agenda item as this Resolution, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program; and

WHEREAS, prior to taking action, the Board has reviewed and considered, among other items: (1) the 2011 RDEIR, 2012 FEIR, 2019 RDEIR, 2019 FEIR, and all related technical studies and reports included in the administrative record; (2) the CEQA Findings of Fact and the Statement of Overriding Considerations; (4) the Mitigation Monitoring and Reporting Program; and (5) all oral and written public testimony received and the administrative record; and

NOW, THEREFORE, BE IT RESOLVED, based on the evidence in the record, the Project satisfies the use permit required findings per the Mendocino County Code §20.196.020 as follows:

- a. The use conforms to the General Plan as the Project site has a General Plan land use category of Rangeland, which expressly allows uses related to and compatible with processing and development of natural resources. General Plan section 4-8 finds aggregate resources are the predominant mineral resources in the County. Thus, making asphalt from aggregate that was extracted on-site is compatible with the “processing and development natural resources” as contemplated by the General Plan; and
- b. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. Water is currently supplied by an existing well and/or trucked to the site; wastewater is stored onsite until pumped out. Drainage measures are included as part of the Project. Power is supplied by generator and PG&E to the extent feasible. The Project site is served by Highway 101, and an internal access road is proposed to connect the quarry to the proposed processing area; and
- c. The use will not, under the circumstances, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort, or general welfare or be detrimental or injurious to property and improvements in the neighborhood because the Project will occupy approximately 39.8 acres of a larger 320 acre property, that is itself part of a larger 600-acre holding owned by the Applicant. Quarry operations have been ongoing since the 1920s and have been officially permitted since 1983. The impacts of the Project, including air quality, noise, and aesthetics, have been fully analyzed and mitigated to the extent feasible; and
- d. The use preserves the integrity of the zoning district because it is zoned Rangeland (RL160), which is in part intended for the production and harvest of natural resources. Also, as part of Project approvals, a portion of the Project site will be rezoned under the Mineral Processing Combining District (MPCD), which allows for the processing of mineral resources near the site of extraction. Finally, as approved, the Project requires that, within one year of the expiration of the permit, the operator shall make application to the Department of Planning and Building Services for a rezone of the property in order to have the Mineral Processing Combining District removed from the 18-acre site.

BE IT FURTHER RESOLVED that the Board hereby grants and approves the Use Permit and Reclamation Plan Renewal (UR 19-83/2005), subject to the Conditions of Approval in “**Exhibit A,**” attached hereto and incorporated by reference.

BE IT FURTHER RESOLVED that Clerk of the Board is designated as the custodian of the documents and other materials that constitute the record of the proceedings upon which the Board’s decisions herein are based. These documents may be found at the office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Ukiah, California 95482.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this _____ day of December, 2019, by the following vote:

AYES:
 NOES:
 ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
Acting County Counsel

CARRE BROWN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions
of Government Code section 25103, delivery
of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

EXHIBIT "A"
CONDITIONS OF APPROVAL

Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

1. Failure of the permittee to make use of this permit within one year or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit. This permit shall expire on May 17, 2042 or 30 years after the final administrative action taken by the County, whichever is later. The applicant has sole responsibility for renewing this permit before the expiration date listed above. The County will not provide a notice prior to the expiration date.
2. The applicant shall obtain all permits required by, and comply with, all conditions established by any agencies having jurisdiction including the Army Corps of Engineers, Caltrans, the California Department of Fish and Wildlife, the Regional Water Quality Control Board, and the Mendocino County Air Quality Management District. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
3. The operator/applicant shall submit the first year's mining inspection and monitoring fee in the amount of \$1,125.00, or equivalent based on the current fee schedule to the Department of Planning and Building Services within thirty (30) days of permit issuance. Subsequently, each year during the term of the permit, the operator shall submit the required annual mining and monitoring fee based on the current fee schedule in affect at the time to the Department of Planning and Building Services. The required annual inspection and monitoring fee shall be submitted by December 31st of each year, and made payable to the Department of Planning and Building Services.
4. Pursuant to Section 2772.7 of the California Public Resources Code, the applicant/operator shall have recorded with the County Clerk, a "Notice of Reclamation Plan Approval" that shall include:
 - a. A statement that "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the County of Mendocino, a copy of which is on file with County Department of Planning and Building Services," and;
 - b. A legal description of the property subject to the said reclamation plan.
5. The operation shall not exceed 200,000 cubic yards extraction per year (cy/yr) of rock (in situ), with a maximum limit of 6 million cubic yards of material over a 30-year period. The applicant shall not process more than 150,000 tons of asphalt concrete per year. Annually, prior to July 1st, the applicant shall supply to the Department of Planning and Building Services an accounting of the quantities (cubic yards and equivalent tonnages based on a conversion ratio of 2.5 tons to 1 cubic yard for in situ extraction) and types of materials extracted and/or processed from each location for the previous calendar year. Such report shall be submitted even if no material was removed that period.
6. Prior to the start of the second year of grading in the quarry expansion area, and biennially thereafter, a licensed Geotechnical Engineer and Certified Engineering Geologist shall inspect the slopes of the quarry excavation in accordance with then current Mine Safety and Health Administration (MSHA) requirements as the quarry progresses, and a final slope stability analysis will be performed prior to the quarry face progressing within 150 feet of the proposed final slope face.

7. The uppermost 20-foot quarry cut shall be sloped no steeper than 1.5h:1v in accordance with recommendations of the report prepared by Blackburn Consulting (Cut Slope Evaluation for Harris Quarry Haul Road (BCI) February 2007, with addendum dated July 2008).
8. Final cut slopes on the quarry walls shall be cut at the gradient required to attain a factor of safety of 1.3, with intervening 12-foot benches every 40 vertical feet.
9. A Certified Engineering Geologist and a Geotechnical Engineer shall be identified to conduct the mitigation measures recommended below. The choice of Certified Engineering Geologist and Geotechnical Engineer shall be approved by the County Department of Planning and Building Services.
10. The asphalt processing building pad will be designed and constructed to be stable for the maximum credible earthquake for the area. A supplement to the previous design level study prepared by BCI shall be performed in the area of the proposed asphalt processing area that will verify design measures needed to ensure building pad stability, including for the design seismic event. The following will be included in the supplement:
 - 1) The investigation shall specifically address the feasibility and long-term stability of 1h:1v cut slopes and 1.5h:1v fill slopes. A slope stability analysis of proposed cut and fill slopes will be performed. Recommended maximum gradients for cut slopes and engineered fill slopes required to maintain a 1.3 static factor of safety will be determined.
 - 2) The potential for settlement shall also be addressed and the analysis shall include characterization of gross settlement, differential settlement, and dynamic (earthquake induced) settlement within and between adjacent materials. The study will include design recommendations for structural footings and foundations to minimize future settlement.
 - 3) Design Review and Approval of Plan Sheets will be done by the Mendocino County Public Works and Building Departments to ensure conformance with Grading and Drainage Ordinances and the recommendations of the final geotechnical report.
 - 4) Construction observation and testing (special inspections) will be done during construction to ensure conformance with design requirements and geotechnical recommendations.
11. The site of proposed fills in the west/southwestern portion of the expansion area will also be evaluated and appropriate measures to stabilize proposed fills shall be determined and incorporated into project design, consistent with the requirements of Section 3704(d) of the State Mining and Geology Board Reclamation Regulations. Proposed fills shall be properly compacted to a minimum 90% compaction relative to the maximum dry density and shall be no steeper than 2h:1v unless measures to reinforce the fills are included in project plans and a slope stability analysis is completed by the Project Geotechnical Engineer and Certified Engineering Geologist which finds that proposed fills will be stable.
12. A Certified Engineering Geologist and a Geotechnical Engineer shall be identified to conduct the mitigation measures recommended below. The choice of Certified Engineering Geologist and Geotechnical Engineer shall be approved by the County Department of Planning and Building Services.
13. The supplement described in Condition Number 10 shall include slope stability analysis

for the proposed road cuts to confirm that the proposed slopes meet minimum standards of stability such as factor of safety calculations. This study shall be performed by a Certified Engineering Geologist or Geotechnical Engineer.

14. A Civil Engineer shall design any required retaining walls, gravity walls, buttress fills, or other slope stabilization technique in accordance with recommendations of the geotechnical investigations and slope stability analysis and in accordance with County and State Guidelines.
15. The project shall comply with the RWQCB's Construction General Permit conditions.
16. The applicant shall not cause or contribute to a violation of any applicable water quality standard. The applicant shall comply with the NPDES Permit Requirements for the Industrial General Permit (Order No. 97-03-DWQ). The specific elements of this mitigation measure are:

Water Quality Monitoring and Sampling

The applicant shall develop and implement a facility specific monitoring program to provide indicator monitoring information for the following: (1) BMPs addressing pollutants in stormwater discharges and authorized non-stormwater discharges comply with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of this General Permit, (2) the presence of pollutants (and their sources) in stormwater discharges and authorized non-stormwater discharges that may require immediate corrective action, additional BMP implementation, or SWPPP revisions, and (3) the effectiveness of BMPs to prevent or reduce pollutants in stormwater discharges and authorized non-stormwater discharges. The applicant shall be required to:

1. Collect and analyze stormwater samples from the first two qualifying storm events of the wet season. Analysis must include: (a) the minimum indicator parameters: pH, total suspended solids (TSS), total organic carbon (TOC) or Oil and Grease, and specific conductance, (b) parameters that indicate the presence of materials that are mobilized by contact with stormwater (such as rock salt) and are likely to be exposed to stormwater (based upon the discharger's pollutant source assessment required in the SWPPP), (c) parameters listed in Table VIII "Additional Analytical Parameters" (these parameters are dependent on the facility's SIC code), and (d) parameters indicating the presence of industrial materials that may be causing or contributing to an exceedance of a water quality standard in the receiving waters. Water sampling shall be conducted by a third-party consultant and water samples shall be submitted to a California certified analytical laboratory for analysis.
2. Visually observe the facility before every anticipated storm event to locate and manage obvious pollutant sources. The Industrial General Permit requires dischargers to collect samples from all drainage areas. The following actions are required:
 - I. Facility operators shall visually observe and collect samples of stormwater discharges from all project drainage areas. The samples shall represent the quality and quantity of the facility's stormwater discharges from the storm event.
 - II. If the facility's stormwater discharges are commingled with run-on from surrounding areas, the facility operator shall identify other visual observation and sample collection locations where project discharges have not been commingled by run-on and that represent the quality and quantity of the facility's stormwater discharges from the storm event.

- III. If visual observation is not possible or sample collection locations are difficult to sample (e.g., sheet flow, submerged outfalls), facility operators shall identify and collect samples from other locations that represent the quality and quantity of the facility's stormwater discharges from the storm event.
- IV. If facility operators determine that the industrial activities and BMPs within two or more drainage areas are substantially identical, they may either (i) collect samples from a reduced number of substantially identical drainage areas, or (ii) collect samples from each substantially identical drainage area and analyze a combined sample from each of these drainage areas. Facility operators must document such a determination in the annual report. Sample collection sites shall include, at a minimum:
 1. Due to the steep slope and associated inaccessibility for sampling at the existing 36- inch CMP outfall from the existing sump pond at the southeast corner of the quarry site, another point upstream shall be used for sampling. This location shall be the outlet of the proposed 48- inch pipe entering the sump pond, or sampling can be conducted via installation of a vertical CMP cleanout in the proposed 48-inch pipe within the quarry site.
 2. Outfall of the proposed 12-inch pipe outlet for the bio-retention area at the processing site. All associated records of stormwater quality monitoring, sampling, and analyses shall be retained and submitted per RWQCB permit requirements. The applicant shall submit a monitoring report to the RWQCB with a copy submitted to the County Department of Planning and Building Services. Frequency of reporting shall be determined by the RWQCB but shall not be less frequent than twice each rainy season. The qualified water quality professional conducting the monitoring shall provide an analysis of the data and an evaluation of the overall effectiveness of the sediment control system. If the water quality objectives have been exceeded, the report shall include analysis as to the specific causes of the exceedances and recommended measures to bring the discharges into compliance.
17. If necessary, implement corrective measures to meet water quality objectives. Once mining commences, if annual surface water monitoring indicates that discharges from the quarry exceed the water quality objectives, the applicant shall propose changes to the sediment control program that will improve its performance sufficiently to meet the performance criteria. Corrective action may include, but is not limited to, implementation of additional source control BMPs, use of chemical flocculation, installation of mechanical filtration of the discharge, and/or construction of extended wet ponds and/or treatment wetlands. The proposed changes shall be submitted to the RWQCB for comment, revised as needed to address their comments, and then implemented by the applicant. If the performance criteria are not met for two consecutive years, the County Department of Planning and Building Services will confer with the applicant and the RWQCB to determine whether further changes in the sediment control plan are likely to result in compliance. If suitable changes are not identified, then the County shall require the quarry to reduce production as needed to meet the performance criteria.
18. The applicant shall revise and implement an updated Storm Water Pollution Prevention Plan (SWPPP) for the project. The erosion control portion of the SWPPP shall include an aggressive sediment source and delivery control program. It shall place greater emphasis on establishing temporary and permanent protection of disturbed fill slopes and drainages in the processing areas that drain to Forsythe Creek.

Most importantly the plan must include an annual winterization report that documents the location and application of best management practices to mitigate reduction in water quality due to sediment in storm runoff. The SWPPP shall be regularly updated as BMPs are updated and new BMPs are constructed and/or the quarry operation changes. The SWPPP shall be implemented during the initial stage of quarry construction and stay in effect through the completion of reclamation. The required detailed SWPPP, including the erosion control plan shall also include:

1. A formal plan for preventing the inadvertent side cast of materials from the quarrying area entering Forsythe Creek and its tributary shall be developed.
 2. All fill slopes draining to Forsythe Creek shall be stabilized prior to October 15 of each year. The plan shall include a detailed design plan for annual stabilization. Stabilization measures include fill slopes suitable for hydraulic application of surface stabilizing compounds, hydroseeding, mulching, or other measures to prevent erosion, and the application thereof. It shall include a description of the erosion control materials to be used and application rates. Seed mixes shall be specified. A schedule for completion of stabilization shall be included, and the stabilization shall be completed by October 15 each year.
 3. Silt fences, fiber rolls, and straw bale barriers shall be used on bare slopes not being actively mined to intercept and trap sediment carried by sheet flow.
 4. The site plan shall show work areas, indicating the year the initial reclamation occurred, active mining, stockpiling, work areas, and areas to be mined the following year.
 5. The site plan shall show erosion and drainage problem areas, and proposed emergency stormwater runoff flow directions, in addition to the planned retention, bio-retention, and treatment areas.
 6. The applicant shall place all hazardous materials and fueling areas above predicted 100-year 24-hour flood elevations and above observed seasonal high-water elevations.
 7. A plan to annually monitor and treat stormwater outlets that discharge to slopes and drainages to ensure that gullying, incision, or other erosion and mass wasting processes are not occurring as a result of project area operations and site drainage will be implemented.
19. During mining and reclamation activities, the following measures shall be included in the SWPPP required under the General Construction Permit and implemented to reduce the potential for erosion and sediment discharge:
1. Topsoil suitable for use in revegetation shall be stockpiled in a stable manner for use in reclamation and replanting of cut slopes. Prior to October 15 of each year, all topsoil stockpiled for future use in revegetation shall be seeded and mulched in order to prevent soil loss through erosion. Topsoil shall be stored in locations that are not immediately above or adjacent to stream drainages.
20. The applicant shall implement best management practices to reduce the potential for discharge of contaminants to stormwater runoff. These BMPs shall be included in the General Construction Permit SWPPP and shall be designed by a civil engineer, and the design engineer shall oversee BMP installation. To minimize the introduction of contaminants, which may degrade the quality of water discharged from the site, the following measures shall be taken:

- Runoff from all access roads shall be collected and passed through a treatment swale or trap system prior to entering the existing or planned drainage features for the highway improvements that outfall to the secondary channel of the Forsythe Creek tributary.
 - Fueling and maintenance of all rubber-tired loading, grading, and support equipment shall be prohibited within 100 feet of drainage ways. Fueling and maintenance activities associated with other less mobile equipment shall be conducted with proper safeguards to prevent releases of hazardous material. All refueling and maintenance of mobile vehicles and equipment shall take place in a designated area with an impervious surface and berms to contain any potential spills.
 - All chemical dust suppressants, slope stabilization chemicals or polymers, and sediment detention basin enhancement chemicals or polymers shall be used strictly according to the manufacturer's specifications. An accurate accounting of all these materials purchased and used on the site shall be maintained, including kinds and quantities of material.
 - The bio-retention swale shall be designed to meet all RWQCB requirements, including being able to handle the 100-year storm event with 6 inches of freeboard.
21. The bio-retention basin will be designed to minimize erosion at the point of outlet. To meet this standard, the following actions will be taken:
1. The flow from the basin must be attenuated via an increase in basin size and/or decrease in pipe outlet sizing to match post-construction runoff volume to pre-construction runoff volume for the smallest storms up to the 85th percentile storm event (or the smallest storm event that generates runoff, whichever is larger).
 2. A slotted pipe dissipater shall be designed to capture and disperse outflow from the basin to the hillslopes below. The design will be provided by the applicant engineer and is subject to review and approval by RWQCB per the NPDES discharge requirements.
 3. Visual observations shall be made at the bioretention basin outlet after each rain event. Photos from two photo points (one upslope and one downslope of the pipe outlet) shall be taken before (October-November) and after (March-April) the rainy season of each year of quarry operation. Photos shall be available for review by RWQCB and will be submitted with the Construction and Industrial General Permits' annual reporting.
22. Project construction or operation shall not adversely affect special status species of plants. Surveys will be conducted prior to project-related vegetation removal. New surveys shall be conducted every three years in areas that have not yet been mined. If special status species of plants are found, the plant will be avoided, or, if that is not feasible, the biologist will confer with the Department of Fish and Wildlife to identify suitable mitigation. The applicant will abide by the decision of the Department of Fish and Wildlife concerning the special status species.
23. As required by law, the project applicant shall not remove nests or den sites of any special status species of wildlife when constructing the project or expanding the quarry. Because special status species may move into the project area in the following years, additional biological surveys will be conducted at least every 3 years to ensure that special status species are not present in the area where vegetation will be removed. The surveys shall be conducted by a qualified biologist, during the spring, in the specific area

proposed for vegetation removal. If dens or nest sites of special status species of wildlife are found, the den or nest site will be avoided, or, if that is not feasible, the biologist will confer with the Department of Fish and Wildlife to identify suitable mitigation. The applicant will abide by the decision of the Department of Fish and Wildlife concerning the special status species.

24. The Final Reclamation Plan shall be submitted to the State Office of Mine Reclamation for review. All conditions recommended by OMR during that review shall become part of the final Reclamation Plan for the project.
25. The applicant shall conduct all improvements set forth on Figures 3-11 through 3-13 in the 2011 RDEIR. The applicant shall prepare a final improvement plan describing how and when these improvements will be done and monitored and the responsibility for follow-up work if monitoring finds that the improvements are failing or not operating as planned. This plan shall be submitted to the Army Corps and Department of Fish and Wildlife when applying for required permits/agreements.
26. When constructing the on-site haul road, no construction shall occur within the wetland between the haul road and Black Bart Drive. Drainage improvements will be incorporated to allow the area above the road that currently drains to the small on-site wetland to continue to do so. Level spreaders or other structures shall be installed below the road to spread runoff before it enters the wetland.
27. During site preparation for the access road to the asphalt processing facility, the access road to the water tank, and the asphalt processing facility itself, the applicant shall flag the actual area to be graded or disturbed. A qualified biologist shall inventory the species and number of true oaks that will actually be removed or encroached in such a fashion that could lead to future mortality. Similar inventories shall be done when trees are removed for quarry expansion.
28. Plant replacement oaks on the applicant's property (Assessor's Parcel Nos. 147-180-07, & -08 and/or 147-140-07) within three years of project approval or tree removal, whichever is later. The new oaks will be replanted at a ratio of 3:1 for each oak removed. New seedlings will be the same species as the tree removed except that canyon live oak will be used instead of interior live oak. If black oak in the area become infected with SOD, then a non-susceptible species of oak will be used to replace black oak. The oaks shall be fertilized, irrigated, protected, and maintained until they are 5 years old. Any trees dying within that period shall be replanted until there are new live trees at the 3:1 ratio described above on the property that have been alive for at least 7 years. Tree seedlings should be planted no closer than 10 feet apart from other tree seedlings and no closer than 20 feet apart from the trunk of any mature tree. Compacted ground shall be broken to an area three times the diameter of the root ball prior to planting to allow root growth. Trees shall be watered weekly by the property owner in weeks with no natural precipitation (usually April 15 through October 15 of each year) and shall be watered three times per week when temperatures exceed 100 F° for the first three years after planting. During site reclamation, additional oaks will be planted at a 2:1 ratio. So, at least 5 new oaks will be established for each one removed by the end of site reclamation.
29. The applicant shall implement the proposed expansion and improvements of the vernal pool as shown on Figure 3-14 of the 2011 RDEIR. Final improvement plans will be approved by the Army Corps and the Department of Fish and Wildlife, and the applicant shall be responsible for implementing any changes or additions the Corps and/or Department make to the improvement plan. It is expected that the Corps or the Department of Fish and Wildlife will require a functional or qualitative assessment of the vernal pool that will be expanded to ensure that it is considered a "higher resource" than

the two small roadside wetlands that would be filled. At least the following additional conditions will apply:

- To ensure success of the vernal pool expansion, a water budget for the given drainage area shall be developed to ensure the site can support a larger pool feature. If it cannot, then runoff from other nearby slopes shall be directed to the vernal pool.
 - Prior to construction, baseline data shall be gathered at the vernal pool mitigation site, over multiple hydrologically different years (three years minimum), to determine characteristics such as the size, depth, duration of inundation, slope, and biologic species present before construction. This will ensure existing wetlands are not damaged and provide a reference for the performance of the new wetlands. After construction, monitoring shall occur every year for at least 7 years or until specific performance standards are met.
 - Pool expansion shall mimic existing habitat characteristics. Construction plans shall be adjusted based on baseline data collection.
 - Maintain the hydrology of the pool after construction by preparing horizontal and vertical relief plans for the contractor-operator. The plan should mimic the existing pool as much as possible as regards the depth, no berm, and the back slope, and ensuring the soil type is continuous. A final plan shall describe all details and operation of the pool.
 - Written protocols shall be developed for each stage of construction. Protocols shall cover the collection of baseline data, post construction hydroperiod, and the establishment of vegetation and wildlife.
 - Inoculation materials shall be raked from the existing vegetation during the end of the dry season and then spread over the raked constructed pool during the beginning of the wet season.
 - A conservation easement shall be established to ensure the vernal pool is protected.
30. The applicant shall construct the following improvements subject to Caltrans final design approval prior to increasing aggregate production or selling asphalt:
- Highway 101 Northbound Approach – Provide a left-turn deceleration/storage lane on Highway 101 at least 470 feet in length.
 - Highway 101/Southbound Approach – Provide a right-turn deceleration lane on Highway 101 at least 200 feet in length.
 - Highway 101 Northbound Departure – Provide a speed change acceleration lane for left turns from the project site extending at least 1,410 feet in length (which would extend through and north of the Black Bart Drive intersection) as well as a 300-foot taper (total length 1,710 feet).
 - Highway 101 Southbound Departure – Provide a speed change/acceleration lane for right turns extending at least 1,090 feet from the project site as well as a 300-foot taper (total length of 1,390 feet). Although only a 300-foot-long acceleration taper is theoretically warranted, observations of truck driver turns and their disruption to the flow of traffic on southbound Highway 101 indicate the need for the full acceleration lane with Base volumes.

- A lighted sign with a flashing beacon (with a solar panel) that warns southbound Highway 101 travelers of slow and turning trucks shall be placed on the west side of Highway 101 about 925 feet north of the project access driveway. A similar sign and beacon that warns northbound Highway 101 travelers shall be placed on the east side of Highway 101 south of the project access driveway, at a distance that meets Caltrans' requirements.
31. Project-generated traffic shall not result in unsafe operational conditions near the project site as determined by the Mendocino County Department of Transportation and Caltrans. To ensure conformance with this performance standard, the following shall be done:
- Traffic operational and accident conditions shall be monitored at the Highway 101/Harris Quarry Access and Highway 101/Black Bart Drive intersections every two years after project approval. Counts and evaluation shall be conducted during both July and October. The applicant shall fund each study, and the County shall select the firm to conduct the monitoring. Filming of traffic counts and truck driver behavior will be done to provide a defensible record of actual operations.
 - If a monitoring report indicates a safety or operational problem at either intersection, an evaluation will be conducted of potential additional mitigation measures that should be considered for implementation. Measures may include: 1) limits on how many trucks can be loaded during peak hours; 2) limits on trucks making left turns in and/or out of the access driveway during peak hours; and 3) provision of a partial or full interchange at the Harris Quarry Access intersection and the possible connection of Black Bart Drive to that new interchange in conjunction with elimination of the Highway 101/Black Bart Drive intersection. If the County and Caltrans agree that such operational changes and/or highway improvements are warranted, then they shall be installed within 2 years of Caltrans' approval of the final design and funding mechanism. The applicant shall be responsible for paying its fair share (as determined by Caltrans and the County) of the improvements.
32. Aggregate production and project-generated traffic shall not exceed the levels predicted and assessed in the project EIR. Every three (3) years, an aerial survey of the site shall be submitted to the Department of Planning and Building Services to evaluate the volume of material extracted during the 3-year period. The survey shall include topographic mapping developed from aerial photos taken in such a manner as to clearly show the full extent of the extraction area. The aerial survey shall delineate the limits of extraction for the previous 3 years. A report shall be prepared by a licensed engineer or land surveyor or photogrammetrist, and shall quantify the extraction volume based on the aerial survey. Photos and topographic mapping shall include a standard reference scale and north arrow, and shall be of size and quality acceptable to the Department of Planning and Building Services. A baseline aerial photo and topographic map shall be taken and submitted to the Department of Planning and Building Services within 90 days of approval of this permit.
33. During nighttime operations that will occur more than 5 days a year, the applicant will provide lighting that illuminates the access intersection. The lighting can be permanent lighting or temporary lighting such as Caltrans uses in construction zones.
34. The southfacing side of the "truck warning sign" located north of Black Bart Drive shall be painted or treated with a reflective surface or have a light installed that can be seen from the project access driveway. During periods of reduced visibility, the quarry operator will

monitor the visibility of this sign. When it is not visible from the project access driveway, then trucks will not be permitted to turn left out of the project. Drivers will need to turn right and proceed to the Highway 101/Highway 20 interchange where they can turn and proceed north. Once the Willits Bypass is constructed, northbound drivers wanting to turn left into the project who cannot see the reflective surface of the warning sign will be required to proceed north to the first Bypass interchange where they can turn and access the project from the north. The applicant shall prepare a driver's training manual for trucks that haul aggregate or asphalt. It shall notify drivers of the requirements described above.

35. The monitoring done by the County-approved monitor recommended in Condition Number 31 shall include monitoring of safety and compliance with Condition Number 34 during periods of limited visibility.
36. Conditions Number 30, 31, 33 and 34 are continuing obligations that shall be enforced throughout the life of the project.
37. Blasting shall be done as needed, but no more than 10 times per year.
38. Implement the measures recommended by MCAQMD under their Rule 430 for Fugitive Dust Emissions as listed below:
 1. All visibly dry disturbed soil road surfaces shall be watered to minimize fugitive dust emissions.
 2. All unpaved surfaces, unless otherwise treated with suitable chemicals or oils, shall have a posted speed limit of 10 miles per hour.
 3. Earth or other material that has been transported by trucking or earth moving equipment, erosion by water, or other means onto paved streets shall be promptly removed.
 4. Asphalt, oil, water or suitable chemicals shall be applied on materials stockpiles, and other surfaces that can give rise to dust.
 5. All earthmoving activities shall cease when sustained winds exceed 15 miles per hour.
 6. The operator shall take reasonable precautions to prevent the entry of unauthorized vehicles onto the site during non-work hours.
 7. The operator shall keep a daily log of activities to control fugitive dust.
39. The applicant shall not emit criteria pollutants beyond the levels described and analyzed in the EIR. The Mendocino County Air Quality Management District (MCAQMD) shall not issue an Authority to Construct and a Permit to Operate if the equipment installed would cause the emission of pollutants that exceed the levels analyzed herein. If the MCAQMD determines that the final list of equipment and/or the proposed hours of operation per day and per year of any of the equipment would exceed the levels assessed in the EIR, then additional CEQA analysis would be required to assess the air quality and health impacts of that final list of equipment and operating hours prior to considering whether to issue the Authority to Construct and a Permit to Operate.
40. MCAQMD will review the final list of equipment and the analysis in the EIR and add any additional equipment or operation mitigations that the District finds are needed to avoid air quality standard exceedances and conform to all District, State, and Federal air quality standards and requirements.

41. The applicant shall build and operate the project so that it does not exceed MCAQMD threshold indices for cancer and acute and chronic non-cancer health effects. The applicant shall comply with all MCAQMD requirements for all facilities, including for the asphalt plant at least: 1) venting the asphalt storage silos to a Blue Smoke system, and 2) controlling loadout emissions by use of a fiberbed mist collector (part of the Blue Smoke System), unless MCAQMD determines such measures are not required or alternate control measures should be used.
42. The asphalt plant will be a facility that meets at least the emission levels and controls used to assess impacts from that facility in the project EIR. If MCAQMD determines that the facility selected for installation would exceed pollutant emission standards as stated in Condition Number 39, then additional risk analysis will be conducted as part of the required additional CEQA review prior to MCAQMD issuing any permits for the project.
43. The asphalt plant shall not result in noxious odors. The plant will be a facility that meets at least the odor emission levels and controls used to assess impacts from that facility in the EIR. If MCAQMD determines that the facility selected for installation would exceed pollutant emission standards as stated in Conditions Number 41 and 42, then additional odor analysis will be conducted as part of the required additional CEQA review prior to MCAQMD issuing any permits for the project.

44. The applicant shall reduce greenhouse gas emissions from the project by conducting at least the following actions:

Comply with California Air Resource Board standards for light duty and heavy duty vehicles. All vehicles will need to continue to abide by these standards, including possibly stricter standards set in the future.

- Restrict idling of diesel engines on the site to less than 5 minutes.
- When replacing diesel mobile equipment, purchase new equipment meeting the most recent CARB emission requirements.
- Maintain facility mobile equipment in good working order.
- Reclaim the site.
- Use energy efficient appliances and lighting. All new equipment shall be energy efficient. Except where needed for outdoor work or security, all new lighting shall use fluorescent lighting.
- Increase new building efficiency by 20% over Title 24 standards.
- Meet Green Building Code standards for new building construction.
- If available, use clean alternative fuels.
- Use electricity provided by PG&E to the maximum extent possible to replace electricity generated by the on-site generator.
- Install solar panels to power the electrical demands of the office and outdoor lighting.
- Install any additional features recommended by the MCAQMD.

- Have an energy audit conducted by a qualified individual or firm to identify additional methods to conserve energy (this may include installation of solar panels or other on-site electrical generation facilities). The audit shall be done prior to construction and will confirm that all new equipment and appliances meet accepted standards for energy efficiency.
45. The asphalt processing facility site shall be planted to screen views from Back Bart Drive. Once the asphalt processing site grading is completed, the applicant shall contract with an arborist to develop a final tree planting plan along the frontage of the site. Plantings will start as the applicant has proposed about 500 feet west of the existing driveway and extend to a point opposite the northeast corner of the facility site. The arborist will determine whether the trees the applicant has available are suitable for the site, or, if not what species of trees shall be planted along this frontage to provide rapid screening of the site from the road. The planting should incorporate fast-growing trees that can quickly provide screening. If feasible, native trees and shrubs should be used. Preferably native oaks and Douglas fir will be incorporated in the planting scheme (which would count against the previous requirement for tree replacement), with oaks being planted behind the faster-growing screening plants or intermixed with them so that at the reclamation phase any non-native species can be removed to leave oak woodland. The plan will detail site preparation, planting, fertilization, irrigation, and performance monitoring as well as replacement standards.
46. Final design and construction shall include no lighting of the asphalt processing facility site except when there are active nighttime operations occurring and for security lighting. The lights will be shielded (90 degree cut-off shielding) lights at no greater than 10 feet in height. Operational lighting will be on light poles distributed to have forward-throw lighting and light trespass cut-off shields. No direct lighting shall be visible from off the site. Lights will be selected from the list of approved security lights adopted by the International Dark Sky Association (IDA). No pinkish, yellowish, or bluish colored light sources will be used. The minimum number of security lights needed for security purposes as determined by the Mendocino County Sheriff's Department will be installed.
47. The area west of Highway 101 between the highway and the newly constructed access road shall be replanted to screen views of the quarry from Highway 101. The tree planting plan required in Condition Number 45 shall include a plan for replanting the area between the project access driveway intersection with Highway 101 and the south end of the quarry site along the highway frontage. This area shall be planted with fast-growing trees that can quickly provide screening to twenty feet above the highway elevation. These trees shall be fertilized, irrigated and maintained by the applicant.
48. The sign at the quarry entrance off the highway shall be kept small and unobtrusive; it shall not exceed 40 square feet.
49. The applicant shall comply with all Little Lake Fire District (LLFD) requirements, including:
- A sign that complies with LLFD signage requirements shall be installed at the project entrance.
 - Liquid on-site storage tanks (other than water tanks) shall be reviewed and approved by LLFD. If multiple tanks are placed in close proximity to one another, the spacing between tanks must be reviewed and approved by LLFD.
 - LLFD shall review and approve the final project design to ensure adequate hydrant location and fireflow to the hydrants.

- LLFD will approve the size, type, and number of fire extinguishers for the project. Approved spark arrestors must be installed on all internal combustion engines that require them. These items are required during and after construction.
 - The water storage tank will be fit with the apparatus that LLFD and/or CAL FIRE require to be able to access the water in the tank.
50. An emergency-only, gated, and paved access shall be provided from the asphalt processing facility site to Black Bart Drive.
 51. The quarry shall cease operations if the applicant cannot provide 7,200 gallons of water per day for dust control. The amount of required water for dust control may be reduced by the Mendocino County Air Quality Management District if it determines that the applicant, using alternative methods of dust control, is preventing dust from drifting off the property.
 52. Trucks transporting diesel fuel will be restricted to turning left into the site no later than 10 a.m. If deliveries occur after 10 a.m., the delivery truck must access the site from the north.
 53. If cultural resources are discovered on the site during construction activities, all earthmoving activity in the area of impact shall be halted until the applicant retains the services of a qualified archaeological consultant who shall examine the findings, assess their significance, and develop proposals for any procedures deemed appropriate to further investigate and/or mitigate adverse impacts to those resources. The applicant shall abide by the recommended proposals.
 54. In the event that human skeletal remains are discovered, work shall be discontinued in the area of the discovery and the County Coroner shall be contacted. If skeletal remains are found to be prehistoric Native American remains, the Coroner shall call the Native American Heritage Commission within 24 hours. The Commission will identify the person(s) it believes to be the "Most Likely Descendant" of the deceased Native American. The Most Likely Descendant would be responsible for recommending the disposition and treatment of the remains. The Most Likely Descendant may make recommendations to the landowner or the person responsible for the excavation/grading work for means of treating or disposing of the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.
 55. If any paleontological resources are discovered, work at the place of discovery shall be halted, and a qualified paleontologist shall be consulted to assess the significance of the finds. Prompt evaluations can then be made regarding the finds and a management plan consistent with CEQA cultural resources management required shall be adopted.
 56. The applicant shall provide funding for the cost of mitigation monitoring and reporting as identified in the project's Mitigation Monitoring and Reporting Program (MMRP). Inspections shall be conducted in accordance with the applicants mine safety guidelines, including notification to the applicant a minimum of 24 hours in advance and when the inspector arrives on site. The applicant shall submit an initial deposit of \$2,500.00 which will be billed against at the rate of \$90/hour for time logged for mitigation monitoring and reporting. This deposit shall be renewed annually to cover monitoring and reporting costs. The County may utilize a third party to provide this service and will prepare a report for the applicant annually verifying time spent on this task and verification of mitigation completed.
 57. Within one year of the expiration of the permit, the operator shall make application to the Department of Planning and Building Services for a rezone of the property in order

to have the Mineral Processing Combining District removed from the 18-acre site.

58. As a means of lessening visual impacts associated with the operation, the operator shall paint existing wash plant towers as well as asphalt facility silos, tanks and baghouses using foliage or earth tone colors intended to blend with natural surroundings. Color samples shall be submitted to the Department of Planning and Building Services and approved by the Director prior to approval of building permits (in the case of the asphalt facility equipment) or use (in the case of existing wash plant equipment). Any change in approved colors or materials shall be subject to the review and approval of the Department of Planning and Building Services for the life of the project.
59. The applicant shall submit to the Department of Planning and Building Services a written statement that provides the operator's name, contact person and proposed quantities to be mined. Said statement shall be submitted 30 days prior to commencement of any extraction. Prior to any change of operators, the applicant shall notify the Department of Planning and Building Services 30 days prior to extraction. The applicant shall provide an accounting of all materials mined by each operator. Any change in operators shall not exempt the applicant/operators from providing required monitoring information.
60. The applicant shall grant access to the property during hours of operation to permit County representatives or any consultants hired by the County for inspection, enforcement, or monitoring activities deemed desirable by the County. The applicant shall designate an individual who is to be available at all times for purposes of supplying information deemed necessary by the authorized County representatives in connection with such work during working hours.
61. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
62. This permit shall be subject to revocation or modification by the Planning Commission or Board upon a finding of any one (1) or more of the following grounds:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

63. A copy of the reclamation plan and grading plan shall be kept on site at all times.
64. The application along with supplemental exhibits and related material are to be considered elements of this entitlement and compliance therewith mandatory, unless a modification has been approved by the Planning Commission or Board.
65. Prior to the commencement of any mining activities or associated work, the applicant/operator shall submit to the Department of Planning and Building Services (PBS) for review and approval a Financial Assurance Cost Estimate pursuant to Public Resources Code Section 2773.1(a)(3), for which a financial assurance mechanism will be based on (see below). Annual revisions to the cost estimates shall be provided to PBS for review and approval, accounting for new lands disturbed by surface mining operations, inflation and reclamation of lands accomplished in accordance with the approved reclamation plan.

- 66a. The applicant shall provide Mendocino County with a cash or surety bond or other acceptable form of financial assurance for the reclamation plan mitigation measures. The bond shall be available to both the County of Mendocino and the Department of Conservation. Any withdrawals made by the County or Department of Conservation for reclamation shall be redeposited by the applicant within 30 days of notification.

The bond amount shall be calculated based on a cost estimate submitted by the applicant and approved by both County staff and the Department of Conservation for the approved reclamation procedures. The bond shall be established and in place within six (6) months of project approval. Each year, following annual site inspection, the bond amount shall be adjusted to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

The security bond is not set up to replace the applicant's responsibility for reclamation or mitigation, but to assure funding for the reclamation plan and mitigation measures. Should the applicant fail to perform or operate within all the requirements of the approved reclamation plan, the County or Department of Conservation will follow the procedures outlined in Section 2773.1 and 2774.1 of the Surface Mining and Reclamation Act (SMARA), regarding the encashment of the bond and applicable administrative penalties, to bring the applicant into compliance. The requirements for the bond will terminate when the approved reclamation plan and mitigation measures have been completed.

- 66b. Implementation and Verification. The financial assurance shall name both the County and the Department of Conservation as payees per the requirements of Surface Mining and Reclamation Act. The amount will be based on an estimate of reclamation cost provided by the applicant and subject to review by both County staff and Counsel and the Department of Conservation. The financial assurance will be reviewed on an annual basis for adequacy and shall be released when the approved project, mitigation measures and final reclamation plan activities have been completed.
67. The applicant is limited to 100 nighttime operations per year as needed to fulfill contractual obligations and emergency work.
68. Quarry and Asphalt Plant hours shall be limited to Monday through Saturday from 6:00 AM to 5:00 PM. Equipment hours are limited to Monday through Saturday from 7:00 AM to 5:00 PM, except as provided in Condition No. 67.
69. The applicant is encouraged to utilize any energy efficient means feasible for the project.
70. The applicant shall provide the Department of Planning and Building Services with an annual summary of any monitoring reports received in operation of the quarry.
71. Tree screening as required in Condition Nos. 45 and 47 shall be native species where feasible